

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC.,
Petitioner

v.

PARITY NETWORKS, LLC,
Patent Owner

Case No.: 2018-01643
Patent No.: 6,831,891

**REQUEST FOR REHEARING
PURSUANT TO 37 C.F.R. § 42.71(d)**

Mail Stop *Inter Partes* Review
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	LEGAL STANDARDS	2
III.	BASIS FOR RELIEF REQUESTED	2
	A. The “Virtual Output Queue” Limitations of the ’891 Patent	3
	B. <i>Schwartz</i> Discloses “Virtual Output Queues” As Claimed.....	3
	1. Failure to map virtual output queues to packet meta-data processors	4
	2. Failure to show virtual output queues “at each input port”.....	6
	3. Storing only packets	8
	4. Virtual output queues equal to the number of output ports.....	10
	C. Summary – Claim Chart.....	11
IV.	CONCLUSION	14

TABLE OF AUTHORITIES

Cases

<i>Eli Lilly & Co. v. Bd. Of Regents of the Univ. of Wash.</i> , 334 F.3d 1264 (Fed. Cir. 2003).....	2
<i>Stevens v. Tamai</i> , 366 F.3d 1325 (Fed. Cir. 2004).....	2

Statutes and Other Authorities

37 C.F.R. § 42.100(b)	1
37 C.F.R. § 42.71(c).....	2
37 C.F.R. § 42.71(d)	2

Pursuant to 37 C.F.R. § 42.71(d), Petitioner Juniper Networks, Inc. (“Petitioner”) hereby submits this Request for Rehearing in response to the “Decision Denying *Inter Partes* Review” of U.S. Patent No. 6,831,891 (“the ’891 patent”). (See Paper 8, “Decision”).

I. INTRODUCTION

The Board’s Decision denied institution on two grounds for review of the ’891 patent based on 35 U.S.C. § 103(a): (1) the combination of WO 00/02347 (“*Schwartz*”) and WO 00/52882 (“*Muller*”); and (2) the combination of CA 2,310,531 A1 (“*Firoiu*”) and *Muller*. Both grounds covered all claims (claims 1-6) of the ’891 patent.

Petitioner respectfully requests that the Board reconsider its Decision denying institution based on Ground 1, the combination of *Schwartz* and *Muller*, because the Board misapprehended *Schwartz*, overlooked petitioner’s arguments about *Schwartz*, and failed to construe claims of the ’891 patent according to the broadest reasonable interpretation in light of the specification in which they appear pursuant to 37 C.F.R. § 42.100(b).¹ Instead, the Board improperly narrowed the scope of the claims of the ’891 patent to exclude invalidating prior

¹ As the Board is aware, 37 C.F.R. § 42.100(b) was amended, effective November 13, 2018, to require application of the same claim construction standard as used by District Courts (*see* 83 Fed. Reg. 51,340, 51,340-41 (October 11, 2018)), but Petitioner filed the Petition at issue here before the effective date of that amendment, so the broadest reasonable interpretation standard applied to the Petition and applies to this Request for Rehearing.

art. This led to erroneous findings of fact with regard to whether certain claim elements were disclosed by *Schwartz*, as shown by the Petition.

II. LEGAL STANDARDS

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 reply.” 37 C.F.R. § 42.71(d). “When rehearing a decision on a petition, 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 (1) clearly unreasonable, arbitrary, or fanciful; (2) is based on an erroneous conclusion of law; (3) rests on clearly erroneous fact findings; or (4) involves a record that contains no evidence on which the Board could rationally base its decision.” *Stevens v. Tamai*, 366 F.3d 1325, 1329 (Fed. Cir. 2004) (quoting *Eli Lilly & Co. v. Bd. Of Regents of the Univ. of Wash.*, 334 F.3d 1264, 1266-67 (Fed. Cir. 2003)).

III. BASIS FOR RELIEF REQUESTED

Petitioner requests reconsideration of the decision denying review of claims 1-6 of the '891 patent as obvious over the combination of *Schwartz* and *Muller* because the decision improperly limits the scope of the claimed “virtual output queues” in a way that excludes invalidating disclosures from the prior art references and excludes preferred embodiments of the '891 patent, with the result

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.