

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ONE WORLD TECHNOLOGIES, INC.,
d/b/a TECHTRONIC INDUSTRIES POWER EQUIPMENT,
Petitioner,

v.

THE CHAMBERLAIN GROUP, INC.,
Patent Owner.

Case IPR2017-00126
Patent 7,161,319 B2

Before JONI Y. CHANG, JUSTIN T. ARBES, and JOHN F. HORVATH,
Administrative Patent Judges.

HORVATH, *Administrative Patent Judge.*

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

I. INTRODUCTION

One World Technologies, Inc. d/b/a Techtronic Industries Power Equipment (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute *inter partes* review of claims 1–4, 7–12, 15, and 16 (“the challenged claims”) of U.S. Patent No. 7,161,319 B2 (Ex. 1001, “the ’319 patent”). Patent Owner filed a Response (Paper 11, “PO Resp.”), and Petitioner filed a Reply (Paper 16, “Pet. Reply”). On October 15, 2018, we entered a Final Written Decision determining that Petitioner had shown, by a preponderance of evidence, that claims 1–4, 7, 9–12, and 15 of the ’319 patent are unpatentable, but had failed to show that claims 8 and 16 are unpatentable. Paper 54¹ (“Final Dec.”). On November 14, 2018, Petitioner filed a Request for Rehearing, asking us to reconsider our finding that Petitioner had failed to show that claims 8 and 16 are unpatentable. Paper 58 (“Reh’g Req.”).² For the reasons discussed below, Petitioner’s Request for Rehearing is *denied*.

¹ A public version of this sealed Final Written Decision was filed on October 24, 2018, as Paper 56.

² Prior to a decision on Petitioner’s Request for Rehearing, both parties filed a notice of appeal from the Final Written Decision. Papers 62, 64. The parties subsequently filed a joint motion to dismiss their respective appeals. On February 19, 2019, the U.S. Court of Appeals for the Federal Circuit granted the parties’ motion to dismiss their appeals, and remanded the case to the Board to decide the parties’ rehearing requests. The Federal Circuit’s Order issued as a mandate to the Board on the same day.

II. ANALYSIS

A request for rehearing “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.” 37 C.F.R. § 42.71(d). The burden of showing a decision should be modified on a request for rehearing lies with the party challenging the decision. *Id.*

Petitioner argues rehearing “is warranted given new arguments advanced by [Patent Owner] in U.S. International Trade Commission Investigation No. 337-TA-1016 (‘the ITC Investigation’) that directly contradict Patent Owner’s arguments adopted by the Board.” Reh’g Req. 1.³ Petitioner argues that in the ITC Investigation, Patent Owner asserted that claims 8 and 16 are infringed if “any conductor between the [motor drive unit and wall console] controllers carries both data and power.” *Id.* at 6. Petitioner argues this argument is inconsistent with the argument Patent Owner advanced in this proceeding, namely, that claims 8 and 16 were not shown to be unpatentable because “the power and data provided to Jacobs’

³ Petitioner filed new Exhibits 1038–1040 with its Request for Rehearing. The Office’s Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012), explains that when filing a rehearing request, “[e]vidence not already of record at the time of the decision will not be admitted absent a showing of good cause.” Petitioner argues that it “could not have brought this evidence to the attention of the Board earlier because Patent Owner waited until after the Final Written Decision before reversing positions.” Req. Reh’g 1. We need not decide this issue, however, because Petitioner’s arguments on rehearing are based on a misunderstanding of the reasoning in our Final Written Decision, as explained herein.

