UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SONY ELECTRONICS INC.,
SONY MOBILE COMMUNICATIONS AB, and
SONY MOBILE COMMUNICATIONS (USA) INC.
Petitioners,

v.

MEMORY INTEGRITY, LLC,
Patent Owner.

Case IPR2015-00158
Patent 7,296,121 B2

PETITIONERS' REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 42.71

I. Introduction

Sony Corporation, Sony Electronics Inc., Sony Mobile Communications AB, and Sony Mobile Communications (USA) Inc. (collectively, "Petitioners") hereby respectfully request rehearing of the May 21, 2015 Decision ("Decision"), granting-in-part and denying-in-part institution of trial. In rendering its decision, the Board overlooked the fact that claims 1–3, 8, 15–18, and 25 of U.S. Patent No. 7,296,121 ("the '121 patent") contain limitations that are not disclosed in '121 patent's alleged parent application. As such, the Board incorrectly determined that Koster is not prior art to these claims. Furthermore, the Board may have misapprehended the Petitioners' application of Luick to the claim limitation of "cache memory." Accordingly, Petitioners respectfully submit reconsideration of the denial to institute several of Petitioners' proposed grounds for unpatentability of the challenged claims.

II. Applicable Rules

37 C.F.R. § 42.71(d) states:

> (d) Rehearing. A party dissatisfied with a decision may file a request for rehearing, without prior authorization from the Board. 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. A request for rehearing does not toll times for taking action. Any request must be filed:
>
> (1) Within 14 days of the entry of a non-final decision or a decision to institute a trial as to at least one ground of unpatentability asserted in the petition; or
>
> (2) Within 30 days of the entry of a final decision or a decision not to institute a trial.

In accordance with 37 C.F.R. § 42.71(d)(1), this request is being filed within 14 days of entry of a decision to institute trial as to at least one ground of unpatentability asserted in the petition.

III. Requested Relief

Petitioners respectfully request rehearing of the Board's decision: (i) not to institute a review on Ground A for claims 1–3, 8, 15, 16, and 25 of the '121 patent; (ii) not to institute a review on Ground B for claims 17 and 18 of the '121 patent; (iii) not to institute a review on Ground D for claims 15 and 25 of the '121 patent; (iv) not to institute a review on Ground E for claims 1–3, 8, 11, 12, 14–18, 24, and 25 of the '121 patent; (v) not to institute a review on Ground F for claims 19–23 of

the ’121 patent; and (vi) not to institute a review on Ground G for claims 15 and 25 of the ’121 patent. Petitioners respectfully request that the Board institute a review on these Grounds for the challenged claims as part of IPR2015-00158.

IV. Argument

A. Grounds A, B, and D (Koster)

With respect to the requests for rehearing based on Koster (Grounds A, B, and D), each of these requests focuses on the same issue: whether the challenged claims of the ’121 patent are properly supported by its alleged parent continuation-in-part application, U.S. Application No. 10/288,347 (“the parent application”). Proper support would exist only if the parent application discloses a “probe filtering unit” that uses “probe filtering information” in connection with “nodes” as claimed in the ’121 patent.

Petitioners proffer Koster as §102(e) prior art. Petition at 7. Koster’s filing date of July 13, 2004 is before the filing date of U.S. Application No. 10/966,161 (“the ’161 application”)—October 15, 2004—which issued as the ’121 patent. However, the Board found that claims 1–3, 8, 15–18, and 25 of the ’121 patent are entitled to the filing date of the parent application—November 4, 2002. Decision at 18. The Board thus found that Koster is not prior art to these claims. Decision at 18.

As discussed in the Petition, the parent application does not disclose the "probe filtering unit" as claimed by the '121 patent, and therefore, any claim in the '121 patent that contains this limitation is not entitled to the priority date of the parent application and may be challenged by Koster under § 102(e). Petition at 4–7. The Petition acknowledges that the parent application includes some discussion of "probe filtering information" which the Board concluded provides support for the claimed "probe filtering unit." Decision at 17–18. However, it is respectfully submitted that in doing so, the Board overlooked the fact that the definition of "probe filtering information" was broadened significantly between the parent application and the '161 application. Petition at 6–7. Specifically, the parent application expressly defines the term "probe filtering information" as "[a]ny criterion that can be used to reduce the number of clusters probed from a home cluster." .Petition at 6. But in the '161 application, the definition of the term "probe filtering information" was expressly broadened to also include "nodes": "[a]ny criterion that can be used to reduce the number of clusters or nodes probed . . .." Petition at 6–7. Thus, Patent Owner broadened the term "probe filtering information" in the '161 application to include criterion used to filter probes transmitted to clusters or nodes which is **not** supported by the parent applications' disclosure of criterion used to filter probes transmitted to just clusters. Petition at

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