

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA, INC. and
SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

SMARTFLASH LLC,
Patent Owner

PTAB Docket No. CBM2014-00200
Patent 8,336,772 B2

**Petitioner's Request for Rehearing Under
37 C.F.R. § 42.71(d)**

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I. INTRODUCTION

The Institution Decision states that “Petitioner has failed to establish that, more likely than not, it would prevail in demonstrating that claims [26 and 32] are anticipated under 35 U.S.C. § 102(b) by Ginter,” due specifically to lack of disclosure of (1) “use rules,” and, in the case of claims 5, 10, 14, 26 and 32, due additionally to the lack of disclosure of (2) “code to request identifier data.” *See* Institution Decision at 13-16. Yet, as detailed below, the Institution Decision cites only to a subset of the portions of the Petition that address the purportedly distinguishing features of claims 5, 10, 14, 26, and 32. As discussed below, almost 10 uncited pages of the Petition were provided to explain how referenced features of Ginter come together to address the purportedly missing aspects of claims 5, 10, 14, 26, and 32. Indeed, with respect to “use rules,” Petitioner purposefully focused much of the Petition’s overview of Ginter revealing its disclosure of control information (e.g., billing method MDE and budget method UDE) and its contemplated use of that control information to regulate access to requested content.

As such, Petitioner respectfully submits that non-institution of claims 5, 10, 14, 26, and 32 in view of Ginter-based grounds resulted either from oversight or misapprehension of aspects of the Petition that addressed the purportedly missing

features. With this in mind, Petitioner solicits reconsideration of the Petition, in its entirety, including the explanations provided by Petitioner in uncited sections of the Petition and evidence referenced therein, which demonstrates anticipation of claims 5, 10, 14, 26, and 32 by Ginter.

II. PRECISE RELIEF REQUESTED

Petitioner requests rehearing of the decision against institution in the CBM2014-00200 proceeding with regard to the anticipation of claims 5, 10, 14, 26, and 32 by Ginter, because grounds advanced against claims 5, 10, 14, 26, and 32 were denied due to misapprehension or oversight of uncited Petition content that addressed features said to distinguish claims 5, 10, 14, 26, and 32 from Ginter.

III. LEGAL STANDARDS

“A party dissatisfied with a decision may file a request for rehearing, without prior authorization from the Board.” 37 C.F.R. § 42.71(d). Such a “request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.” *Id.*

IV. ARGUMENT

The Institution Decision indicates the Board’s belief that Ginter fails to anticipate claims 26 and 32, due specifically to lack of disclosure of “use rules”

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