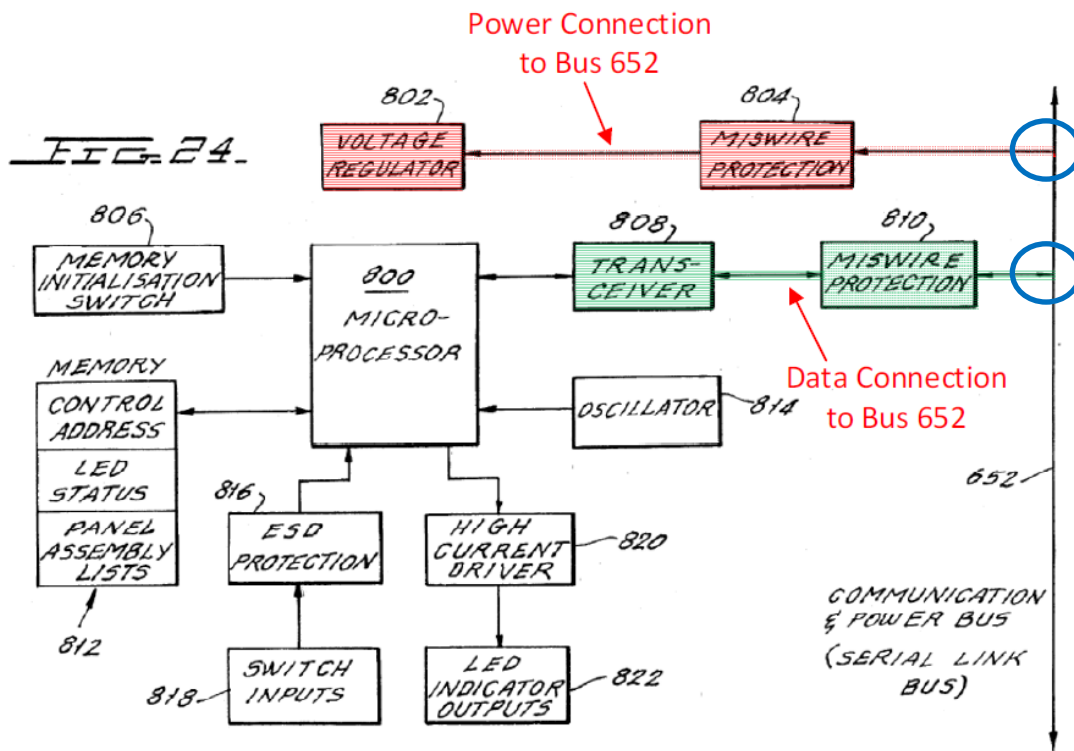
control panel 630, i.e., Jacobs’ ‘wall console,’ were split from the serial bus link 652 before data reached the wall console’s microcontroller.” *Id.* at 3–4 (emphases omitted). Therefore, Petitioner argues, we erred in finding claims 8 and 16 were not shown to be unpatentable by “accept[ing] Patent Owner’s argument that the conductors must carry data and power all the way between the [motor drive unit and wall console] microcontrollers without splitting the data and power conductors at any point.” *Id.* at 5.

We are not persuaded by Petitioner’s argument. Claim 1 of the ’319 patent recites an improved garage door opener that includes a motor drive unit and a wall console having respective microcontrollers, and a digital data bus that connects the motor drive unit’s microcontroller to the wall console’s microcontroller. Ex. 1001, 7:34–39. Claim 7 depends from claim 1, and further requires power for the wall console to be provided by power conductors of the data bus. *Id.* at 8:11–13. Claim 8 depends from claim 7, and further requires the power conductors of the data bus to convey both data and power. *Id.* at 8:14–15. Claims 15 and 16 recite limitations similar to those recited in claims 7 and 8, respectively. *Id.* at 8:39–43.

Petitioner proposed construing the term “digital data bus” to mean “a wired line for carrying discrete units of data between components,” but did not propose a construction for “power conductors of the data bus.” Pet. 35 (emphasis omitted). Nonetheless, Petitioner argued “power conductors of the data bus” could be a single wire because during prosecution the applicants identified wire 62 shown in Figures 3B and 4 of the ’319 patent as written description support for this limitation. *Id.* at 21–38, 76–77 (citing

Ex. 1001, Figs. 3B, 4; Ex. 1002, 86). In our Institution Decision, we declined expressly to construe any claim terms of the '319 patent. Paper 8, 5. Neither Petitioner nor Patent Owner disputed that finding, which we maintained in our Final Written Decision. *See* Final Dec. 8–10; PO Resp. 3–4; Pet. Reply 1–26.

The Petition relied solely on Jacobs' serial link bus 652 to meet the limitation recited in claims 8 and 16 that power conductors of the data bus "convey both data and power." *See* Pet. 78–81 (citing Ex. 1005, [57], 3:1–4, 5:17–19, 15:24–28, 16:22–25, 16:30–36, 16:58–65, Figs. 21, 24). Patent Owner argued Petitioner had failed to show serial link bus 652 included conductors that convey both data and power because Jacobs' power connection to bus 652 is separate from Jacobs' data connection to bus 652. PO Resp. 38–40 (citing Ex. 1005, 15:11–35, 15:56–60, 16:6–15, Fig. 24). In support of its argument, Patent Owner included an annotated version of Figure 24 of Jacobs to illustrate the connections between Jacobs' wall console 630 and serial link bus 652. *Id.* at 40. We reproduce that annotated version of Figure 24 below, and further annotate it to show the specific points of connection, highlighted in blue, between wall console 630 and serial link bus 652.



Jacobs at FIG. 24 (annotated)

The reproduced figure is Patent Owner’s annotated version of Figure 24 of Jacobs, further annotated to show the connections between Jacobs’ wall console 630 and serial link bus 652.

