

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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JUNIPER NETWORKS, INC. and PALO ALTO NETWORKS, INC.,  
Petitioner,

v.

PACKET INTELLIGENCE LLC,  
Patent Owner.

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IPR2020-00338  
Patent 6,839,751 B1

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Before CHARLES J. BOUDREAU, JOHN D. HAMANN, and  
KRISTI L. R. SAWERT, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

DECISION  
Denying Patent Owner's Request for Rehearing  
*35 C.F.R. § 42.71(d)*

## I. INTRODUCTION

Packet Intelligence LLC (“Patent Owner”) filed a Request for Rehearing (Paper 25, “Req. Reh’g”) of our Decision granting institution of *inter partes* review (Paper 22, “Institution Decision” or “Inst. Dec.”) of claims 1, 2, 5, 10, 14, 15, and 17 of U.S. Patent No. 6,839,751 B1 (“the ’751 patent”). For the following reasons, Patent Owner’s Request for Rehearing is *denied*.

## II. STANDARD OF REVIEW

A party requesting rehearing bears the burden of showing that a decision should be modified. 37 C.F.R. § 42.71(d). The party must identify all matters it believes the Board misapprehended or overlooked, and the place where each matter was addressed previously in a motion, an opposition, or a reply. *Id.* When rehearing a decision on petition, we review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion occurs when a “decision was based on an erroneous conclusion of law or clearly erroneous factual findings, or . . . a clear error of judgment.” *PPG Indus. Inc. v. Celanese Polymer Specialties Co.*, 840 F.2d 1565, 1567 (Fed. Cir. 1988) (citations omitted).

## III. ANALYSIS

Patent Owner requests that we rehear our Institution Decision and deny institution, contending that the Board’s findings in this proceeding are inconsistent with those of certain other proceedings involving the same parties and the same or overlapping prior art. Req. Reh’g 1 (citing IPR2020-00335, Paper 19, 14–22; IPR2020-00336, Paper 21, 48–49; IPR2020-00485, Paper 19, 14–22). Patent Owner argues that the Board, in denying institution of *inter partes* review in IPR2020-00335 and IPR2020-00485,

“analyzed Petitioner[’s] evidence and found that it failed to teach state processing across packets, or conversational flow states” and “later reiterated this determination regarding claim 17 of [U.S. Patent No. 6,665,725 B1 (‘the ’725 Patent’)] in IPR2020-00336.” Patent Owner requests that the Board apply “the same conversational flow state analysis” in this proceeding as in IPR2020-00335 and IPR2020-00485 and deny institution. *Id.* Notwithstanding Patent Owner’s contentions, we determine that the analysis in IPR2020-00335, IPR2020-00336, and IPR2020-00485 does not support denial of institution in the present proceeding.

As Patent Owner recognizes, the Board determined in IPR2020-00335 and IPR2020-00485 that Petitioner failed to show that the asserted prior art combination of Riddle and Ferdinand teaches a specific limitation recited in each challenged claim of U.S. Patent No. 6,651,099 B1 (“the ’099 patent”), namely, “a set of predefined state transition patterns . . . such that traversing a particular transition pattern as a result of a particular conversational flow-sequence [of packets] . . . is associated with the operation of a particular application program,” and denied institution of *inter partes* review on that basis. Req. Reh’g 2 (citing IPR2020-00335, Paper 19 at 14–22). Although the ’751 patent at issue in the present proceeding is related to the ’099 patent involved in IPR2020-00335 and IPR2020-00485, the instant challenged claims do not include the above-quoted limitations that the Board found Riddle and Ferdinand to lack in those two cases. Similarly, although the Board stated that it was not persuaded on the preliminary record in IPR2020-00336 that Petitioner had shown that Riddle teaches “the state of the conversational flow of the packet being indicative of the sequence of any previously encountered packets of the same conversational flow as the

packet,” as recited in claim 17 of the ’725 patent (IPR2020-00336, Paper 21 at 48 (cited by Req. Reh’g 2–3)), that limitation also does not appear in any of the challenged claims in this proceeding. Contrary to Patent Owner’s suggestions in the Request for Rehearing (*see* Req. Reh’g 5–8), the Board did not find in IPR2020-00335, IPR2020-00336, or IPR2020-00485 that Riddle fails to disclose conversational flows “*having . . . states*,” as recited in independent claims 1 and 17 of the ’751 patent, or “identifying” such states and “performing . . . [specified] state operations,” as recited in independent claim 1 and dependent claims 10, 14, and 15 of the ’751 patent. Instead, the Board found that Petitioner had not sufficiently shown that the asserted prior art teaches or suggests “state *transition* patterns” (IPR2020-00335, Paper 19 at 14–22 (emphasis added)) or “the state of [a] conversational flow of [a] packet *being indicative of the sequence of any previously encountered packet of the same conversational flow as the packet*” (IPR2020-00336, Paper 21 at 48–49 (emphasis added)). Thus, we do not agree with Patent Owner, at this stage of the proceeding, that the Institution Decision is in conflict with the determinations made in IPR2020-00335, IPR2020-00336, and IPR2020-00485.

Moreover, Patent Owner does not point us to any other matter of record that we may have misapprehended or overlooked. As we noted in the Institution Decision, Patent Owner argued broadly in its Preliminary Response that the asserted prior art does not teach “conversational flows” but did not specifically challenge Petitioner’s contentions with respect to the recited “state” limitations. *See* Inst. Dec. 41, 43, 44, 49–50. Patent Owner does not allege any error in those finding, and we are not persuaded that our decision to institute *inter partes* review of the challenged claims was the

result of any misunderstanding or misapprehension of the claimed invention or the prior art.

#### IV. CONCLUSION

On this record, Patent Owner neither persuades us that we overlooked or misapprehended any matter, nor sufficiently shows that instituting an *inter partes* review of claims 1, 2, 5, 10, 14, 15, and 17 of the '751 patent was an abuse of discretion.

#### V. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Request for Rehearing is *denied*.

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FOR PETITIONER:

Joseph F. Edell  
Adam A. Allgood  
FISCH SIGLER LLP  
joe.edell.ipr@fischllp.com  
adam.allgood@fischllp.com

Scott A. McKeown  
Mark D. Rowland  
ROPES & GRAY LLP  
scott.mckeown@ropesgray.com  
mark.rowland@ropesgray.com

FOR PATENT OWNER:

R. Allan Bullwinkel  
Michael F. Heim  
HEIM PAYNE & CHORUSH, LLP  
abullwinkel@hpcllp.com  
mheim@hpcllp.com