UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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HEWLETT PACKARD ENTERPRISE COMPANY,
Petitioner,

v.

CHRIMAR SYSTEMS, INC.,
Patent Owner.

_____

Case No. IPR2019-00033
Patent No. 8,902,760

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PETITIONER'S REQUEST FOR REHEARING UNDER 37 C.F.R. § 42.71

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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.71(d), Petitioner, Hewlett Packard Enterprise Company ("HPE"), respectfully requests rehearing of the Board's Decision Denying Institution of *Inter Partes* Review (Paper 11) (hereinafter, "Decision"). In its Decision, the Board held that HPE's Petition is barred under 35 U.S.C. § 315(a)(1) due to Hewlett-Packard Company ("HPCo.") and Aruba Networks, Inc. ("Aruba")[1] previously filing declaratory judgment actions challenging the validity of U.S. Patent No. 8,902,760 ("the '760 Patent"). Paper 11 at 8; *see also* Paper 2 at 8-9. The Decision, however, should be reversed, as the Board misapprehends (i) the impact of the voluntary dismissal of HPCo. and Aruba's declaratory judgment actions under Rule 41(a)(1)(A)(i) before HPE filed its Petition and (ii) the applicability of the Federal Circuit's decision in *Click-To-Call Techs., LP v. Ingenio, Inc.*, 899 F.3d 1321 (Fed. Cir. 2018) (en banc), to § 315(a)(1).

HPE further requests that this rehearing be heard by the Precedential Opinion

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[1] Based on the Federal Circuit decision *Applications in Internet Time, LLC v. RPX Corp.*, 897 F.3d 1336 (Fed. Cir. 2018), and to satisfy the requirement set forth in 37 C.F.R. § 42.8(b)(1), HPE identified HP Inc. and Aruba as real parties-in-interest to its IPR petition. Paper 2 at 1-2. HPCo. is the former name of HP Inc. Paper 2 at 8, n.5.

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