In our Final Written Decision, we noted that annotated Figure 24 shows Jacobs’ wall “controller 630 includes voltage regulator 802 that receives power from serial link bus 652 over conductors highlighted in red, and also includes transceiver 808 that receives data from and transmits data to serial link bus 652 over conductors highlighted in green.” Final Dec. 63 (citing Ex. 1005, 4:53–54, 15:5–10, 15:22–24, Fig. 24). We noted that “the conductors highlighted in red are power conductors because they receive unregulated DC voltage from serial link bus 652 as indicated by the one-way

arrows pointing *from* serial link bus 652 to voltage regulator 802,” whereas the conductors highlighted in green are data conductors because they “conduct two-way data communications *between* controller 630 (wall console) and control 45 (motor drive unit), which is indicated by the two-way arrows *between* serial link bus 652, transceiver 808, and microcontroller 800.” *Id.* at 63–64 (citing Ex. 1005, 15:32–35, 15:53–16:28, 16:58–65) (emphases added). We, therefore, found Petitioner had not shown that claims 8 and 16 were unpatentable because Petitioner had not shown “that these same power conductors [highlighted in red] also conduct data as required by claims 8 and 16.” *Id.* at 64.

As noted above, Petitioner argues that these findings are erroneous because they are based on our having “accepted Patent Owner’s argument that the conductors must carry data and power all the way between the microcontrollers [of the motor drive unit and wall console] without splitting the data and power conductors at any point.” Reh’g Req. 5. We disagree, and further explain the reasoning in our Final Written Decision to avoid any confusion as to *why* we found Petitioner had not shown sufficiently that the power conductors in Jacobs’ serial link bus 652 convey both data and power. *See* Final Dec. 62–64.

In particular, our Final Written Decision focused on the fact that the red conductors in annotated Figure 24 conveyed only power from serial link bus 652 to voltage regulator 802, and the separate green conductors

conveyed only data between serial link bus 652 and microcontroller 800.⁴ *Id.* at 63–64. We note that the red (power) and green (data) conductors are *within* Jacobs’ wall console 630, rather than within serial link bus 652. This is evident from Figure 24 itself, which is a “functional block diagram of a control panel” of Jacobs’ invention. Ex. 1005, 4:53–54. Jacobs’ control panel (wall console 630) includes miswire protection circuits 804/810, voltage regulator 802, transceiver 808, and microcontroller 800 in addition to the red (power) and green (data) conductors. *Id.* at 15:22–35, Fig. 24. Although Figure 24 illustrates Jacobs’ wall console 630 receives data and power from serial link bus 652, and *includes* separate power (red) and data (green) conductors, it does not illustrate how data and power are conducted to wall console 630 from serial link bus 652 or any specific conductors *within* serial link bus 652.

As discussed above, claims 8 and 16 require “power conductors of the data bus” that “convey both data and power” between the motor drive unit microcontroller and the wall console microcontroller. Ex. 1001, 7:37–39, 8:11–15. Although Jacobs discloses serial link bus 652 conveys both data and power between wall console 630 and motor controller 45, Jacobs does not disclose the internal structure of serial link bus 652 beyond suggesting it is a low voltage, class 2, control cable, such as a ribbon cable. Ex. 1005, 3:1–4, 5:17–19, 15:24–26, Fig. 24. Figure 24 shows separate red (power) and green (data) conductors within wall console 630 having separate

⁴ As discussed in our Final Written Decision, Jacobs uses the terms microprocessor and microcontroller interchangeably. Final Dec. 44–45.

connections (shown in blue) to serial link bus 652, without showing the nature of these connections or the structure of serial link bus 652. Although it is possible that the separate red (power) and green (data) conductors in wall console 630 are connected to the same conductors in serial link bus 652, that arrangement is not expressly disclosed in either Figure 24 or Jacobs' description of serial link bus 652. Moreover, given the limited description of the internal structure of serial link bus 652, it is at least equally possible that the red (power) and green (data) conductors in wall console 630 are connected to different conductors in serial link bus 652. As such, Petitioner has not shown that the power conductors within serial link bus 652 convey both data and power as required by claims 8 and 16. *See PAR Pharm., Inc. v. TWI Pharm., Inc.*, 773 F.3d 1186, 1195 (Fed. Cir. 2014) ("Inherency . . . may not be established by probabilities or possibilities.").

In an *inter partes* review, Petitioner bears the burden of proving the unpatentability of claims by a preponderance of the evidence. *See* 35 U.S.C. § 316(e); *In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1375–80 (Fed. Cir. 2016); *see also Dynamic Drinkware, LLC v. National Graphics, Inc.*, 800 F.3d 1375, 1378–79 (Fed. Cir. 2015) ("In an *inter partes* review, the burden of persuasion is on the petitioner to prove 'unpatentability by a preponderance of the evidence,' and that burden never shifts to the patentee. 'Failure to prove the matter as required by the applicable standard means that the party with the burden of persuasion loses on that point—thus, if the fact trier of the issue is left uncertain, the party with the burden loses.'") (internal citations omitted). Here, the limited evidence and

argument provided by Petitioner regarding the internal structure of serial link bus 652 did not suffice to meet its burden with respect to claims 8 and 16. *See* Final Dec. 62–64; Pet. 80–81.

