UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DISH NETWORK L.L.C.,
Petitioner,

v.

MULTIMEDIA CONTENT MANAGEMENT LLC,
Patent Owner.

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IPR2019-01015
Patent 8,799,468

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Before MICHELLE N. WORMMEESTER, MELISSA A. HAAPALA, and
MATTHEW J. McNEILL, *Administrative Patent Judges.*

McNEILL, *Administrative Patent Judge*.

DECISION
Denying Request for Rehearing
37 C.F.R. § 42.71(d)

I.   BACKGROUND

In a Decision rendered on November 13, 2019, we denied institution of trial with respect to claims 1, 6, 13, 15, 19, 23–25, 27–30, 32, 33, and 41 of U.S. Patent No. 8,799,468 ("the '468 patent") on any ground of unpatentability asserted in the Petition. Paper 11 ("Dec."). The Decision stated that the Petition asserted the following grounds of unpatentability:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1, 23, 24, 25, 30	103(a)	Hoang '980
6, 28	103(a)	Hoang '980, Venkatesh
13, 27	103(a)	Hoang '980, Hoang '267
19, 29	103(a)	Hoang '980, Hoang '561
15, 32	103(a)	Hoang '980, OpenCable
33	103(a)	Hoang '980, Cameron
41	103(a)	Hoang '980, Shteyn

Dec. 7.

On December 13, 2019, Petitioner filed a Request for Rehearing ("Request" or "Req. Reh'g") (Paper 12). Petitioner requests that we reconsider the denial of ground one (obviousness over Hoang) and institute this proceeding. *Id.* at 1, 12.

On request for rehearing, the burden of showing a decision on whether to institute trial should be modified lies with the party challenging the decision. 37 C.F.R. § 42.71(d). "When rehearing a decision on petition, a panel will review the decision for an abuse of discretion." 37 C.F.R.

§ 42.71(c). "The request 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).

For reasons discussed below, we decline to modify the Decision. Thus, Petitioner's Request is *denied*.

II. DISCUSSION

Petitioner argues in the Request that the Board misapprehended the argument set forth in the Petition, incorrectly characterizing Ground 1 as requiring redundant access control. Req. Reh'g 2–9. Petitioner argues the Petition instead proposed adding a bidirectional communication link to Hoang '980's unidirectional embodiment, which would permit the disclosed unidirectional access control technique to also be used to access programming that requires a bidirectional link, such as user-initiated video on demand (VOD) programming. *Id.* Petitioner argues combining the embodiments in this manner would allow a user to control when programming is delivered. *Id.* Petitioner contends the Petition set forth a reasonable likelihood of establishing that claim 1 is unpatentable over these teachings of Hoang '980. *Id.* at 9–12.

Petitioner has not persuaded us that we misapprehended or overlooked in the Petition the argument that Petitioner now sets forth. In the Decision, we explained that the Petition relies on a combination of Hoang '980's bidirectional and unidirectional systems to meet the limitations of claim 1. Dec. 12. We explained that the Petition "relies on the unidirectional embodiment that employs a central controlling server to generate subscription data packets to be transmitted to client's set top boxes for the

limitation 'a controller node coupled to the service provider network.'" *Id.* at 12–13 (citing Pet. 20–25). We explained that the Petition "relies on the bidirectional embodiment that transmits content requests to the cable system service provider network for the limitation 'at least a second processor coupled to the second one or more network interfaces, wherein the second processor is to selectively transmit content requests to the service provider network in accordance with the controller instructions.'" *Id.* at 13 (citing Pet. 37–44). Petitioner's argument that we misapprehended its reliance on bidirectional access control techniques is unpersuasive because the cited portions of the Petition indeed rely on an embodiment incorporating bidirectional access techniques (*see* Pet. 37–44), not merely a bidirectional link as Petitioner now proposes (*see* Req. Reh'g 2–9).

In particular, the Petition relies on Hoang '980's teaching of QAM demodulator 602 to establish that the embodiment disclosed in Figure 8, which relates to unidirectional access control, "supports a bidirectional interface to the cable system service provider network." Pet. 39 (citing Ex. 1006 ¶ 166). The Petition explains that the user may select a data-on-demand (DOD) service to access using the electronic programming guide (EPG) user interface taught in Figure 8. *Id.* (citing Ex. 1008 ¶ 39). The Petition explains how the set top box checks the user's permission levels in the subscription data packet before allowing the user to access the selected program. *Id.* at 39–40. This explanation comports with the unidirectional access control embodiment, which Petitioner asserts included a bidirectional communication link.

However, the Petition explains that the preferred embodiment of Hoang '980 does not explicitly disclose "transmit[ting] the content requests

to the service provider network." Pet. 41. The Petition states gaining access via transmission of a content request "is obvious over the combination of Hoang '980's preferred embodiment system in Figs. 7 and 8 with the bi-directional on-demand systems of Hoang '980's Figs. 3 and 4." Pet. 41. The Petition then explains how content requests are transmitted in the bidirectional system taught in Figs. 3 and 4. *See id.* at 42–44.

The Petition specifically relies on the "demand that server provide requested client specific data" of Hoang '980's bidirectional system as part of the "access selected DOD service" at step 706 of Hoang '980's unidirectional access system. Pet. 42. The "demand that server provide requested client specific data" step in Hoang '980's bidirectional access system is part of a back-and-forth process of bidirectional communication involving both the client and the server, as described in more detail in Hoang '980's description of the prior art bidirectional systems. *See* Ex. 1006 ¶¶ 15–25. In this process, the DOD server makes a determination as to whether a client is authorized to receive the requested data. *Id.* ¶ 21. In other words, combining these embodiments in the manner set forth in the Petition would result in redundant access control, as noted in the Decision. *See* Dec. 16–17.

Petitioner now asserts that the Petition only relies on a bidirectional link to access additional features, such as VOD programming, and not on the bidirectional access control techniques. *See* Req. Reh'g 2–9. But the Petition set forth evidence that the unidirectional embodiment described in Figures 7 and 8 included a bidirectional link, relying on QAM demodulator 602, as noted above. Pet. 39 (citing Ex. 1006 ¶ 166). Petitioner's additional reliance on the "demand that server provide requested client specific data" step (Pet. 42) requires reliance on a combination of the unidirectional

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