

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YMAX CORPORATION,

Petitioner,

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01260
Patent Number: 8,457,113

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

TABLE OF CONTENTS

I.	LEGAL STANDARD.....	1
II.	THE BOARD MISAPPREHENDED OR OVERLOOKED THE CLAIM LANGUAGE OF THE CHALLENGED CLAIMS REGARDING “SWITCHING FACILITY”	2
III.	THE BOARD MISAPPREHENDED OR OVERLOOKED THE SPECIFICATION’S TEACHINGS AND DISCLAIMERS.....	5
IV.	THE BOARD MISAPPREHENDED OR OVERLOOKED PATENT OWNER’S ARGUMENTS REGARDING THE CONSTRUCTION AND APPLICATION OF “TANDEM ACCESS CONTROLLER”...11	
V.	THE BOARD OVERLOOKED THE FAILURE OF PETITIONER TO SHOW THE REQUISITE THRESHOLD FOR OBVIOUSNESS	13
	1. Claims 2, 8, 11, and 15-19	13
	2. Claim 17	14
VI.	CONCLUSION	15

TABLE OF AUTHORITIES

Cases:

<i>Chi. Bd. Options Exch., Inc. v. Int’l Secs. Exch., LLC</i> , 677 F.3d 1361 (Fed. Cir. 2014).....	6
<i>Eizo Corp. v. Barco N.V.</i> , Case No. IPR2014-00358, Paper 11 (P.T.A.B. July 23, 2014)	13
<i>Graham v. John Deere Co. of Kansas City</i> , 383 U.S. 1 (1966).....	13, 15
<i>In re Baker Hughes, Inc.</i> , 215 F.3d 1297 (Fed. Cir. 2000).....	5
<i>In re Kahn</i> , 441 F.3d 977 (Fed. Cir. 2006).....	14
<i>In re Man Mach. Interface Techs. LLC</i> , 822 F.3d 1282 (Fed. Cir. 2016).....	3, 7, 11
<i>KSR Int’l Co. v. Teleflex Inc.</i> , 550 U.S. 398 (2007).....	13
<i>Microsoft Corp. v. Proxyconn, Inc.</i> , 789 F.3d 1292 (Fed. Cir. 2015).....	5
<i>PPC Broadband, Inc. v. Corning Optical Commc’ns. RF, LLC</i> , 815 F.3d 747 (Fed. Cir. 2016) (emphasis in original)	5
<i>Star Fruits S.N.C. v. United States</i> , 393 F.3d 1277 (Fed. Cir. 2005).....	1-2
<i>TD Ameritrade v. Trading Techs. Int’l, Inc.</i> , Case No. CBM2014-00137, Paper No. 34 (P.T.A.B. Feb. 2, 2015).....	2

Tempo Lighting, Inc. v. Tivoli, LLC,
742 F.3d 973 (Fed. Cir. 2014)..... 3

Regulations:

37 C.F.R. § 42.71 (c)..... 1
37 C.F.R. § 42.71(d) 1

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 28, 2016 (Paper No. 12) (“Decision”) regarding Claims 1, 2, 8, 11, 15, and 17-19 of the ’113 Patent (collectively, the “Challenged Claims”). The Decision was based upon erroneous claim constructions and application of “switching facility,” “coupled to,” and “tandem access controller.” Accordingly, Patent Owner requests that the Board reconsider its Decision of the Challenged Claims in light of the proper constructions of these terms, as proposed by Patent Owner, and deny institution of the Challenged Claims of the ’113 Patent. The Decision was also based on erroneous institution of obviousness of dependent claims in which Petitioner failed to meet the requisite threshold showing for obviousness. Thus, Patent Owner also requests that the Board reconsider its Decision regarding Claim 11 over all grounds and Claims 2, 8, 11, 15, and 17-19 of ground 4.

I. 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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