UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

MEMORY INTEGRITY, LLC,
Patent Owner.

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Case IPR2015-00158
Patent 7,296,121 B2

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Before JENNIFER S. BISK, NEIL T. POWELL, and KERRY BEGLEY,
Administrative Patent Judges.

POWELL, *Administrative Patent Judge*.

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

Sony Corporation, Sony Electronics Inc., Sony Mobile

Communications AB, and Sony Mobile Communications (USA) Inc.

(collectively, "Petitioner") timely filed a request for rehearing of our

decision on institution of *inter partes* review ("Rehearing Request").
Paper 10 ("Req. Reh'g"). Specifically, the request seeks rehearing of our
determination to deny institution of *inter partes* review of 1) claims 1–3, 8,
15, 16, and 25 as anticipated by Koster[1]; 2) claims 17 and 18 as obvious over
Koster; 3) claims 15 and 25 as obvious over Koster, Kuskin[2], and Park[3];
4) claims 1–3, 8, 11, 12, 14–18, 24, and 25 as obvious over Luick[4] and
Kosaraju[5]; 5) claims 19–23 as obvious over Luick, Kosaraju, and Kuskin;
and 6) claims 15 and 25 as obvious over Luick, Kosaraju, and Park. Req.
Reh'g 1–2. For the reasons given below, we deny the Rehearing Request.

When rehearing a decision whether to institute *inter partes* review, we
review the decision for an "abuse of discretion." 37 C.F.R. § 42.71(c). "The
burden of showing [the] decision should be modified lies with the party
challenging the decision." 37 C.F.R. § 42.71(d). The request for rehearing
"must specifically identify all matters the party believes the Board
misapprehended or overlooked, and the place where each matter was
previously addressed in" the petition. *Id.*

1. Koster Challenges

Petitioner proffers Koster as § 102(e) art. Petition (Paper 1, "Pet."), 7.
There is no dispute that Koster's filing date of July 13, 2004, is before the

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[1] U.S. Patent No. 7,698,509 B1 (Ex. 1005, "Koster").
[2] Jeffrey Kuskin et al., *The Stanford FLASH Multiprocessor*, *in*
PROCEEDINGS OF THE 21ST ANNUAL INTERNATIONAL SYMPOSIUM ON
COMPUTER ARCHITECTURE 302 (1994) (Ex. 1006, "Kuskin").
[3] S. Park & D.L. Dill, *Verification of Cache Coherence Protocols by
Aggregation of Distributed Transactions*, 31 THEORY OF COMPUTING
SYSTEMS 355 (1998) (Ex. 1007, "Park").
[4] U.S. Patent No. 6,088,769 (Ex. 1008, "Luick").
[5] U.S. Patent Application No. 2002/0073261 A1 (Ex. 1009, "Kosaraju").

filing date of U.S. Application No. 10/966,161 ("the '161 application")—
October 15, 2004—which issued as the '121 patent. Patent Owner,
however, asserts that claims 1–3, 8, 15–18, and 25 are entitled to the filing
date of U.S. Application No. 10/288,347 ("the '347 application")—
November 4, 2002—of which the '161 application was a continuation-in-
part. Patent Owner Preliminary Response (Paper 6, "Prelim. Resp.") 27–32.
In the Petition, Petitioner argued to the contrary. Pet. 4–7. Because Koster
was filed after the '347 application, it is prior art only if Petitioner is correct
and the challenged claims of the '121 patent are not entitled to the filing date
of the '347 application.

In view of the arguments and evidence presented by the Petition and
Preliminary Response, our Decision explained that we were persuaded the
'347 application contains written description support for claims 1–3, 8, 15–
18, and 25, entitling these claims to the filing date of the '347 application.
Decision – Institution of *Inter Partes* Review (Paper 7, "Dec."), 14–18.
Consequently, the Decision denied the Petition's challenge of: 1) claims 1–
3, 8, 15, 16, and 25 as anticipated by Koster, 2) claims 17 and 18 as obvious
over Koster, and 3) claims 15 and 25 as obvious over Koster, Kuskin, and
Park. *Id.* at 18.

