

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CRANE MERCHANDISING SYSTEMS, INC.,
Petitioner,

v.

NEWZOOM, INC. and NEWZOOM, LLC,
Patent Owners.

Case CBM2018-00040
Patent 6,758,370 B2

Before WILLIAM V. SAINDON, BARBARA A. BENOIT, and
CHRISTOPHER G. PAULRAJ, *Administrative Patent Judges*.

PAULRAJ, *Administrative Patent Judge*.

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

Pursuant to our authorization, Petitioner filed a second request for rehearing of our denial of institution in this proceeding in light of the Federal Circuit’s decision in *SIPCO, LLC v. Emerson Elec. Co.*, 939 F.3d 1301, 1313 (Fed. Cir. 2019). Paper 19. We also authorized Patent Owner to file an opposition to Petitioner’s second request for rehearing. Paper 20. Subsequently, the Supreme Court granted a petition for certiorari, vacated the Federal Circuit’s first opinion in the *SIPCO* case, and remanded the case “for further consideration in light of *Thryv, Inc. v. Click-to-Call Technologies, LP*,” 140 S. Ct. 1367 (2020). On remand, the Federal Circuit determined that the issue of whether a patent qualifies for CBM review is not subject to judicial review. *SIPCO, LLC v. Emerson Elec. Co.*, 980 F.3d 865, 870 (Fed. Cir. 2020). Accordingly, because the circumstances that warranted further reconsideration of our denial of institution no longer hold true, we hereby decline to consider the second request for rehearing.

For the foregoing reasons, Petitioner’s second request for rehearing is *denied*. Our original decision to deny institution based on lack of CBM review eligibility therefore stands.

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