

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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KINGSTON TECHNOLOGY COMPANY, INC.,  
Petitioner,

v.

POLARIS INNOVATIONS LTD.,  
Patent Owner.

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Case IPR2016-01622  
Patent 6,850,414 B2

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Before SALLY C. MEDLEY, JEAN R. HOMERE, and  
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

DECISION  
Denying Petitioner's Request for Rehearing  
*37 C.F.R. § 42.71*

## I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.71(d), Kingston Technology Company, Inc. (“Petitioner”) requests rehearing of the Decision (Paper 7, “Dec.”) denying institution of an *inter partes* review of claim 4 of U.S. Patent No. 6,850,414 B2 (Ex. 1001, “the ’414 patent”). Paper 11 (“Req. Reh’g”).

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

## II. STANDARD OF REVIEW

A party requesting rehearing bears the burden of showing that the decision should be modified. 37 C.F.R. § 42.71(d). The party must identify specifically all matters we misapprehended or overlooked, and the place where each matter was addressed previously in a motion, an opposition, or a reply. *Id.* When rehearing a decision on a petition, we review the decision for an abuse of discretion. *See* 37 C.F.R. § 42.71(c). An abuse of discretion may be indicated if a 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. *See Star Fruits S.N.C. v. United States*, 393 F.3d 1277, 1281 (Fed. Cir. 2005); *Arnold P’ship v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004); *In re Gartside*, 203 F.3d 1305, 1315–16 (Fed. Cir. 2000). With this in mind, we address the arguments presented by Petitioner.

## III. ANALYSIS

Claim 4 recites, “said printed circuit board has a height of 1 to 1.2 inches perpendicular to said contact strip.” Ex. 1001, 8:20–21. In our Decision on Institution, we determined, *inter alia*, that “Petitioner has not

explained sufficiently how or why a person of ordinary skill in the art would have modified Simpson to achieve a height of ‘1 to 1.2 inches perpendicular to said contact strip.’” Dec. 17.

In its Request for Rehearing, Petitioner argues the following: (1) the Petition did not argue that Simpson required modification (Req. Reh’g 2–4); (2) the Petition explains *why* one of ordinary skill in the art would have combined Simpson and the Intel Specification (*id.* at 4–6); (3) the Petition explains *how* one of ordinary skill in the art would have combined Simpson and the Intel Specification (*id.* at 6–8); and (4) the limitation recited in claim 4 is not entitled to patentable weight (*id.* at 8–9). We address each argument in turn.

#### A. *Whether Simpson Teaches Claim 4*

Petitioner argues that “claim 4 requires no changes to the Simpson design to be rendered obvious.” Req. Reh’g 2; *see also id.* (“The chip design of Simpson remains unchanged.”). According to Petitioner, “Simpson places no restriction on height at all – either of the circuit board or of the chips. The invention of Simpson could be implemented at any size circuit board with any size of chips and sockets that would be desirable to one of ordinary skill in the art.” *Id.* at 3. Thus, “it is not a question of changing Simpson, but rather that ‘Simpson could easily be constructed with a height in the range of 1 to 1.2 inches,’ which is a height that ‘had been standardized for some time’ when the ’414 Patent was filed.” *Id.* (quoting Ex. 1006 (“Subramanian Decl.”) ¶ 29<sup>1</sup>).

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<sup>1</sup> The quoted language appears in paragraph 95 of the Subramanian Declaration. We understand “29” to be a typographical error.

Although Petitioner objects to our use of the word “modified” in the Decision on Institution, we are not persuaded that it mischaracterizes Petitioner’s argument. Petitioner identified nothing in Simpson that teaches explicitly “a height of 1 to 1.2 inches perpendicular to said contact strip,” as recited in claim 4. Instead, in the claim-by-claim analysis, the Petition refers to “limit[ing]” Simpson (Pet. 36) and “apply[ing]” standardized dimensions and tolerances to Simpson (Pet. 37). Earlier in the analysis, the Petition states, “one of ordinary skill in the art at the priority date of the ’414 Patent would have been motivated *to modify Simpson* based on the design dimensions of the Intel Specification.” *Id.* at 14 (emphasis added); *see also id.* at 15 (“One of ordinary skill in the art would recognize that *modifying Simpson* to comply with the physical constraints supplied by the Intel Specification would be a way to modernize Simpson to work with current motherboards and contemporary technology.” (emphasis added)). Dr. Subramanian testifies that Simpson would “incorporate the constraints” and “would be constrained and adapted to comply with the design specifications—specifically the physical dimensions—described in the Intel Specification” (Ex. 1006 ¶ 38). Dr. Subramanian further testifies that “[o]ne of ordinary skill in the art would have been motivated *to modify Simpson* based on the design dimensions of the Intel Specification and would have had a reasonable expectation of success when doing so.” Ex. 1006 ¶ 38 (emphasis added). As a result, we are not persuaded that we misapprehended Petitioner’s argument when we characterized it as proposing a modification of Simpson.

*B. Whether Petitioner's Reason to Combine Simpson  
and the Intel Specification was Adequate*

Petitioner argues that the Petition “set forth several reasons why a person of ordinary skill in the art would be motivated to use the invention of Simpson on a circuit board that is between 1 inch and 1.2 inches as described in the Intel Specification.” Req. Reh’g 4. Specifically, Petitioner points to its argument that “modifying Simpson to comply with the physical constraints supplied by the Intel Specification would be a way to modernize Simpson to work with current motherboards and contemporary technology” (*id.* at 5 (citing Pet. 15)), and that by “mid-2001, the dimensions of printed circuit boards had been standardized for some time” (*id.* (citing Pet. 36)).

Petitioner also argues that the Petition “explains how one of ordinary skill would have been able to use the dimensions from the Intel Specification with the chip design of Simpson.” Req. Reh’g 6. Specifically, Petitioner points to its argument that “any person of ordinary skill in the art would know to take the design of Simpson and apply the standardized dimensions and tolerances described in the Intel Specification.” *Id.* at 6–7 (citing Pet. 36–37). Petitioner concludes that

one of ordinary need merely use the images and dimensions of the Intel Specification while building the memory module of Simpson to satisfy the requirements of claim 4. Only routine knowledge and the disclosure of prior art is required to apply Simpson to a standard sized printed circuit board (as claimed).

*Id.* at 7.

Petitioner’s argument is unavailing. Simpson teaches a printed circuit board with a height sufficient to accommodate the components mounted thereon—i.e., two rows of *horizontally*-oriented memory chips 12A–H.

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