

Paper No. _____
Filed: November 2, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
Petitioner

v.

UUSI, LLC d/b/a NARTRON
Patent Owner

Case IPR2016-00908
Patent No. 5,796,183

Petitioner's Request for Rehearing Under 37 C.F.R. § 42.71(d)(1)

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Petitioner Samsung Electronics Co. Ltd. requests rehearing of the Patent Trial and Appeal Board's Decision entered October 19, 2016 (Paper 12, "Decision") denying institution of *inter partes* review for claims 37-39 of U.S. Patent No. 5,796,183 ("the '183 patent"). The Board overlooked and misapprehended evidence of record when it denied institution for claims 37-39 based on an unreasonably narrow construction of the claim term "a supply voltage" recited in claim 37. For the reasons set forth below, Petitioner requests rehearing of the Board's construction of this term and its decision not to institute *inter partes* review of claims 37-39 based on its construction.

II. LEGAL STANDARD

"A party dissatisfied with a decision may file a request for rehearing." 37 C.F.R. § 42.71(d). "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." *Id.*

Institution decisions are reviewed on rehearing for an abuse of discretion. *See* 37 C.F.R. § 42.71(c). An abuse of discretion occurs when a "decision [i]s based on an erroneous conclusion of law or clearly erroneous factual findings, or . . . a clear error of judgment." *Apple Inc. v. DSS Technology Management, Inc.*,

IPR2015-00369, Paper No. 14 at 3 (August 12, 2015) (citing *PPG Indus. Inc. v. Celanese Polymer Specialties Co.*, 840 F.2d 1565, 1567 (Fed. Cir. 1988)).

III. STATEMENT OF REASONS FOR RELIEF REQUESTED

Petitioner respectfully requests rehearing of the Board's decision to deny institution of claims 37-39. (Decision at 15-16.) The Board's sole reason for denying institution for claims 37-39 stems from the Board's construction of the term "a supply voltage" in claim 37 (*id.* at 16), which recites, *inter alia*, "an oscillator providing a periodic output signal having a predefined frequency, wherein an oscillator voltage is greater than a supply voltage." According to the Board, "one of ordinary skill in the art would understand the term . . . 'supply voltage' as referring to a supply voltage of the oscillator." (*Id.* at 9.) That is, the Board construed claim 37 as reciting, *inter alia*, "an oscillator providing a periodic output signal having a predefined frequency, wherein an oscillator voltage is greater than a supply voltage of the oscillator." Based on this construction, the Board denied institution because the Petition relies on the supply voltage of a microcontroller and not the oscillator for the "supply voltage" limitation of claim 37. (*Id.* at 15-16.) However, as explained below, the Board overlooked and misapprehended evidence of record that demonstrates that the Board's construction of "a supply voltage" in claim 37 improperly limits the scope of claims 37-39 to particular aspects, while excluding others. Therefore, Petitioner respectfully

requests that the Board reconsider its interpretation of the claimed “a supply voltage” in claim 37 and its analysis of Petitioner’s ground as to claims 37-39 as set forth in the Petition.

A. The Board Erred in Its Construction of “a Supply Voltage” in Claim 37¹

Claim 37 recites, *inter alia*, “an oscillator providing a periodic output signal having a predefined frequency, wherein an oscillator voltage is greater than a supply voltage.” (Ex. 1001 at 35 (2:45-47).) The Board’s construction that “a supply voltage” as recited in claim 37 is limited to “a supply voltage of the oscillator” is incorrect in view of the intrinsic evidence.

¹ Below, Petitioner discusses the specification of the ’183 patent (Ex. 1001) that is evidence of record that the Board relied upon to support its construction of “a supply voltage” in claim 37. In doing so, Petitioner is not raising new arguments, but instead merely addresses the Board’s construction in the Decision and demonstrates how the Board overlooked and misapprehended evidence of record in interpreting this term, which the Board relies upon to deny institution of claims 37-39. As the Board recognized, Petitioner did not present a construction of the claimed “a supply voltage” (Decision at 8), and thus the Petition relied on the term’s plain and ordinary meaning (Paper 2 at 11-15).

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