

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GEOSYS-INTL, INC.,
Petitioner,

v.

FARMERS EDGE PRECISION CONSULTING INC.,
Patent Owner.

Case IPR2015-00709
Patent 7,171,912 B2

Before JAMES T. MOORE, JOSIAH C. COCKS, and
TIMOTHY J. GOODSON, *Administrative Patent Judges*.

GOODSON, *Administrative Patent Judge*.

DECISION
Granting Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Geosys-Intl, Inc. (“Petitioner”) filed a Request for Rehearing (Paper 35, “Req. Reh’g”) of our Final Decision (Paper 34, “Dec.”). In that Decision, we concluded that Petitioner established by a preponderance of the evidence that claims 1–24 of U.S. Patent No. 7,171,912 B2 (“the ’912 patent”) are unpatentable as obvious under 35 U.S.C. § 103, but that Petitioner did not demonstrate the unpatentability of claim 25 of the ’912 patent. *See* Dec. 40. The aspect of the Decision challenged in the Request for Rehearing is our determination that Petitioner did not meet its burden to show that claim 25 would have been obvious in view of Hauwiller,¹ the Background of the ’912 patent, and Shibusawa.² *See id.* at 25–28; Req. Reh’g 1. For the reasons set forth below, Petitioner’s request for rehearing is *granted*.

II. LEGAL STANDARD

The rule governing requests for rehearing provides that “[t]he burden of showing a decision should be modified lies with the party challenging the decision.” 37 C.F.R. § 42.71(d). Further, “[t]he 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.” *Id.*

III. ANALYSIS

Claim 25 depends from claim 15, which is reproduced below:

¹ U.S. Patent No. 6,236,907 B1, issued May 22, 2001 (Ex. 1006, “Hauwiller”).

² U.S. Patent No. 6,937,939 B1, issued Aug. 30, 2005 (Ex. 1004, “Shibusawa”).

15. A method implemented in at least one computer program to provide a map of site-specific amounts of a soil nutrient to be applied in fertilizer to an agricultural field divided into sites, the method comprising:

calculating site-specific measures for the soil nutrient existing in the field;

calculating a map for the agricultural field of site-specific soil nutrient amounts needed to produce at each site a maximum possible crop yield by use of a map of site-specific field characteristic data for the agricultural field generated using a satellite image of the agricultural field; and

subtracting, from the site-specific soil nutrient amounts for maximum yield for the field, the site-specific measures for soil nutrient existing in the field, thereby producing a map of site-specific amounts of soil nutrient to be applied in fertilizer to the field.

Ex. 1001, 12:1–17. Claim 25 adds the limitation that “the site-specific measures of the soil nutrient existing in the field are calculated from at least a map of site-specific measure of soil electrical conductivity.” *Id.* at 12:52–55.

Our Final Decision determined that Petitioner established that claim 15 would have been obvious in view of Hauwiller and the Background of the ’912 patent. *See* Dec. 10–19. In our discussion of claim 25, we noted that Petitioner relied on Shibusawa as disclosing a map of measurements of soil electrical conductivity. *Id.* at 27 (citing Pet. 47; Ex. 1004, 20:11–16, 23:14–17). We also took note of the testimony of Dr. Johannsen, Petitioner’s declarant, that electrical conductivity is a commonly known soil property and that incorporating Shibusawa’s soil electrical conductivity teachings into Hauwiller would have been obvious. *Id.* (citing Ex. 1009 ¶ 80). However, we reasoned that “[b]y virtue of its dependency from claim 15, claim 25

requires that the map of site-specific field characteristic data is ‘generated using a satellite image of the agricultural field,’” and Petitioner had not shown that it was known or obvious to create a map of soil electrical conductivity through satellite imaging. *Id.* Therefore, we determined that Petitioner had not met its burden to demonstrate the obviousness of claim 25.

In its Request for Rehearing, Petitioner argues that our determination was based on a misapprehension of what is required by claim 25. Req. Reh’g 6. Specifically, Petitioner argues that claim 25 does not require satellite imaging to create a map of soil electrical conductivity. *Id.* at 1. Petitioner points out that claim 25 requires that the soil electrical conductivity map is used for the calculation of the “site-specific measures of the soil nutrient **existing** in the field.” *Id.* at 2. Claim 15 requires that the map of site-specific field characteristic data generated using a satellite image of the agricultural field is used in the calculation of the map of “site-specific soil nutrient amount **needed** to produce at each site a maximum possible crop yield.” Ex. 1001, 12:7–12. In other words, the map of soil electrical conductivity recited in claim 25 is used in the first calculating step of claim 15, not the second calculating step that uses a map generated through satellite imaging.

After considering the arguments in the Request for Rehearing and reconsidering the evidence of record, we agree with Petitioner that the reasoning in our Final Decision misapprehended what is required by claim 25. Claim 25 does not require satellite imaging to create a map of soil electrical conductivity. Applying this corrected understanding of claim 25, we also agree that Petitioner established by a preponderance of the evidence

that claim 25 would have been obvious in view of Hauwiller, the Background of the '912 patent, and Shibusawa. As summarized above, Petitioner presented evidence that Shibusawa discloses a map of measurements of soil electrical conductivity, and that combining Shibusawa's teachings with Hauwiller's system would have been obvious because electrical conductivity testing is a relatively efficient method for determining soil properties. Pet. 47; Ex. 1004, 20:11–16, 23:14–17; Ex. 1009 ¶ 80. As Petitioner points out, the subject matter recited in claim 25 is similar to that of claims 7 and 14, and we determined in our Final Decision that Petitioner's contentions regarding the obviousness of those claims were persuasive. See Req. Reh'g 5–6; Dec. 34.

For the foregoing reasons, we *grant* Petitioner's Request for Rehearing and modify our Final Decision to reflect that Petitioner has established by a preponderance of the evidence that claim 25 is unpatentable.

IV. ORDER

Accordingly, it is

ORDERED that Petitioner's Request for Rehearing is *granted*;

FURTHER ORDERED that a preponderance of the evidence supports the conclusion that claim 25 of the '912 patent is unpatentable as obvious in view of Hauwiller, the Background of the '912 patent, and Shibusawa; and

FURTHER ORDERED that the Final Decision is modified to include our analysis herein.

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PETITIONER:

Brett A. Klein
Devan V. Padmanabhan
Michelle E. Dawson
Erin Dungan
WINTHROP & WEINSTINE, P.A.
patent@winthrop.com

PATENT OWNER:

Darren E. Donnelly
Andrew Whitehead
Amy Haden
Dargaye Churnet
Stuart Meyer
FENWICK & WEST LLP
ddonnelly-ptab@fenwick.com
awhitehead-ptab@fenwick.com
ahayden-PTAB@fenwick.com
dchurnet@fenwick.com
smeyer@fenwick.com