Contrary to Petitioner’s contention, our finding that Petitioner failed to show Jacobs’ wall console 630 is powered by “power conductors of the data bus” that “convey both data and power” between the microcontroller of wall console 630 and the microcontroller of motor drive unit 45 was not premised on having “accepted Patent Owner’s argument that the conductors must carry data and power all the way between the microcontrollers without splitting the data and power conductors at any point.” *See* Reh’g Req. 5. Rather, it was premised on Petitioner failing to show sufficiently that power conductors within serial link bus 652 convey both data and power. Final Dec. 63–64.

To be clear, Petitioner has shown that serial link bus 652 as a whole conveys both data and power between the microcontroller in wall console 630 and the microcontroller in motor drive unit 45. *See, e.g., id.* at 60 (finding “Jacobs discloses ‘[c]ontrol 630 is connected to controller(s) 45 via serial link bus 652 *which provides both communications and power*’”) (quoting Ex. 1005, 15:24–26). Petitioner has further shown that serial link bus 652 conveys power from the microcontroller in motor drive unit 45 to the microcontroller in wall console 630 through the power conductors in wall console 630 that are highlighted in red in annotated Figure 24. *Id.* at 60–61 (finding “[t]he one way arrows from serial link bus 652 to voltage regulator 802 indicate the *preregulated* DC voltage distributed on serial link

bus 652 is *provided to* voltage regulator 802, which converts it to a *regulated* 5V DC. That *regulated* 5V DC is then used to power control 630.”) (citing Ex. 1005, 15:27–29, Fig. 24); *see also id.* at 63–64 (finding “the conductors highlighted in red are power conductors because they receive unregulated DC voltage from serial link bus 652”). Petitioner also has shown that serial link bus 652 conveys data between the microcontroller in motor drive unit 45 and the microcontroller in wall console 630 through the data conductors in wall console 630 that are highlighted in green in annotated Figure 24. *Id.* at 63 (finding transceiver 808 “receives data from and transmits data to serial link 652 over conductors highlighted in green”). However, Petitioner has not shown that the same conductors *within serial link bus 652* that convey power to wall console 630 via the red (power) conductors also convey data to wall console 630 via the green (data) conductors. Although the same conductors within serial link bus 652 *may* be connected to both the red (power) and green (data) conductors within wall console 630, neither Figure 24 nor Jacobs’ description of serial link bus 652 show this. Nor has Petitioner shown support for why this would be the case, or why this would be more likely than having different conductors within serial link bus 652 connected to the red (power) and green (data) conductors. Petitioner, therefore, has failed to meet its burden regarding unpatentability of claims 8 and 16. *See Dynamic Drinkware*, 800 F.3d at 1378–79 (“Failure to prove the matter as required by the applicable standard means that the party with the burden of persuasion loses on that point—thus, if the fact trier

of the issue is left uncertain, the party with the burden loses.” (internal citations omitted)).

Accordingly, for the reasons discussed above, Petitioner has failed to demonstrate that we erred in finding Petitioner has failed to show the unpatentability of claims 8 and 16.

III. CONCLUSION

We have considered Petitioner’s arguments that we erred in finding Petitioner has failed to show the unpatentability of claims 8 and 16. For the reasons discussed above, we find Petitioner has not carried its burden to demonstrate that we misapprehended or overlooked any matters in the Final Written Decision as required by 37 C.F.R. § 42.71(d). Accordingly, we deny Petitioner’s Request for Rehearing.

We note that this Decision references Petitioner’s Request for Rehearing, and Exhibits 1039 and 1040, all of which have been sealed pursuant to the protective order entered in this case because they contain Petitioner’s confidential information. *See* Paper 65. Although we do not believe the Decision discloses any of that confidential information, we will confidentially maintain the Decision for a period of two weeks to give the parties the opportunity to file motions to seal to ensure against any inadvertent disclosure. If neither party files a motion to seal within that two-week period, the Decision will be made publically available.

IV. ORDER

It is ORDERED that Petitioner’s Request for Rehearing is *denied*;

FURTHER ORDERED that this Decision will be confidentially maintained for a period of at least two weeks to allow either party to file a Motion to Seal the Decision;

FURTHER ORDERED that either party may file a Motion to Seal this Decision in the two-week period beginning on the date the Decision is entered; and

FURTHER ORDERED that this Decision will be made publically available if neither party files a Motion to Seal during the aforementioned two-week period.

IPR2017-00126
Patent 7,161,319 B2

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