The request seeks reconsideration of these denials, maintaining that
the '347 application does not contain written description support for
claims 1–3, 8, 15–18, and 25 because "[the '347 application] does not
disclose the 'probe filtering unit' as claimed by the '121 patent." Req.
Reh'g. 2–6. The request argues that the Decision "overlooked the fact that
the definition of 'probe filtering information' was broadened significantly

between the ['347 application] and the '161 application." *Id.* at 4 (citing Pet.

6–7). In concert with this, the request argues that:

> Quite simply, the parent application does not disclose a "probe filtering unit" (whether specifically a "cache coherence controller" or not) that uses "probe filtering information" in connection with nodes. Petition at 5–7. Such a disclosure would be necessary for the parent application to properly support claims 1–3, 8, 15–18, and 25 of the '121 patent. *X2Y Attenuators, LLC v. Int'l Trade Comm'n*, 757 F.3d 1358, 1365 (Fed. Cir. 2014) ("[A] claim is entitled to the priority date of an earlier application only if the earlier application provides sufficient written support for *the full scope of the claim*.") (emphasis added); *Anascape, Ltd. v. Nintendo of Am., Inc.*, 601 F.3d 1333, 1335 (Fed. Cir. 2010) ("To obtain the benefit of the filing date of a parent application, the claims of the later-filed application must be supported by the written description in the parent in sufficient detail that one skill in the art can clearly conclude that the inventor invented the claimed invention as of the filing date sought.").

Req. Reh'g. 5–6.

In reaching our holding in the Decision, we did not overlook the

Petition's argument that the definition of "probe filtering information"

changed between the '347 application and the '161 application. *See, e.g.*,

Dec. 15–16. The Petition suggested that the effect of the alleged definition

change is that the probe filtering information disclosed in the

'347 application bears no relationship to the claims of the '121 patent. *See*

Pet. 6 ("the definition of 'probe filtering information' changed between the

['347 application] and the '121 Patent such that the definition in the

['347 application] is admittedly unrelated to the claims of the '121 Patent").

In our Decision, we held that, contrary to the Petition's argument, we were

persuaded that the probe filtering information disclosed in the
'347 application does relate to the probe filtering information in the
challenged claims. Dec. 17. Specifically, we held that we were persuaded
that the "probe filtering information" disclosed in the '347 application
constitutes "probe filtering information" under the broadest reasonable
interpretation of that language in the challenged claims. *Id.* The Petition did
not argue, as the request now suggests, that the challenged claims are not
entitled to the filing date of the '347 application because the '347 application
does not provide written description support for the full scope of the
challenged claims. Accordingly, we are not persuaded that the request
identifies a matter in the Petition that we overlooked or misapprehended.

Moreover, even if the Petition had presented the arguments that
Petitioner advances in the request, they are not persuasive. The arguments
in the request revolve around an assertion that the '347 application does not
disclose using "'probe filtering information' in connection with <u>nodes</u>."
Req. Reh'g. 5. Petitioner contends that "the term 'node' means 'an entity
associated with one or more interconnected lines and optionally containing
other functional units, such as cache memory.'" Pet. 14. Under this
definition of "node," the "clusters" disclosed in the '347 application
constitute nodes, as the disclosed clusters are entities associated with one or
more interconnected lines. For example, in connection with Figure 1A, the
'347 application discloses "processing clusters 101, 103, 105, and 107"
associated with point-to-point links 11a–f, which are "internal system
connections." Ex. 2006, 10. As Petitioner concedes, the '347 application
discloses "probe filtering information" used in connection with clusters to
reduce the number of clusters probed. *See, e.g.*, Ex. 2006, 23–24; Pet. 6–7;

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