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Paper 44
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EASTMAN KODAK CO., AGFA CORP., ESKO SOFTWARE BVBA, and HEIDELBERG, USA,
Petitioner,

v.

CTP INNOVATIONS, LLC,
Patent Owner.

Case IPR2014-00790
Patent 6,611,349 B1

Before HOWARD B. BLANKENSHIP, BENJAMIN D. M. WOOD, and BRIAN J. MCNAMARA, *Administrative Patent Judges.*

WOOD, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Eastman Kodak Co., Agfa Corp., Esko Software BVBA, and Heidelberg, USA (collectively, "Petitioner") filed a request for rehearing (Paper 41, "Reh'g Req.") of our Final Written Decision (Paper 40, "Final Dec."). We requested (Paper 42) a response from CTP Innovations, LLC ("Patent Owner"), which was subsequently submitted (Paper 43, "Reh'g Req. Resp.").

Petitioner requests that we reconsider our decision that Petitioner has not demonstrated that claims 1–3 of U.S. Patent No. 6,611,349 (the '349 patent) are unpatentable. Patent Owner opposes. For the reasons set forth below, the request is denied.

II. STANDARD OF REVIEW

The burdens and requirements of a request for rehearing are stated in 37 C.F.R. § 42.71(d):

> (d) Rehearing. . . . The burden of showing a decision should be modified lies with the party challenging the decision. The 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.

III. ANALYSIS

A. The '349 Patent

The '349 patent describes a publishing and printing system that is distributed among three "facilities": An *end user facility*, where content is created; a *central service facility*, where files are stored; and a *printing company facility* (or printer), where documents are printed. Independent

claims 1–3 are at issue in this case. Claim 1 is representative and is reproduced below:

> 1. A printing and publishing system which generates a printing plate-ready file from data provided remotely in real time using a communication network, the printing and publishing system comprising:
>
> an end user facility coupled to a communication network, the end user facility providing page building operations, the page building operations including the design and construction of pages from images, text, and data available via said communication network;
>
> a central service facility coupled to said communication network, the central service facility providing storage, file processing, remote access, and content management operations; the file processing operations including generating a plate-ready file from pages designed at said end user facility, said plate-ready file having a file format capable of high resolution and ready for creation of a printing plate;
>
> a printing company facility coupled to said communication network, the printing company facility providing printing operations, the printing operations including producing a printing plate from said plate-ready file; and
>
> wherein the end user facility further comprises a communication routing device coupling the end user facility to the communication network, a computer which performs page building operations, and a proofer which provides printed samples of pages.

We instituted an *inter partes* review of claims 1–3 based on the following grounds of unpatentability:

Reference[s]	Basis	Claims Challenged
Jebens,[1] Apogee,[2] and OPI White Paper[3]	§ 103(a)	1–3
Dorfman,[4] Apogee, and Andersson[5]	§ 103(a)	1 and 2
Dorfman, Apogee, Andersson, and OPI White Paper	§ 103(a)	3

Decision on Institution 25.

In our Final Decision, we construed "plate-ready file" to mean "a file that represents a page layout that has gone through prepress processing, including RIPing, and is ready to image to a plate using either a platesetter or imagesetter." Final Dec. 12. We construed "end user facility," "printing company facility," and "central service facility," to be "distinct components of the claimed printing and publishing system," i.e., "separate entities, each connected to the same communication network to facilitate the transfer of data between each other." *Id*. at 10–11.

B. Petitioner's Rehearing Request Relies on a New Argument

For the Jebens/Apogee ground, the Petition relied on Jebens to teach the separate end user facility, central service facility, and printing company facility. Pet. 30–35. Likewise, for the Dorfman/Apogee grounds, Petitioner

[1] Jebens, US 6,321,231 (iss. Nov. 20, 2001) (Ex. 1006).

[2] Agfa Apogee, The PDF–based Production System (Ex. 1008).

[3] Apple OPI White Paper (Ex. 1009).

[4] Dorfman, WO 98/08176 (iss. Feb. 26, 1998) (Ex. 1007).

[5] MATTIAS ANDERSSON ET AL., PDF PRINTING AND PUBLISHING, THE NEXT REVOLUTION AFTER GUTENBERG (Micro Publishing Press 1997) ("Andersson") (Ex. 1010).

relied on Dorfman to teach separate end user, central service, and printing company facilities. *Id*. at 47–53. For all three grounds, Petitioner relied on Apogee to teach the generation of a plate-ready file from a digital file (specifically, a PDF file) by subjecting it to prepress operations and then RIPing. *Id*. at 26–27, 44–45. In doing so, Petitioner relied on a specific excerpt from Apogee, as follows:

> Apogee Pilot normalizes the incoming files into PDF, collects the pages, imposes, does OPI image exchange and sends this imposed 'digital flat' to an Apogee PDF RIP. In the context of Apogee, the PDF RIP takes the device and format independent PDF digital master, and renders (rasterizes) it exactly for the selected output device. The result is a 'Print Image File' (PIF) that contains all the dots that will appear on the film or plate. . . . Apogee PrintDrive manages the Print Image Files (PIF) output by one or more RIPs, and controls output flow to a variety of output devices including Agfa imagesetters, proofers, and platesetters.

Id. at 26–27 (quoting Ex. 1008, 6–7).[6] We refer to this quoted portion of Apogee as "Apogee Excerpt 1."

Petitioner's claim charts also relied on Apogee to teach the generation of a plate-ready file. *See id*. at 33–34, 51–52. In doing so, however, Petitioner included, after Apogee Excerpt 1, an additional excerpt from Apogee. That excerpt is as follows:

> For volume applications, [Apogee PrintDrive] can be fed by multiple PDF RIPs over a TCP/IP network. This unique feature allows you to physically separate the rendering from the actual plate production, so your PDF RIP can be in the desktop

[6] *See also id*. at 33 ("Apogee discloses the generation of a plate-ready file ("PIF," below) that is ready for the creation of a printing plate" (citing Ex. 1008, 6-7)).

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