

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE, INC. and
LG ELECTRONICS, INC.,
Petitioner,

v.

CORE WIRELESS LICENSING S.A.R.L.,
Patent Owner.

Case IPR2015-01714
Patent 7,072,667 B2

Before LYNNE E. PETTIGREW, CHRISTA P. ZADO, and
JESSICA C. KAISER, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

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

I. INTRODUCTION

Google Inc. and LG Electronics, Inc. (collectively, “Petitioner”) seeks rehearing (Paper 22, “Request” or “Req. Reh’g”) of our determination in the Final Decision (Paper 21, “Final Decision”) that Petitioner failed to demonstrate by a preponderance of the evidence that claim 15 of U.S. Patent No. 7,072,667 B2 (Ex. 1001, the “’667 patent”) is unpatentable under 35 U.S.C. § 103 as obvious over the combination of Johansson,¹ Boss,² and Reed.³ We have considered Petitioner’s Request, but for reasons that follow, we decline to modify our Final Decision.

II. LEGAL STANDARD

The standard of review for rehearing requests is set forth in 37 C.F.R. § 42.71(d), which provides:

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, an opposition, or a reply.

III. DISCUSSION

In our Final Decision, we determined Petitioner had failed to show it would have been obvious, in view of Boss, to modify the cell phone in Johansson to include “circuitry operable to send the received message to another mobile station,” as recited in claim 15. Final Decision 24–25. In particular, we found that although Boss discloses a cell phone sending a

¹ U.S. Patent No. 6,442, 391 (Ex. 1003) (“Johansson”).

² U.S. Patent No. 7,444,156 (Ex. 1004) (“Boss”).

³ U.S. Patent No. 6,275,707 (Ex. 1005) (“Reed”).

message to another cell phone, Boss describes a cell phone broadcasting its own messages rather than sending a *received* message as required by claim 15. *Id.* at 24. We found Petitioner had not explained sufficiently “why broadcasting one’s location periodically would have led a skilled artisan to modify a mobile station in Johansson to forward *received* messages to other mobile stations.” *Id.* at 25 (emphasis added). We also found that Petitioner had not “provide[d] evidence or argument that Reed cures the deficiency of the combination of Johansson and Boss.” *Id.* at 26.

In the Request, Petitioner argues that we “overlooked that the Petition did in fact provide evidence and argument that Reed cures the alleged deficiency of Johansson and Boss.” Req. Reh’g 1–2. We did not overlook the evidence and arguments made by Petitioner with respect to Reed. The evidence and arguments made with respect to Reed were not offered in the Petition for the purpose of explaining why a skilled artisan would have modified the cell phone in Johansson to send *received* messages. Rather, Petitioner’s evidence and arguments regarding Reed were made for the purpose of supporting a contingency argument that, to the extent Patent Owner were to argue claim 15 requires peer-to-peer sending, this feature would have been obvious in view of Reed. Pet. 59. The Petition includes arguments that Reed enables a transceiver, such as a cell phone, to receive information to update its own location estimate, and that it would have been obvious in view of Reed to include circuitry that provides a robust system for mobile stations to share information. *Id.* at 59–60. Notably, the Petition does not include argument that Reed discloses sending a *received* message. Instead, Petitioner argued in the Petition that it would have been obvious in view of Reed to modify the *combined* system of Johansson and Boss to

achieve a cell phone that included the claimed *circuitry*. *Id.* at 58–60. With respect specifically to sending a *received* message, Petitioner argued only that the combination of Johansson and Boss discloses this feature. *Id.* at 53–54. Therefore, Petitioner’s argument in the Request that Reed addresses the failure of the Johansson-Boss combination to disclose sending a *received* message is new and therefore not permitted in a rehearing request.

Furthermore, we note that Reed discloses a system, like the one disclosed in Boss, wherein a transceiver sends information about its own location to another transceiver, but Petitioner has not shown Reed discloses sending a *received* message. Ex. 1005, Abstract, 3:66–4:18; *see also* Final Decision 24–25 (discussing Boss).

IV. CONCLUSION

Having considered Petitioner’s Request, Petitioner has not persuaded us, for the reasons discussed, that our Final Decision should be modified.

V. ORDER

Accordingly, it is:

ORDERED that the Request for Rehearing is *denied*.

IPR2015-01714
Patent 7,072,667 B2

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