

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BANK OF AMERICA, N.A.,
Petitioner,

v.

NANT HOLDINGS IP, LLC,
Patent Owner.

IPR2021-01080
Patent 8,463,030 B2

Before JAMESON LEE, THOMAS L. GIANNETTI, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

I. BACKGROUND

In our Institution Decision (Paper 14), we adopted the district court’s construction for the “recognize” limitation appearing in all challenged claims. *Id.* at 10. Thus, for the purpose of our Institution Decision, we construed the “recognize” limitation in the challenged claims of the ’030 patent as “recognize the object as a target object based on the acquired data by comparing the acquired data to image data of objects stored in a database.” *Id.*

Recently, we were advised that the district court has granted Petitioner’s request and entered an order clarifying the construction of the term “recognize.” With our authorization, Petitioner submitted that order as Exhibit 1042.

The district court’s order revises the construction for the “recognizing” claim terms in the ’030 patent to include the phrase “to find a match” at the end of the construction. *Id.* at 2.¹ Thus, the district court construes the term “recognize the object as a target object based on the acquired data” in the claims of the ’030 patent as “recognize the object as a target object based on the acquired data by comparing the acquired data to image data of objects stored in a data base to find a match.” *Id.* We agree with the district court’s clarification and therefore conclude that the recognize limitation should be given the same construction as that determined by the district court.

In our analysis of the cited references in our Institution Decision, we applied the construction for “recognize” originally adopted by the district

¹ Citations to this exhibit refer to page numbers assigned by Petitioner.

court. Paper 14, 22. However, in describing the Bolle reference, we observed that “Bolle further describes comparison/matching of the target characterization to the reference characterizations that is performed according to one or more matching algorithms, such as a nearest neighbor classification.” *Id.* at 15. And in addressing Patent Owner’s argument that Ogasawara fails to disclose matching, we observed that “[a]s discussed *supra*, Petitioner relies on Bolle for its teachings of object recognition and matching stored images in a database.” *Id.* at 26 (citing Pet. 24 (“Bolle uses image segmentation technology in conjunction with object recognition techniques and a database that stores image characteristics of reference objects to match the object in the captured image with a reference object.”)).

Thus, our analysis in the Institution Decision would be the same under the district court’s original or revised constructions of the “recognize” limitation.

II. ORDER

It is, therefore,

ORDERED that we hereby adopt the district court’s revised construction of “recognize the object as a target object based on the acquired data” in the claims of the ’030 patent as “recognize the object as a target object based on the acquired data by comparing the acquired data to image data of objects stored in a data base to find a match;” and

FURTHER ORDERED that the analysis of this limitation in our Institution Decision (Paper 14) is applicable under either construction.

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