

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., and  
Samsung Electronics America, Inc.,  
Petitioner

v.

Image Processing Technologies, LLC,  
Patent Owner.

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CASE IPR2017-01218  
Patent No. 8,983,134

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

## I. SUMMARY OF ISSUES FOR REHEARING

Petitioner Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (collectively "Samsung") requests rehearing under 37 C.F.R. § 42.71(d) of the Board's Final Written Decision ("Decision," Paper No. 40) holding that Petitioner has not demonstrated that claims 4-6 of U.S. Patent No. 8,983,134 ("the '134 patent") are unpatentable. Decision at 16, 45. Samsung requests this rehearing based on the following misapprehension of fact:

- The Board misapprehended the '134 Patent's claim language and specification when it determined that the steps of claim 4—forming the histogram further comprises successively increasing the size of a selected area until the boundary of the target is found—must be completed within a single frame. *Id.* at 28-29.

This misapprehension directly led the Board to at least two incorrect conclusions.

First, despite finding that the prior art Gerhardt reference discloses incrementally increasing the active window size until the target is found and that this process is part of forming a histogram, the Board incorrectly concluded that Gerhardt does not teach the limitations of claim 4 because the portion of Gerhardt relied upon requires multiple frames. *Id.* at 32.

Second, because claims 5 and 6 depend from claim 4, the Board incorrectly concluded that it need not consider Samsung's arguments regarding the invalidity of claims 5 and 6 over the combination of Gerhardt and Bassman. *Id.*

## II. LEGAL STANDARD

A request for rehearing “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). Here, the Board misapprehended facts, presented in detail below, that led it to adopt an incorrect construction of claim 4. Samsung addressed this matter in its previous filings in this case, as set forth in the citations to the record below. Samsung, therefore, respectfully requests that the present motion for reconsideration be granted, and claims 4-6 of the '134 Patent be canceled.

## III. ARGUMENT

### A. The Board Misapprehended the '134 Patent's Claims and Specification in Requiring Claim 4's Steps to Complete Within a Single Frame

In its Decision, the Board expressly construed several terms appearing in independent claim 1 but did not construe the final phrase of claim 1's preamble, “on a frame-by-frame basis,” instead stating “[w]e determine that it is not necessary to provide an express interpretation of any other term of the claims.”

Decision at 14. Nevertheless, the Board interpreted “on a frame-by-frame basis,”

which appears only in claim 1's preamble, to require that claim 4's recitation of "successively increasing the size of a selected area until the boundary of the target is found" must occur *within a single frame*. *Id.* at 28-29.

In reaching its conclusion, the Board misinterpreted the claim language and specification. The claim language does not recite any limitation requiring claim 4's recitation of "successively increasing the size of a selected area until the boundary of the target is found" to occur *within a single frame*. As Samsung explained in its briefing, such an interpretation is also inconsistent with the specification's disclosure of adjusting the size of the "selected area" or "tracking box" over *multiple frames* during the lock on tracking process depicted in Figures 21-23. Paper 29 (Pet. Supp. Reply) at 4-5. In its Decision, the Board even conceded the specification makes such a "suggestion of multiple frames" during tracking (Decision at 30), pointing to the specification's statement that the size of the tracking box "is preferably adjusted on a frame-by-frame basis" (*id.* at 29-30 (quoting Ex. 1001, 24:66-25-2)).

However, the Board misinterpreted the specification as describing the "determination of target limits" (or "lock on" process) to be distinct from the "tracking" process in which the area "is preferably adjusted on a frame-by-frame basis." *Id.* at 29-30 (quoting Ex. 1001, 24:66-25-2). The Board stated "[o]nly in the process of tracking, not in the determination of target limits, is there a

suggestion of multiple frames.” *Id.* at 30. But the patent specification belies this conclusion. The Board overlooked the sentence in the specification explicitly stating that the determination of target limits or (“lock on”) is part of “tracking a target,” not a separate process. The specification states:

[W]hen initially ***tracking a target***, constant K is preferably relatively large, e.g., 10-20 pixels or more, in order that the system may ***lock on*** the target expeditiously. Once a target has been locked onto, K may be reduced. It will be appreciated that ***in the course of tracking a target***, the ***tracking box will be enlarged*** and reduced as appropriate to maintain a track of the target, and ***is preferably adjusted on a frame-by-frame basis***.

Ex. 1001 (’134 Patent) at 24:62-25:2<sup>1</sup>; Paper 29 (Pet. Supp. Reply) at 4 (quoting this disclosure). In other words, the specification uses the phrase “tracking a target” to encompass both the initial phase, in which K is large and the system is trying to “lock on” the target, as well as the later phase in which K has been reduced after the target has been locked onto. Indeed, when the system is “initially ***tracking*** a target,” it has not yet “locked onto” the target, but the process is nevertheless described as “tracking.” The last sentence of the quote above, in context, thus makes clear that the description of adjusting the tracking box “on a frame-by-frame basis” in the “course of ***tracking***” does not apply only ***after*** the boundaries of the target have been found and locked onto but also ***during*** the lock

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<sup>1</sup> All emphasis added unless indicated otherwise.

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