

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JOHN CRANE, INC.,  
JOHN CRANE PRODUCTION SOLUTIONS, INC. &  
JOHN CRANE GROUP CORP.,  
Petitioner,

v.

FINALROD IP, LLC,  
Patent Owner.

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Case IPR2016-00521  
Patent 8,851,162 B2

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Before SALLY C. MEDLEY, LYNNE E. PETTIGREW, and  
AMANDA F. WIEKER, *Administrative Patent Judges*.

WIEKER, *Administrative Patent Judge*.

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

## I. INTRODUCTION

Petitioner, John Crane, Inc., John Crane Production Solutions, Inc., and John Crane Group Corp., filed a Request for Rehearing (Paper 8, “Req. Reh’g”) of the Decision (Paper 7, “Dec.”) denying institution of an *inter partes* review of any of challenged claims 1–40 of the U.S. Patent No. 8,851,162 B2 (Ex. 1001, “the ’162 patent”). Req. Reh’g 1. Petitioner argues that our Decision misapprehended the proper claim scope and overlooked evidence showing that the prior art disclosed the claim limitations as properly understood. *Id.* The Request for Rehearing is *denied*.

## II. STANDARD OF REVIEW

When rehearing a Decision on Petition, the Board will review the Decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion occurs if the Decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if the Decision represents an unreasonable judgment in weighing relevant factors. *Arnold Partnership v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004). Furthermore, a request for rehearing must identify specifically all matters the party believes we misapprehended or overlooked, and the place where each matter was addressed previously in a motion, an opposition, or a reply. 37 C.F.R. § 42.71(d).

## III. ANALYSIS

### A. *The Board Did Not Misapprehend the “Such That” Claim Language*

Independent claims 1, 11, 20, and 31 require, in substantially similar language, “each apex forming a perimeter . . . that is the narrowest part of the cavity . . . such that the leading edge is longer than the trailing edge.”

Ex. 1001, 8:37–45; *see also id.* at 9:38–46, 10:37–48, 11:43–54. We discuss claim 1 representatively. *See. e.g.,* Dec. 5; Pet. 21–22.

In its Request for Rehearing, Petitioner argues that we misapprehended the claim language by interpreting “such that” to require a “direct causal connection” between the location of the apex and the lengths of the leading and trailing edges. Req. Reh’g 8; *see also id.* at 4–10. Specifically, Petitioner contends that because the claims define the apex as the narrowest part of the cavity, it is not possible for the “apex alone to directly impact the lengths of the leading and trailing edges.” *Id.* at 7; *see also id.* at 5–8. As a consequence, Petitioner contends, “the only requirements of the apex supported by the specification are: (1) that the apex be the location at the narrowest part of the cavity, and (2) that the apex be consistent with a wedge shape where the leading edge is longer than the trailing edge.” *Id.* at 9.

We disagree with Petitioner that we misapprehended the claim language. The Petition did not present any claim construction of “such that,” let alone a construction that aligns with the argument made in this Request. *See* Pet. 13–17. Indeed, the Petition explained that for “terms not specifically construed, Petitioners apply the [broadest reasonable interpretation] of those terms.” *Id.* at 13; *see also In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007) (giving terms their ordinary and customary meaning in light of the patent’s disclosure). Therefore, we could not have misapprehended the claim language by applying its ordinary meaning in the absence of any persuasive argument or evidence suggesting that another interpretation would be more appropriate.

In any event, we disagree with Petitioner’s newly presented argument. Petitioner directs our attention to the Federal Circuit’s decision in *MStar Semiconductor, Inc. v. International Trade Commission*, 183 Fed. Appx. 957 (Fed. Cir. 2006). Req. Reh’g 8. The Federal Circuit’s analysis in *MStar*, however, aligns with the reasoning applied in our Decision denying institution. In *MStar*, the court interpreted claim language including “such that”<sup>1</sup> and stated: “it is not sufficient that the time periods are equal, as *MStar* contends; rather, there must be a *logical relationship* of some sort between the second clock signal and the equality of the time periods.” 183 Fed. Appx. at 962 (emphasis added). Similarly, in our Decision, we stated:

It is not sufficient to merely identify where [an apex, a leading edge, and a trailing edge] are shown purportedly in the prior art. *The claimed relationship* between the structures must be shown also. The Petition does not show sufficiently that the apexes taught by the combination of Rutledge ’431 and Strandberg form perimeters that impact the lengths of the leading and trailing edges such that the leading edge is longer than the trailing edge.

Dec. 12 (paragraph formatting omitted). Indeed, our Decision holds that Petitioner failed to identify “the claimed relationship,” e.g., a “logical relationship” between the elements associated with the “such that” language. Petitioner has not demonstrated that this interpretation conflicts with Federal Circuit law.

In conjunction with its discussion of *MStar*, Petitioner contends that our interpretation of “such that” is inconsistent with the ’162 patent and

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<sup>1</sup> The claim limitation at issue in *MStar* reads: “wherein said second clock signal is generated to have a clock period *such that* the time to provide said plurality of destination pixel data is equal to a period to receive said source pixel data in said source image frame.” 183 Fed. Appx. at 961.

cited expert testimony. Req. Reh’g 8–10. We disagree. Although the claim language could be clearer, our interpretation of the claims is supported by the ’162 patent. For example, Figures 2 and 2A of the ’162 patent depict apexes 116 in locations that impact the length of the leading edges and trailing edges. Ex. 1001, Figs. 2–2A. Additionally, claim 4 states that “the wedge shaped portions are determined by *an angle associated with the apex between the leading edge and the trailing edge,*” which is consistent with our interpretation of the “such that” language of independent claims 1, 11, 20, and 31. *See id.* at 9:4–6 (emphasis added); *see also id.* at 3:62–4:11, 7:18–25. Finally, although the cited expert testimony states that a person of ordinary skill in the art would have found it obvious that both the angle at the apex and the angle between the leading edge and trailing edge determine the wedge shaped portion, this testimony does not state that “the apex alone cannot control the lengths of the edges,” as Petitioner contends. Req. Reh’g 10 (citing Ex. 1010 ¶ 184). Whether a wedge shape may be determined by two angles does not preclude an arrangement, as claimed, where the apex impacts the lengths of the leading and trailing edges.

*B. The Board Did Not Overlook Evidence Addressing the “Impact” of the Apex on Wedge Shape and Size*

We also disagree that we overlooked evidence addressing “the impact of the apex (as well as the angle at the apex) on the overall shape of the wedge” and “how various factors [such as the apex, the angle of the inclination of the edges extending from the apex, and the edge lengths] contribute to the shape of the wedges.” *Id.* at 10–14. The cited portions of the Petition and Mr. Wooley’s Declaration do not show that the prior art apexes form perimeters *such that* the leading edge is longer than the trailing edge, as claimed. *See* Pet. 6–8, 22–23, 26–28; Ex. 1010 ¶¶ 36–43. Evidence

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