

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ERICSSON INC. and TELEFONAKTIEBOLAGET LM ERICSSON,  
Petitioner,

v.

INTELLECTUAL VENTURES I LLC,  
Patent Owner.

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Case IPR2014-01331  
Patent 6,640,248 B1

Before BRIAN J. McNAMARA, DAVID C. McKONE, and  
BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

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

SUMMARY

Ericsson Inc. and Telefonaktiebolaget LM Ericsson (collectively, “Petitioner”) request rehearing of the Board’s decision not to institute an *inter partes* review of U.S. Patent 6,640,248 B1 (Ex. 1001) (the “’248 patent”) (Paper 9 (“Decision”)) entered February 24, 2015. Paper 10 (“Rehearing

Req.”). For the reasons that follow, Petitioner’s request for rehearing is denied.

#### DISCUSSION

The applicable standard for a request for rehearing is set forth in 37 C.F.R. § 42.71(d), which provides in relevant part:

A party dissatisfied with a decision may file a request for rehearing, without prior authorization from the Board. The burden of showing a decision should be modified lies with the party challenging the decision. 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, opposition, or a reply.

Petitioner argues that the Decision misapprehends: (1) why “an application-aware resource allocator at the MAC layer” is disclosed by Ganz; and (2) why “an application-aware resource allocator at the MAC layer” is disclosed by Ganz in view of Haddock. Rehearing Req. 1–9. The arguments are unpersuasive.

##### *A. Ganz*

Petitioner argues the Board misapprehended or overlooked why “an application aware resource allocator at the MAC layer” is disclosed by Ganz. Rehearing Req. 2–6. In particular, Petitioner argues that the Board misapprehends what Petitioner points to as the “resource allocator” in Ganz.

*Id.* at 2. Petitioner argues that:

[r]ather than ***solely*** identify *Ganz*’s resource manager as the relevant “resource allocator,” Petitioners rely more broadly on components at the “MAC layer” including “[i]n particular, an adaptive MAC polling approach in combination with a resource manager” as the “application-aware resource allocator at the MAC layer.

*Id.* at 2–3

Petitioner argues that “media control modules 222 further includes MAC 320, which logically also resides at the MAC layer.” *Id.* at 3–4. “Thus, all three components of ‘media control modules 222’ are at the MAC layer.” *Id.* at 4.

To the extent that the Petition identified media control modules 222 as the MAC layer, rather than just MAC 320, we considered and rejected that argument. Dec. 8–9. Specifically, we found that the evidence presented by Petitioner, namely the testimony of Mr. Lanning, identified MAC 320 as corresponding to the MAC layer. *Id.* (citing Ex. 1003 ¶¶ 48, 75). Mere disagreement with this finding is not grounds for rehearing.

Petitioner also argues that the Board overlooked Ganz’s “Summary of the Invention.” Rehearing Req. 4. Petitioner directs attention to the transitional phrase “in particular,” which Petitioner alleges “creates a relationship between these two sentences that, in context, signals further specificity as to what exactly implements QoS requirements **at the MAC layer.**” *Id.* at 4. We did not overlook or misapprehended this argument. The decision specifically addresses this cited portion of Ganz and explains that “[n]either Petitioner, nor the testimony of Mr. Lanning that Petitioner points to, however, explains anything more about how these portions of Ganz disclose how the resource manager of Ganz is ‘at the MAC layer,’ as required by claim 1.” Decision 7–8.

Petitioner also argues that the Board “inadvertently relied on a typographical error” in the Petition, which identified MAC 320 as the MAC layer 320. Rehearing Req. 5–6. Petitioner does not, however, address the other instances where the Petitioner also refers to MAC 320 as the MAC layer. *See* Decision 9. Also, as the Decision notes, paragraph 48 of Mr. Lanning’s Declaration states that a MAC layer allocates resources along with other media

control modules. *Id.* at 8–9. This consistent testimony by Mr. Lanning undermines Petitioner’s argument that the testimony on which we relied included a typographical error. Petitioner argues the Board overlooked the next paragraph of Mr. Lanning’s declaration, which states that media control modules 222 include resource manager 322 and MAC 320. Rehearing Req. 6. As explained in the Decision, however, “Figure 3 of Ganz simply depicts that resource manager 322 is part of media control modules 222,” but Petitioner “has not explained persuasively how resource manager 322 or media control modules 222 reside at the MAC layer.” Decision 10. Thus, we are not persuaded that we misapprehended or overlooked the argument that “an application-aware resource allocator at the MAC layer” is disclosed by Ganz.

*B. Ganz in combination with Haddock*

Petitioner argues the Board misapprehended or overlooked why “an application-aware resource allocator at the MAC layer” is disclosed by Ganz in combination with Haddock. However, Petitioner merely directs attention to the Abstract of Haddock without explaining further what the Board misapprehended or overlooked. Rehearing Req. 8.

Moreover, as explained in the Decision, Petitioner refers to the claim chart of claim 1 and related disclosures of Ganz, not Haddock, as disclosing the “application-aware resource allocator at the MAC layer.” Decision 10. Thus, the Petition does not allege that Haddock remedies the deficiencies of Ganz with respect to the “application-aware resource allocator at the MAC layer” requirement of claim 1. *Id.* We could not have misapprehended or overlooked an argument not adequately explained in the briefing. Accordingly, we are not persuaded of error.

### CONCLUSION

For the foregoing reasons, Petitioner's request for rehearing is denied.

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