

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ENFORCEMENT VIDEO LLC d/b/a
WATCHGUARD VIDEO,
Petitioner,

v.

EVICAM INTERNATIONAL INC.,
Patent Owner.

Case IPR2017-00245
Patent 6,950,013 B2

Before MICHAEL W. KIM, PATRICK M. BOUCHER, and
MELISSA A. HAAPALA, *Administrative Patent Judges*.

HAAPALA, *Administrative Patent Judge*.

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

Petitioner requests rehearing of our Decision (Paper 9, “Dec.”) instituting an *inter partes* review of claims 52, 58, 60, and 61 of U.S. Patent No. 6,950,013 (“the ’013 patent”) and denying institution of claims 1, 4, 8–12, 17, 18, 27, 28, 34, 35, and 45 of the ’013 patent. Paper 11 (“Req. Reh’g”), 1. On rehearing, the burden of showing that the Decision should be modified lies with Petitioner, the party challenging the Decision. See 37 C.F.R. § 42.71(d). “The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously address in a motion, an opposition, or a reply.” *Id.* “When rehearing a decision on petition, a panel will review the decision for an abuse of discretion.” See 37 C.F.R. § 42.71(c).

Petitioner contends that we construed the phrase “the captured data being inaccessible without the authorization code,” recited in independent claims 1 and 18, and similarly recited in independent claim 35, in a legally erroneous way that misapplies the relevant law of claim construction by overlooking the doctrine of claim differentiation. Req. Reh’g 1. Petitioner argues that under a proper construction of these phrases, trial should have been instituted on claims 1, 4, 8–12, 17, 18, 27, 28, 34, 35, and 45. *Id.*¹

In our Decision, we concluded that Petitioner did not adequately explain or map how either Joao or Mackey discloses captured/stored data being inaccessible without the use of the authorization code. Dec. 10, 15. Petitioner asserts that in reaching our conclusion, we incorrectly interpreted “the captured data being inaccessible without the authorization code” to

¹ Notably, neither Petitioner nor Patent Owner proposed a formal construction of the phrases Petitioner now disputes. See Paper 1, 8–17; Paper 8, 4–5.

mean “there is *no way* to access the captured data *except* via the claimed authorization code.” Req. Reh’g 4. Petitioner argues that it was improper to require that the captured stored video signal is inaccessible without the authorization code because claim differentiation allows for the existence of additional access methods that do not require an authorization code. *Id.* at 5. Specifically, Petitioner argues dependent claim 13 further narrows claim 1 and intervening claim 10 by stating the download trigger (included in the information data link) “is adapted to require input of an electronic access code”; thus, Petitioner asserts the information datalink of claim 1 must encompass an information datalink for accessing data captured by said recording device both *with* and *without* an electronic access code. *See id.* at 5–6; *see also id.* at 8 (arguing claim 18 should be interpreted in same manner as claim 1 because of its dependent claims 27 and 30). Additionally, Petitioner argues that dependent claim 47’s recitation “wherein said transferring is in response to input of an electronic access code” dictates that its independent claim 35 does not require input of an electronic access code to transfer data and, thus, claim 35 cannot be interpreted to require that the stored video signal is inaccessible *via any possible access method* without the authorization code. *Id.* at 8.

We disagree that a failure to heed Petitioner’s unpresented claim differentiation analysis constitutes error, much less an abuse of discretion. Specifically, under any standard, we disagree that merely because claim 13 sets forth “said download trigger is adapted to require input of an electronic access code,” that the information datalink is able to access the captured data without an authorization code. Even if we were to agree with Petitioner that the “electronic access code” recited in claim 13 is synonymous or related to

the “authorization code” recited in claim 1 (*see id.* at 7), an assertion that itself is dubious given the differences in express claim language, claim 13 merely sets forth a specific technique for inputting the electronic access code via the download trigger. Claim 13 does not negate claim 1’s specific requirement that the captured data is inaccessible without the authorization code — in other words, if the authorization code is not required to be input in the download trigger, it must be provided in another way to access the data. We similarly disagree with Petitioner that the limitations set forth in claim 47 dictate that the data can be transferred (accessed) without an authorization code. Claim 47 merely sets forth the transfer is “in response” to the receipt of the access code, and does not mandate an interpretation that the data can be transferred (accessed) without the authorization code.

Petitioner further argues that, under the broadest reasonable interpretation standard, the proper construction of “the captured data being inaccessible without the authorization code” must encompass “the captured data being inaccessible *via the interface* without the authorization code” because it is the interface that is being claimed in the recited element and it is the interface that permits input of the authorization code. *Id.* at 10. Petitioner asserts that a broadest reasonable interpretation of the claim language, in light of the specification, is that it is the interface that renders the captured data accessible in response to a valid/authentic access code, and inaccessible in response to an invalid/inauthentic access codes. *Id.* Petitioner asserts the limitation does not exclude other access methods that *do not* require an authorization code. *Id.* at 10–11.

We agree with Petitioner that the claim language encompasses that the captured data is inaccessible via the interface. But, Petitioner’s proposed

construction to limit the inaccessibility to only the interface is inconsistent with the broadest reasonable interpretation because, in effect, it narrows the claim language to require “the captured data being inaccessible *from the interface* without the authorization code” (italicized language added). No such limiting language appears in either claim 1 or 18. Instead, claims 1 and 18 each unambiguously impose a restriction that *the captured data* is inaccessible without the authorization code, and does not limit that inaccessibility to only the interface. Claim 35 similarly and unambiguously requires *the stored video signal* is inaccessible without the use of the authorization code. For the reasons stated in our Decision, Petitioner failed to establish that Joao or Mackey discloses captured/stored data being inaccessible without the authorization code. *See* Dec. 10–11, 14–15. We are not persuaded our conclusion was based on an erroneous claim construction.

We conclude that Petitioner has not identified adequately any matter that we misapprehended or overlooked, much less in a manner that constitutes an abuse of discretion.

In view of the foregoing, it is:

ORDERED that Petitioner’s Request for Rehearing request is *denied*.

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