

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD,  
Petitioner,

v.

UUSI, LLC d/b/a NARTRON,  
Patent Owner.

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Case IPR2016-00908  
Patent 5,796,183

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Before THOMAS L. GIANNETTI, CARL M. DEFRANCO, and  
KAMRAN JIVANI, *Administrative Patent Judges*.

JIVANI, *Administrative Patent Judge*.

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

## I. INTRODUCTION

Petitioner Samsung Electronics Co., Ltd. requests rehearing (Paper 14, “Reh’g Req.”) of the Decision mailed 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”) (Ex. 1001), but instituting review of claims 41, 43, 45, 47, 48, 61–67, 69, 83–86, 88, 90, 91, 94, 96, 97, 99, 101, and 102 of the ’183 patent. In its request, Petitioner contends we erred in our construction of the term “supply voltage,” as recited in independent claim 37. Reh’g Req. 1.

“The burden of showing a decision should be modified lies with the party challenging the decision[,]” who “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.” 37 C.F.R. § 42.71(d).

For the reasons discussed below, Petitioner’s Request for Rehearing is *denied*.

## II. BACKGROUND

Petitioner challenged independent claims 37, 40, 61, 83, and 94 together with numerous dependent claims of the ’183 Patent, which expired on January 31, 2016. Pet 11–12. In so doing, Petitioner urged that we need not construe the terms of the challenged claims. Pet 12. To the extent we chose to construe a particular term, Petitioner urged that we adopt the constructions it set forth in a related district court litigation. *Id.* Petitioner,

however, did not seek construction of the term “supply voltage” in that litigation. *See* Pet. 12–15.

Patent Owner sought construction of the following limitations: “oscillator voltage is greater than a supply voltage,” as recited in independent claim 37 and “peak voltage of the signal output frequencies is greater than a supply voltage” as recited in each of independent claims 61, 83, and 94 (collectively, the “supply voltage limitations”).<sup>1</sup> Prelim. Resp. 14–17.

Independent claims 37 and 83 are reproduced in relevant part below with bracketed material and emphasis added.

37. A capacitive responsive electronic switching circuit for a controlled device comprising:

[37a] an oscillator providing a periodic output signal having a predefined frequency, *wherein an oscillator voltage is greater than a supply voltage*;

[37b] a microcontroller using the periodic output signal from the oscillator, the microcontroller selectively providing signal output frequencies to a closely spaced array of input touch terminals of a keypad, the input touch terminals comprising first and second input touch terminals;

....

83. A capacitive responsive electronic switching circuit for a controlled keypad device comprising:

[83a] an oscillator providing a periodic output signal having a predefined frequency;

[83b] a microcontroller using the periodic output signal from the oscillator, the microcontroller selectively providing signal output frequencies to a closely spaced array of input touch terminals of a keypad, the input touch terminals comprising first and second input touch terminals, *wherein a*

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<sup>1</sup> Independent claim 40 does not recite a “supply voltage.”

*peak voltage of the signal output frequencies is greater than a supply voltage;*

....

In our Decision, we determined, based on the context of the supply voltage limitation in claim 37, that one of ordinary skill in the art would understand the term “supply voltage” in this claim as referring to a supply voltage of the oscillator. Decision 9. We further determined, based on the context of the supply voltage limitations in claims 61, 83, and 94, that one of ordinary skill in the art would understand the term “supply voltage” in these claims as referring to a supply voltage of the microcontroller. *Id.* at 10.

### III. ANALYSIS

Petitioner contends that we erred in construing the term “supply voltage” in claim 37. Req. Reh’g 3. Specifically, Petitioner asserts that we “unreasonably narrowed the scope of ‘a supply voltage’ by reading a limitation from a disclosed embodiment into claim 37.” *Id.* at 4. According to Petitioner, “the Board overlooked the fact that both microcontroller 500 and voltage regulator 100 also have a ‘supply voltage’ that is less than the oscillator output voltage.” *Id.* at 5. Petitioner contends our construction excluding the voltages provided to these other components “was legal error on part of the Board.” *Id.* at 7. Petitioner further argues our construction is inconsistent with claims 54 and 55 (which are not challenged in the Petition and do not depend from any of the challenged claims) and invites us to accord the supply voltage limitation in claim 37 its “plain and ordinary meaning” encompassing “components other than the oscillator.” *Id.* at 7–8.

We are not persuaded by Petitioner’s arguments that anything was overlooked or misapprehended. As an initial matter, we observe that

Petitioner chose not to provide an interpretation for the supply voltage limitation of claim 37 (or any other claim limitation) in the Petition, and therefore cannot identify where in the Petition this matter was addressed. We could not have misapprehended or overlooked something not adequately explained in the Petition. A request for rehearing is not an opportunity to supplement the Petition. Regardless, we are not persuaded that our Decision was incorrect.

Our construction of the supply voltage limitation in claim 37 is grounded in the plain language of the claim. The basic grammar of claim 37 indicates the supply voltage limitation refers to the claimed oscillator. Claim 37 employs the open-ended transition term “comprising” followed by a colon to indicate that a list elements follows. Subsequently, claim 37 employs semicolons to separate the elements of that list. The first element of the list, element 37a, describes an oscillator and includes the supply voltage limitation preceded by a comma and the transition term “wherein.” Element 37a then ends with a semicolon and the claim proceeds to element 37b, which recites a microcontroller. The punctuation and transition term indicate that the supply voltage limitation refers to the oscillator of element 37a and not the other components recited in separate elements, such as the microcontroller of element 37b. Petitioner’s argument fails to address the grammar of claim 37, and is “is inconsistent with the punctuation [patentee] chose for this claim.” *In re Pelz*, 379 F. App’x 975, 978 (Fed. Cir. 2010).

In light of the plain language of claim 37, we are not persuaded by Petitioner’s argument that the Specification describes additional supply voltages meeting the claim limitation. Req, Reh’g 5–7. For example, Petitioner directs our attention to the 21V on line 301 in Figures 4 and 11

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