

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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AVER INFORMATION INC. AND IPEVO, INC.,  
Petitioners,

v.

PATHWAY INNOVATIONS AND TECHNOLOGIES, INC.,  
Patent Owner

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Case IPR 2017-02108  
United States Patent No. 8,508,751 B1

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**PATENT OWNER'S REQUEST FOR REHEARING FROM  
FINAL WRITTEN DECISION AND DECISION ON MOTION TO AMEND**

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## I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.71(d), Patent Owner respectfully requests a rehearing of the Board’s Final Written Decision and Decision on Motion to Amend (the “Final Decision,” Paper No. 31). Particularly, Patent Owner requests reconsideration of the Board’s finding that proposed substitute claims 21-27 are obvious over Morichika (Ex. 1002) in view of Liang (Ex. 1023). *See* Decision at 41, *et seq.*

Reconsideration is appropriate because the parties have not had an opportunity to present argument under the Board’s new construction of the claim element “a video stream comprising a series of frame images.” Proposed substitute claims 21-27 recite this element. Accordingly, Patent Owner respectfully requests reconsideration with respect to the obviousness findings of substitute claims 21-27, and specifically with respect to the applicability of the cited prior art to this claim element (in the full context of the claim as a whole, as presently construed) for purposes of obviousness under § 103.

When analyzed in the full context of the claim as a whole, substitute claims 21-27 are patentable over Morichika and Liang. The Board has not performed the proper inquiry. It is not enough to find that a video camera may substitute for a still image camera in Morichika, even if that substitution would be a useful upgrade to that system. Simply reciting advantages of a combination is not legally sufficient to

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