

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS, LLC,
Petitioner,

v.

VELOS MEDIA, LLC,
Patent Owner.

IPR2019-00710
Patent 8,964,849 B2

Before DANIEL J. GALLIGAN, JASON W. MELVIN, and
AARON W. MOORE, *Administrative Patent Judges*.

MELVIN, *Administrative Patent Judge*.

DECISION

Denying Petitioner's Request for Rehearing of Final Written Decision
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Petitioner, Unified Patents, LLC, filed a Request for Rehearing (Paper 47, “Req. Reh’g”) seeking reconsideration of our Final Written Decision (Paper 45, “Decision” or “Dec.”) finding claims 1, 2, 11, 12, and 22 (“the challenged claims”) of U.S. Patent No. 8,964,849 B2 (Ex. 1001, “the ’849 patent”) not unpatentable. 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).

II. ANALYSIS

The Decision considered Petitioner’s assertions regarding Chen¹ and Bao², determining that “[t]he problem with Petitioner’s argument is that understanding the DC block is unlikely to have a zero value does not dictate a particular approach to the coding–decoding process.” Dec. at 13.³ We explained further that, as to the combination, “Petitioner does not provide sufficient detail to explain why Bao’s teaching of coding its DC block

¹ U.S. Patent Publication No. 2010/0086030 A1 (filed Sept. 18, 2009; published Apr. 8, 2010) (Ex. 1003).

² U.S. Patent Publication No. 2007/0160133 A1 (filed Aug. 18, 2006; published July 12, 2007) (Ex. 1004).

³ Petitioner questions the accuracy of our statement “the DC block is unlikely to have a zero value” because the DC block contains multiple coefficients, each with a particular value, and therefore does not itself have “a value.” Req. Reh’g 4 (quoting Dec. 13). But as Petitioner appears to agree, given the context, the statement means a DC block is unlikely to contain only zero-value coefficients. *Id.* Thus, the statement does not amount to material error in the Decision.

separately would lead a skilled artisan to have excluded Chen’s DC block from the (0,0) inference.” *Id.* (citing PO Resp. 50). We based that conclusion on a lack of evidence or explanation regarding how Bao teaches excluding “the DC block” from the (0,0) inference. *Id.*

Petitioner asserts the Board overlooked that it would have been obvious to omit the DC block group flag from the bitstream. Req. Reh’g 3–7; *accord id.* at 1 (asserting that the DC block unlikely having all zero-value coefficients “would mean that the DC block group flag would be omitted from the bitstream”). Petitioner characterizes that as an “undisputed fact” that “does, in fact, dictate a particular approach . . . [of] omitting the (0,0) inference for the DC block.” *Id.* at 1. Petitioner assembles its “undisputed fact” by relying on the Petition’s statement that “it is not necessary (and often redundant) to include” a DC block group flag. Req. Reh’g 1–2 (quoting Pet. 53); *accord id.* at 4–5 (same).

The Decision, however, did not overlook and rather accepted that the DC block group flag was “not necessary (and often redundant).” Dec. 12–13 (quoting Pet. 53). Notwithstanding that proposition, we declined to extend it to compel omitting the DC block group flag and withholding the DC block from the (0,0) inference. *Id.* at 13. Petitioner faults the Decision’s conclusion because the (0,0) inference cannot be applied if the DC block does not have a group flag (the inference depends on the group flag’s value). *See* Req. Reh’g 7–8. The Request fails to persuade us that we misapprehended or overlooked Petitioner’s argument. Asserting that the DC block group flag was “unnecessary (and often redundant)” does not compel a conclusion that the DC block group flag would be omitted from the bitstream. The Decision determined that the Petition does not sufficiently justify such a conclusion

and we do not agree with the Request’s *post hoc* view equating “not necessary” with “would be omitted.” *See* Req. Reh’g 8–9.

The Request argues the Petition establishes “it would have been obvious not to include (i.e., omit) a group flag in the bitstream for the DC block” as “one of three ways to reduce the size of coded video.” Req. Reh’g 6 (emphasis omitted) (citing Pet. 54). As an independent basis for modifying Chen, the Petition identifies three potential solutions for reducing coded-video size—“not encoding the significant-coefficient-group flag for the block containing the last significant coefficient, the DC block, and the block whose right neighboring block and lower neighboring block both have non-zero significant-coefficient-group flags.” Pet. 54–55. As support, the Petition cites the challenged patent. *Id.* at 54 (citing Ex. 1001, 12:6–54). Although the Petition also cites declaration testimony (*id.* at 55 (citing Ex. 1002 ¶ 94)), that testimony offers no support beyond that in the Petition. Thus, other than through the challenged patent itself, the Petition does not support the factual underpinning required for an obvious-to-try conclusion. That hindsight approach does not establish a persuasive position.

III. CONCLUSION

For the reasons discussed above, we conclude Petitioner has not shown that the Board misapprehended or overlooked a material issue. Accordingly, we deny the Request for Rehearing.

Outcome of Decision on Rehearing:

Claims	35 U.S.C. §	Reference(s)/Basis	Denied	Granted
1, 2, 11, 12, 22	103	Chen	1, 2, 11, 12, 22	

Claims	35 U.S.C. §	Reference(s)/Basis	Denied	Granted
1, 2, 11, 12, 22	103	Chen, Bao	1, 2, 11, 12, 22	
Overall Outcome			1, 2, 11, 12, 22	

Final Outcome of Final Written Decision after Rehearing:

Claims	35 U.S.C. §	Reference(s)/Basis	Claims Shown Unpatentable	Claims Not Shown Unpatentable
1, 2, 11, 12, 22	103	Chen		1, 2, 11, 12, 22
1, 2, 11, 12, 22	103	Chen, Bao		1, 2, 11, 12, 22
Overall Outcome				1, 2, 11, 12, 22

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's Request for Rehearing is denied.

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