

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRIGHT HOUSE NETWORKS, LLC
WIDOPENWEST FINANCE, LLC
KNOLOGY OF FLORIDA, INC.
BIRCH COMMUNICATIONS, INC.

Petitioner

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01259
Patent Number: 8,155,298

**PATENT OWNER'S REQUEST FOR REHEARING
UNDER 37 C.F.R. § 42.71(d)**

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.71 (c)-(d), Patent Owner FOCAL IP, LLC requests a rehearing of the Board’s Decision granting institution of *inter partes* review entered December 19, 2016 (Paper No. 26) (“Decision”) regarding Claim 20 of the ’298 Patent. The Decision was based upon erroneous claim constructions of “switching facility” and “controller.”

II. RELIEF REQUESTED

The Board misapprehended or overlooked Patent Owner’s argument as to the construction of the terms “switching facility” and “controller” of Claim 20. Accordingly, pursuant to 37 C.F.R. § 42.71 (c)-(d), Patent Owner requests that the Board reconsider its Decision of Claim 20 in light of the proper constructions of these terms, as proposed by Patent Owner, and deny instituting *inter partes* review of Claim 20 of the ’298 Patent.

III. LEGAL STANDARD

A request for rehearing is appropriate when the requesting party believes “the Board misapprehended or overlooked” a matter that was previously addressed in the record. *See* 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.* In reviewing such a request, the “panel will review the decision for an abuse of discretion.” 37 C.F.R. § 42.71 (c). An abuse of discretion occurs where the decision is based on an erroneous interpretation of the law, or on erroneous facts. *See Star*

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