

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
Petitioner

v.

BLACK HILLS MEDIA, LLC
Patent Owner

Case No. IPR2014-00723
U.S. Patent 8,214,873

**PATENT OWNER'S REQUEST FOR REHEARING ON THE
INSTITUTION DECISION PURSUANT TO 37 C.F.R. §42.71**

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION AND STATEMENT OF RELIEF REQUESTED	1
II. STANDARD OF REVIEW.....	2
III. BASIS FOR RELIEF REQUESTED	2
A. The Board Erred In The Application Of The Law Governing the Broadest Reasonable Interpretation	2
IV. CONCLUSION.....	6

TABLE OF AUTHORITIES

	Page(s)
CASES	
<i>American Express Company, et al. v. Metasearch Systems, LLC</i> , CBM2014-00001 (Paper 29) (March 20, 2014)	3
<i>CCS Fitness, Inc. v. Brunswick Corp.</i> , 288 F.3d 1359 (Fed. Cir. 2002)	3
<i>Gose v. United States Postal Service</i> , 451 F.3d 831 (Fed. Cir. 2006).....	2
<i>In re Translogic Tech., Inc.</i> , 504 F.3d 1249 (Fed. Cir. 2007)	2
<i>Endo Pharmaceuticals Inc. v. Depomed, Inc.</i> , IPR2014-00656 (Paper 12) (September 29, 2014).....	1
<i>Macronix International Co., Ltd., et al. v. Spansion LLC</i> , IPR2014-00106 (Paper 13) (April 24, 2014).....	3
<i>O'Keefe v. U.S. Postal Service</i> , 318 F.3d 1310 (Fed. Cir. 2002).....	2
<i>Thorner v. Sony Computer Entm't. Am. LLC</i> , 669 F.3d 1362 (Fed. Cir.2012)	3
OTHER AUTHORITIES	
37 C.F.R. § 42.71(c).....	2
37 C.F.R. § 42.71(d)	1
37 C.F.R. § 42.100(b)	2

TABLE OF EXHIBITS

Exhibit Description (Previously Submitted)	Exhibit #
Mobile Application Distribution Agreement between Samsung and Google, Trial Exhibit 2775 in the matter of <i>Oracle America, Inc. v. Google Inc.</i> , Case No. CV 10-03561 WHA (N.D. Ca)	2001
Relevant Pages from Joint Submission of Corrected Exhibit List, Doc. 293 filed on 4/15/2012, in the matter of <i>Oracle America, Inc. v. Google Inc.</i> , Case No. CV 10-03561 WHA (N.D. Ca)	2002
Google's Motion to Intervene filed in ITC Inv. No. 337-TA-882	2003
Initial Determination in ITC Inv. No. 337-TA-882, Order No. 17, Granting Google Inc.'s Motion to Intervene	2004
Patent Owner's claim charts from ITC Inv. No. 337-TA-882	2005
Declaration of Gareth Loy and Exhibits A - N thereto (previously filed in IPR2013-00598 (U.S. Patent 8,214,873) as Ex. 2011)	2006
Deposition Transcript of Dr. Bove dated 5/29/2014 (previously filed in IPR2013-00598 (U.S. Patent 8,214,873) as Ex. 2012)	2007

Pursuant to 37 C.F.R. § 42.71(d), Black Hills Media, LLC (“Patent Owner”)

hereby submits the following Request for Rehearing in response to the Decision, Institution of *Inter Partes* Review of U.S. Patent No. 8,214,873 (“Decision”) (Paper 7).

I. INTRODUCTION AND STATEMENT OF RELIEF REQUESTED

In the Decision, the Board granted review of claims 1, 2, 5–8, 15–19, 22, 23, 25–27, 30–31, 34–37, and 44–46 of the ’873 patent as obvious based on the combination of Weast and Encarnacion based on the Board’s construction of the claim term “playlist.”

The Board construed the term “playlist” to mean “a list of media selections.” (Decision at 10) It is respectfully submitted that the Board overlooked the evidence of record on the ordinary and customary meaning of the term “playlist” as would be understood by one of ordinary skill in the art at the time of the invention. As a result, the Board reached an erroneous conclusion of law and issued a construction which is broader than the ordinary and customary meaning.

Patent Owner requests reconsideration of the Board’s Decision of the claim construction of the term “playlist” and resultant grant of review of claims 1, 2, 5–8, 15–19, 22, 23, 25–27, 30–31, 34–37, and 44–46 of the ’873 patent.

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