

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AISIN SEIKI CO., LTD.,  
Petitioner,

v.

SIGNAL IP, INC.,  
Patent Owner.

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Case IPR2016-00366  
Patent 6,012,007

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Before MEREDITH C. PETRAVICK, JEREMY M. PLENZLER, and  
JAMES A. TARTAL, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

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

## I. INTRODUCTION

Aisin Seiki Co., Ltd (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 17, 21, and 22 (“the challenged claims”) of U.S. Patent No. 6,012,007 (Ex. 1001, “the ’007 patent”). Paper 1 (“Pet.”). In our Decision to Institute (Paper 7, “Decision to Institute” or “Dec.”), we instituted a trial to review the patentability of claims 17 and 21 based on anticipation of those claims by Schousek<sup>1</sup> (Ground 1), but denied institution as to Petitioner’s challenges based on obviousness of claims 17 and 21 over Schousek and Fu<sup>2</sup> (Ground 2), claim 22 over Schousek, Fu, and Cashler<sup>3</sup> (Ground 3), claims 17 and 21 over Blackburn<sup>4</sup>, JP 258<sup>5</sup>, and Schousek (Ground 4), and claim 22 over Blackburn, JP 258, Schousek, and Cashler (Ground 5). Dec. 18. Petitioner requests rehearing of the Decision to Institute with respect to Grounds 2 and 3. Paper 9 (“Request” or “Req. Reh’g”). Having considered Petitioner’s arguments, Petitioner’s Request is denied for the reasons provided below.

## II. STANDARD OF REVIEW

The standard of review for rehearing requests is set forth in 37 C.F.R. § 42.71(d), which states:

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<sup>1</sup> U.S. Pat. No. 5,474,327; issued Dec. 12, 1995 (Ex. 1003, “Schousek”).

<sup>2</sup> U.S. Pat. No. 5,848,661; issued Dec. 15, 1998 (Ex. 1004, “Fu”).

<sup>3</sup> U.S. Pat. No. 5,732,375; issued Mar. 24, 1998 (Ex. 1008, “Cashler”).

<sup>4</sup> U.S. Pat. No. 5,232,243; issued Aug. 3, 1993 (Ex. 1005, “Blackburn”).

<sup>5</sup> Japanese Patent Application No. 09-127258 (Ex. 1006, “JP 258”). Exhibit 1007 is a certified translation of JP 258, and citations to this reference refer to its translation (Ex. 1007).

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

Petitioner's Request contends that we "misunderstood how Petitioner was relying on Fu with respect to the proposed grounds 2 and 3." Req. Reh'g 1. Specifically, the Request contends that "the Board misapprehended the degree to which Fu was relied on in the Petition," and that "the only Fu features relied on in the present Petition are to replace the storing of decisions 'deploy' and 'not deploy' in Schousek with a latch flag setting." Req. Reh'g 5–6. Accordingly, the Request appears to be based on our alleged failure to address a proposed modification of Schousek's teachings "to replace the storing of decisions 'deploy' and 'not deploy' in Schousek with a latch flag setting." *Id.* Petitioner identifies our alleged error on page 13 of the Decision to Institute. *See id.* at 7, 9 (citing Dec. 13).

Initially, we note that the Petition proposed more than simply "replac[ing] the storing of decisions 'deploy' and 'not deploy' in Schousek with a latch flag setting." *See* Pet. 30 ("One of ordinary skill in the art as of June 1997 would have been motivated to utilize Fu's 'air bag latch flag' and flag clearing procedure with Schousek's occupancy determination and airbag enablement system.") (footnote omitted). Accordingly, our Decision to Institute addressed more than simply replacing deploy/not deploy decisions in Schousek with Fu's latch flag. *See* Dec. 12–13.

Nevertheless, the Decision to Institute specifically considered the possibility that the Petition also proposed modifying Schousek simply to include Fu's latch flag in place of Schousek's deploy/not deploy decisions. For example, page 14 of our Decision to Institute explained that

To the extent Petitioner proposes to simply substitute Schousek's "previous decision" (i.e., deploy or not deploy) with a lock flag, Petitioner fails to explain persuasively why one skilled in the art would make such a modification. Based on the record before us, it appears that such a modification would be the inclusion of an additional step for no purpose other than reconstructing "set[ting] a lock flag" as recited in claim 17.

Dec. 14. The entire basis for Petitioner's Request is our alleged failure to consider an argument set forth in the Petition. Petitioner's Request fails to even note, however, the discussion from page 14 of our Decision to Institute where we explicitly consider and address that argument. Petitioner's failure to address that discussion is fatal to its Request because it demonstrates that we clearly considered the alternate argument, which Petitioner's Request alleges was not considered. Accordingly, Petitioner has not identified any matter we misapprehended or overlooked.

#### IV. ORDER

For the reasons given, it is

ORDERED that Petitioner's Request is *denied*.

IPR2016-00366  
Patent 6,012,007

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