

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP AMERICA, INC.
Petitioner

v.

PI-NET INTERNATIONAL, INC.
Patent Owner

Case IPR2013-00194
Patent 8,108,492

Before KARL D. EASTHOM, JONI Y. CHANG and
BRIAN J. McNAMARA, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

DECISION
DENYING REQUEST FOR REHEARING
37 C.F.R. § 42.71(d)

BACKGROUND

On September 19, 2013, the Board instituted a trial based on Petitioner's challenges to claims 1-7, 10, and 11 as anticipated by U.S. Patent 5,710,887 (Exhibit 1004, "Chelliah"), claim 8 as obvious over the combination of Chelliah and a text entitled Electronic Banking (Exhibit 1006), and claim 12 as obvious over the combination of Chelliah and U.S. Patent 4,648,037 (Exhibit 1007, "Valentino"). Decision To Institute 25. The Board declined to institute a trial on corresponding challenges in which Petitioner substituted NetBill: 1994 Prototype; TR1994-11 (Exhibit 1003, "Goradia") and U.S. Patent 5,724,424 (Exhibit 1005, "Gifford") for Chelliah. *Id.*, 16-18, 21-22, 24. Petitioner requests rehearing of its challenges based on Goradia. Rehearing Req. 1.

On October 10, 2013 Patent Owner filed an Opposition to Petitioner's Motion for Rehearing. Paper No. 19. 37 C.F.R. § 42.71(d) does not provide for a party to file an opposition to a Request For Rehearing without first obtaining authorization from the Board. Patent Owner did not seek the Board's authorization to file its opposition and, therefore, Patent Owner's opposition has not been considered. *See*, CBM2012-00001 Order Authorizing Additional Briefing, Paper No. 73.

Petitioner's Request for Rehearing contends that the Board misapprehended or overlooked SAP's description of the Money Tool and, as a result, found that the Petition does not establish that Goradia discloses a "VAN switch." *Id.* at 3.

The Petition proposed that the VAN switch be construed to mean "a hardware and/or software module that facilitates the movement of data between two or more computers." Pet. 6. In the Decision To Institute, the Board construed the claimed VAN switch "to mean *an OSI application layer switch having a switching component, object routing component and management component.*" Decision To

Institute 11. The Board's Decision To Institute noted that the Petition mentioned the description in the '492 Patent of a value added network switch as one that provides multi-protocol object routing, but that Petitioner's proposed construction did not address that feature. *Id.* at 10. Petitioner's related quote from the '492 Patent is the only mention of object routing in the Petition. Pet. 6.

Petitioner now, for the first time, contends that the Money Tool taught by Goradia is a VAN switch because it is an OSI application layer switch having a switching component, an object routing component and a management component. Rehearing Req. 3. Citing the Petition at pages 14-15, Petitioner argues that the Money Tool is an application that runs on top of the Internet in the application layer and includes a switching component in that it routes information, such as the address and product ID of requested content. Rehearing Req. 4. The Request for Rehearing does not contend that the Petition specifically argued that the Money Tool discloses object routing or that the Board misapprehended or overlooked such a position advanced by Petitioner.

Petitioner now argues Goradia discloses object routing because it describes a genIDl code generator creating object stub source code modules that are linked to the client and server applications and because Goradia states that the client object stub will marshal object parameters, encrypt them, and invoke the Distributed Computing Environment (DCE) stub for the corresponding Remote Procedure Call (RPC) procedure. *Id.* at 6-8. None of these arguments were advanced in the Petition. In view of Petitioner's belated arguments, particularly after acknowledging at page 12 of the Petition the association of object routing with the VAN switch, we deny Petitioner's Request For Rehearing.

We further note that in related proceeding CBM2013-00013, we construed “‘object routing’ to mean *the use of individual network objects to route a user from*

a selected transactional application to the processing provided by the service provider.” CBM2013-00013, Decision To Institute 17. Goradia discloses the RPC providing a distributed application program interface in which heterogeneous computers communicate over a network using their local call function syntax. Ex. 1003, 48. When a client computer invokes an RPC to a server, the client marshals parameters into a machine independent form, establishes a network connection, and transmits the arguments to the server. *Id.* The server unmarshals the arguments, invokes a corresponding local procedure, marshals the results arguments, and sends them back to the client. *Id.* The client then unmarshals the results arguments and returns them to the calling function. *Id.*

Petitioner has identified in Goradia a code generator, genIDL, that generates code linked to client and server applications that can be used to marshal and exchange parameters between the respective applications. However, Petitioner has not identified how Goradia performs object routing in which individual network objects route a user from a transactional application to the processing provided by the service provider. Petitioner has not identified in Goradia how the code generated by genIDL is linked to the client and server applications.

Our construction of object routing includes the use of individual network objects. In its description of object routing, the '492 Patent discloses that networked objects each are assigned an Internet address based on the node at which the networked object lies. Ex. 1001, col. 8, ll. 12-13, 17-19. Thus, a networked object is assigned an Internet address based on the Web server IP address, forming a branch from a node and a hierarchical tree structure through which the individual object is reachable. *Id.* at ll. 16-23. There is no such discussion in Goradia.

The '492 Patent provides one example of an object routing embodiment in which distributed on-line service information bases list individual network objects and their IP addresses. *Id.* at ll. 3-39. While, under our construction, the claims of the '492 Patent are not limited to any particular form of object routing, Petitioner has not identified in Goradia a description of network objects or of how such object routing is performed.

In consideration of the foregoing, it is hereby:
ORDERED that the Request For Rehearing is DENIED.

PETITIONER: (via electronic transmission)

Lori A. Gordon
Lgordon-PTAB@skgf.com

Michael Q. Lee
Mlee-PTAB@skgf.com

PATENT OWNER: (via electronic transmission)

Bryan Boyle
bboyle@carrferrell.com

Lawrence B. Goodwin
LawrenceGoodwinPC@gmail.com

Gerald Dodson
jdodson@carrferrell.com