

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TELIT WIRELESS SOLUTIONS INC. and
TELIT COMMUNICATIONS PLC,
Petitioner,

v.

M2M SOLUTIONS LLC,
Patent Owner.

Case IPR2016-00055
Patent 8,648,717 B2

Before KALYAN K. DESHPANDE, JUSTIN T. ARBES, and
DANIEL J. GALLIGAN, *Administrative Patent Judges*.

GALLIGAN, *Administrative Patent Judge*.

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

INTRODUCTION

On May 5, 2016, Telit Wireless Solutions Inc. and Telit Communications PLC (collectively, “Petitioner”) filed a Request for Rehearing (Paper 11, “Req. Reh’g”) of our Decision (Paper 9, “Dec.”) instituting *inter partes* review of some, but not all, of the claims of U.S. Patent No. 8,648,717 B2 (“the ’717 patent”) challenged in the Petition (Paper 1, “Pet.”). In particular, Petitioner requests a partial rehearing of our decision not to institute *inter partes* review for claims 25, 27, 28, and 30.

For the reasons that follow, Petitioner’s request for rehearing is denied.

STANDARD OF REVIEW

Under 37 C.F.R. § 42.71(c), “[w]hen rehearing a decision on petition, a panel will review the decision for an abuse of discretion.” The party requesting rehearing has the burden of showing that the decision from which rehearing is sought should be modified, and “[t]he request must specifically identify all matters the party believes the Board misapprehended or overlooked.” 37 C.F.R. § 42.71(d).

ANALYSIS

Claims 28 and 30

On rehearing, Petitioner argues that we “overlooked Petitioner’s citation to claim 1[h] in the discussion of claim 2 in the Petition.” Req. Reh’g 5. Petitioner argues that its discussion with respect to “claim 1[h]” “establishes that Van Bergen’s controller and memory unit 14 (processing module) process the received data from the vehicle and property security systems (monitored technical device) for the specific purpose required in claims 28 and 30.” *Id.*

We are not persuaded. In the Petition, Petitioner's entire contention with respect to claim 28 was: "See claims 2 and 10 above omitting the discussion of packet switched." Pet. 48. Similarly, Petitioner's entire contention for claim 30 was: "See claims 2, 10 and 29 above." Pet. 46. Petitioner's belated attempt to explain how its citation of "claim 1[h]" in its discussion of claim 2 warrants institution does not persuade us that we overlooked or misapprehended an argument when that argument was not made in the Petition. See 37 C.F.R. §§ 42.104(b) (a petition seeking *inter partes* review must "[p]rovide a statement of the precise relief requested for each claim challenged" and "specify where each element of the claim is found in the prior art patents or printed publications relied upon"), 42.22(a)(2) (a petition must include a "full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence"). A request for rehearing is not an opportunity for a party to add new arguments, or bolster prior arguments that were found unpersuasive.

In our Decision, we also noted that "Petitioner's contentions with respect to claims 2 and 10 identify two different structures for the respective data processing of the claims," specifically "controller and memory unit" as to claim 2 and "alarm sensor interface 13" as to claim 10. Dec. 21. We explained that "Petitioner's cursory reference to claims 2 and 10 does not explain which structure in Van Bergen Petitioner contends is the 'processing module' that performs the particular data processing required" in claims 28 and 30. *Id.* at 21, 43.

On rehearing, Petitioner argues that the "processing module" of claims 28 and 30 is disclosed by Van Bergen's "controller and memory unit" and that there is no inconsistency between its positions with respect to

claims 2 and 10. Req. Reh’g 5–8. Petitioner contends we misapprehended Petitioner’s argument because, with respect to claim 10, the Petition “identifies two components for performing two types of processing: ‘alarm sensor interface 13’ for initially converting raw data from the remote sensor outputs to digital signals compatible with the Cell-Eye system, and ‘alarm sensing means’ for detecting alarm conditions in those converted signals.” *Id.* at 6. Petitioner contends that the structure for the “alarm sensing means” is the “controller and memory unit 14” in Van Bergen. *Id.* at 7–8.

This argument is not persuasive because it was not explained sufficiently in the Petition, and, regardless, Van Bergen discloses that the “alarm sensing means” is part of the “alarm sensor interface”: “alarm sensing means implemented in [the] said alarm sensor interface for converting the audible or electronic alarm outputs of said vehicle or property security system to a digital signal compatible with the said controller.” Ex. 1113, 11:9–11. Van Bergen describes “controller and memory unit 14” and “alarm sensor interface 13” as separate “subsystems” in the disclosed system. *Id.* at 4:21–29, Fig. 2. Therefore, even with this added explanation, it is not clear which component, “controller and memory unit 14” or “alarm sensor interface 13,” Petitioner contends performs the particular data processing required in claims 28 and 30. As such, this added explanation still does not reconcile the inconsistency in the Petition.

Therefore, we are not persuaded that we overlooked or misapprehended any arguments Petitioner made in the Petition with respect to claims 28 and 30 in denying institution as to those claims.

Claims 25 and 27

In the Petition, Petitioner’s entire contention with respect to claim 25 was: “See claim 1 [h] above, replacing the discussion of packet switched in claim 1 [b] with the discussion of SMS in claim 29 [g].” Pet. 47 (emphases removed). Similarly, Petitioner’s entire contention for claim 27 was: “See claim 1 [a] above and the discussion of SMS for claim 29 [g].” *Id.* at 48 (emphases removed). In our Decision, we explained that claim limitation “29 [g]” involves “instructions to program the stored number” using SMS data messages and that Petitioner did not sufficiently explain how its discussion with respect to claim “29 [g]” applies to the different programming recited in claims 25 and 27. Dec. 20.

On rehearing, Petitioner argues that we misapprehended its references to “the discussion of SMS in claim 29 [g]” for claims 25 and 27. Req. Reh’g 11–14. Petitioner contends that these were references “to its discussion of SMS in general, not to its discussion of instructions to program numbers.” *Id.* at 13. Petitioner argues that this “general” discussion of SMS shows Van Bergen discloses the particular SMS programming required in claims 25 and 27. *Id.* at 11–14. Petitioner further argues that we “[m]isinterpreted Van Bergen.” *Id.* at 10–11.

These arguments on rehearing do not persuade us we misapprehended or overlooked any arguments made in the Petition. Rather, Petitioner attempts, belatedly, to provide explanation we found lacking in the original Petition. *See* Dec. 19–20; *see also* 37 C.F.R. §§ 42.22(a)(2), 42.104(b). As noted above, a request for rehearing is not an opportunity for a party to add new arguments, or bolster prior arguments that were found unpersuasive.

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