

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

UNILOC USA, INC. and UNILOC LUXEMBOURG, S.A.,
Patent Owner.

IPR2018-00199
Patent 7,092,671 B2

Before MIRIAM L. QUINN, CHARLES J. BOUDREAU, and
GARTH D. BAER, *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

DECISION
Denying Patent Owner's Request for Rehearing
C.F.R. § 42.71

I. INTRODUCTION

Patent Owner Uniloc USA, Inc. and Uniloc Luxembourg, S.A. filed a Request for Rehearing (Paper 34, “Req. Reh’g”) of our Final Written Decision (Paper 33, “Decision” or “Dec.”) addressing the patentability of claims 1–16 of U.S. Patent 7,029,671 (Ex. 1001, “the ’671 patent”). In its Request, Patent Owner seeks reconsideration of our Decision. Req. Reh’g 1. For the reasons provided below, Patent Owner’s Request is *denied*.

II. ANALYSIS

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.” 37 C.F.R. § 42.71(d). The party challenging a decision bears the burden of showing the decision should be modified. *Id.*

In our Decision, we concluded Petitioner had met its burden of showing claims 1–6 and 9–14 would have been obvious over Yun, Langlois, and Dykes and that claims 7, 8, 15, and 16 would have been obvious over Yun, Langlois, Dykes, and Husemann. Dec. 30. Petitioner had also shown by a preponderance of the evidence that claims 1–7 and 9–15 would have been obvious over Harris, Langlois, and Dykes and claims 8 and 16 would have been obvious over Harris, Langlois, Dykes, and Husemann. *Id.* at 30–31.

Patent Owner raises five arguments in contesting our determination. First, Patent Owner asserts that we misapprehended or overlooked argument and evidence responsive to Petitioner’s claim construction. Req. Reh’g 1. Patent Owner asserts also that we overlooked or misunderstood argument and evidence responsive to Petitioner’s Yun mapping. *Id.* at 4. Patent

Owner asserts that we overlooked or misunderstood argument and evidence responsive to Petitioner's Harris mapping. *Id.* at 5. Patent Owner asserts also that we overlooked or misunderstood argument and evidence responsive to Petitioner's combinations with Dykes. *Id.* at 6. Last, Patent Owner asserts that we erred in finding that Petitioner met its burden to prove its Petition names all real parties in interest. *Id.* at 8. We disagree for the reasons explained below.

As to Patent Owner's first argument directed to Petitioner's claim construction, Patent Owner asserts the disputed limitation, "controlling the telephone using the handheld computer system to cause the telephone to dial the specific number," is separate and distinct from the step of "transferring the specific telephone number from the handheld computer system to the telephone using a wireless communication." Req. Reh'g 2. Patent Owner reasons that "the recitation of two separate and distinct 'transferring' and 'controlling' steps precludes reliance upon the mere transfer of a telephone number to provide the requisite *control*." *Id.* Patent Owner asserts that the "Board appears to have misunderstood the explanation for why cited intrinsic evidence supports Patent Owner's position," and that the Board overlooked why the prosecution history supports Patent Owner's position. *Id.* at 3–4.

Patent Owner's arguments are not persuasive, because they are best characterized as disagreements with the Board's Decision rather than identifying anything we misapprehended or overlooked. Specifically, the Decision addressed Patent Owner's argument that "both the Specification and the prosecution history support its 'separate and apart' construction." Dec. 12–13 ("At most, however, the cited passages describe transferring a

number and controlling a telephone to dial the number as separate steps, not as separate commands.”). A rehearing request is not an opportunity to reargue issues that the Board already addressed.

The Decision likewise addressed Patent Owner’s second argument—that “Yun’s ‘dial request’ is distinguishable from ... [and] also *teaches away* from the ‘controlling’ claim language.” Req. Reh’g 4-5. As we explained, we disagreed with Patent Owner’s argument and found that “Yun discloses the transfer and controlling limitations even under Patent Owner’s narrow construction.” Dec. 16–17. Patent Owner’s disagreements with the Board’s Decision do not identify anything we misapprehended or overlooked.

Patent Owner’s third argument, as to Harris, is similar to the arguments for Yun that the “transferring” step is separate and distinct from the “controlling” step. Req. Reh’g 6. We already addressed this argument in the Decision, where we found it unpersuasive because “it relies on Patent Owner’s overly narrow construction of the control limitation, which we decline to adopt for the reasons explained above.” Dec. 24–25. We also found that Patent Owner’s narrow construction “does not distinguish over Harris because Harris teaches both transmitting a number and commanding a telephone to dial the number.” *Id.* at 25.

As to Patent Owner’s fourth argument, addressing “Petitioner’s erroneous combinations with Dykes,” Patent Owner raises two issues. First, Patent Owner argues the Board overlooked its argument on page 40 of its Response to the Petition (“Resp.”) that “for at least claim 9 and its challenged dependent claims, Petitioner has waived any reliance on a combination of Yun with Dykes.” Req. Reh’g 6. Second, Patent Owner argues that Dykes’s hardwired interconnection does not cure the identified

deficiencies of Harris such that the Board overlooked Patent Owner's assertion that "neither Dykes nor Harris disclose the claimed *wireless control* that is separate and distinct from merely transferring a telephone number." *Id.* at 6–7.

Patent Owner's arguments are not persuasive. Patent Owner's argument on page 40 of the Response to the Petition states: "[i]n addressing the 'controlling' step of independent claim 9, the Petition ('Pet.') offers no argument or evidence in support of a conclusion that Dykes may be combined with Yun. Pet. 33. Indeed, the Dykes reference is not even mentioned in that section (§VII.A.7.e) of the Petition." Resp. 40. Petitioner, however, relies on section VII.A.2.f of the Petition to address the "controlling" step and to provide an analysis as to why one of ordinary skill in the art would have been motivated to combine Yun and Dykes. Pet. 20–26. For claim 9 and its dependents, the Petition refers back to Section VII.A.2.f. Pet. 33. Our Decision explains that claim 9 "includes similar transfer and control limitations" as claim 1. Dec. 11. Under the heading "Transfer/Control Limitations and Combining Dykes," we agreed with Petitioner's argument that "one skilled in the art would have found it obvious to combine Dykes's teaching with Yun." Dec. 16. That the Decision does not repeat its analysis in separate sections for claim 1 and claim 9 does not mean that we overlooked Patent Owner's arguments against the combination of Yun and Dykes as to claim 9. Our conclusion applies equally to claim 1 and its dependents as to claim 9 and its dependents. Patent Owner does not adequately distinguish between the transfer/control limitations of claim 1 versus claim 9 in a manner that would require a separate analysis. Patent Owner's argument reflects a disagreement as to the

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