

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC.,
Petitioner,

v.

CORRECT TRANSMISSION, LLC,
Patent Owner.

IPR2021-00814
Patent 7,768,928 B2

Before BRYAN F. MOORE, JOHN R. KENNY, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

BELISLE, *Administrative Patent Judge*.

DECISION

Denying Petitioner's Request on Rehearing of Decision on Institution
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Petitioner, Juniper Networks, Inc., filed a Request for Rehearing (Paper 13, “Request” or “Req. Reh’g”) seeking review of the Board’s Decision Denying Institution (Paper 12, “Dec.”), in which we determined that Petitioner has not demonstrated a reasonable likelihood of prevailing with respect to any of challenged claims 1–3, 6, 7, 9–15, 18–24, 26, 27, and 30–32 of U.S. Patent No. 7,768,928 B2 (Ex. 1001, “the ’928 patent”). With prior authorization from the Board, Patent Owner, Correct Transmission, LLC, filed a Response (Paper 15, “Reh’g Resp.”) to the Request, and Petitioner filed a Reply (Paper 16, “Reh’g Reply”) to the Response. We also refer to the Petition (Paper 1, “Pet.”) and Patent Owner’s Preliminary Response (Paper 6, “Prelim. Resp.”).

For the reasons set forth below, Petitioner’s Request is denied.

II. STANDARD OF REVIEW

“The burden of showing a decision should be modified lies with the party challenging the decision.” 37 C.F.R. § 42.71(d). In its request for rehearing, the dissatisfied party must “specifically identify” (1) “all matters the party believes the Board misapprehended or overlooked,” and (2) “where each matter was previously addressed.” *Id.*; Consolidated Trial Practice Guide (“CTPG”)¹ at 90; *see also* 84 Fed. Reg. 64,280 (Nov. 21, 2019).

III. ANALYSIS

Petitioner requests that the Board grant rehearing of Ground 2 of its Petition. Request 1–15; Reh’g Reply 1–5. Initially, we note that just

¹ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

because the Board was not persuaded by Petitioner's arguments and evidence for purposes of institution does not mean that we overlooked or misapprehended Petitioner's arguments and evidence, and importantly, a request for rehearing is not an opportunity merely to reargue one's case or to express disagreement with the Board's decision.

Petitioner contends the Board misapprehended or overlooked disclosures in Bruckman relating to the Physical/Logical Link Limitations, and understandings the skilled artisan allegedly would draw from such disclosures. Request 3–10; Reh'g Reply 1–3; *see* Dec. 15, 23–28. But Petitioner does not identify what specific disclosure in Bruckman or other evidence (cited in the Petition) the Board allegedly misapprehended or overlooked.

Instead, Petitioner *reargues* that Bruckman discloses (1) a “trunk link” (Request 3–4); (2) “main module 22 includes switch 28 that directs traffic from the main module to subsidiary modules 24 by ‘forming a virtual connection between subsidiary module ports 32 that are connected to the[] main module ports [30]’” (Request 5); (3) “switch 28 ‘*aggregates* upstream traffic from ports 30 to an uplink trunk connecting to a high-speed network’ and ‘distributes downstream traffic from the network to ports 30 using an appropriate internal protocol’” (Request 5; *see* Request 6–7); and (4) “Figure 1 . . . teaches different groups of links connect the main module 22 and subsidiary modules 24” (Request 5–8). Petitioner also reargues how such disclosures allegedly teach the Physical/Logical Link Limitations, and how disclosures in the '928 patent demonstrate the skilled artisan's knowledge of LAGs, such as Ethernet trunks. Request 3–10. We did not overlook such disclosures, rather we explicitly discussed them in

the Decision. *See, e.g.*, Dec. 24–28 (discussing in detail, *e.g.*, Bruckman’s Figure 1, switch 28 and its “aggregat[ing] upstream traffic from ports 30 to an uplink trunk connecting to a high-speed network,” backplane 26, active traces 36, and idle traces 38). We also did not misapprehend such disclosures or Petitioner’s arguments concerning understandings the skilled artisan allegedly would draw from such disclosures, rather we explicitly found (and still find) Petitioner’s arguments concerning those disclosures unpersuasive. *See, e.g.*, Dec. 26–28 (reviewing Petitioner’s arguments; reviewing Patent Owner’s responsive arguments and finding them persuasive). Indeed, as argued by Patent Owner in its Rehearing Response, “Petitioner’s request for rehearing fails to show any matters that the Board misapprehended or overlooked, and instead attempts to rehash and rephrase arguments already rejected in its Petition.” Reh’g. Resp. 1.

In its Request, Petitioner *reargues*, for example, that “Bruckman discloses aggregating physical links between main module 22 and modules 24 to transmit IP data as if those links were a single link.” Request 5; *see* Pet. 61–64. As in the Petition (Pet. 61–64), and as noted in our Decision (Dec. 24–27), Petitioner again alleges, in part, “Bruckman discloses a ‘trunk link’ transmitting data between the main module and the network and subsidiary modules” (Request 3), and “switch 28 ‘*aggregates* upstream traffic from ports 30 to an uplink trunk connecting to a high-speed network” (Request 5). Petitioner also again alleges the ’928 patent shows that the skilled artisan would have known “an ‘Ethernet trunk’ is a LAG.” Request 4.

But Bruckman’s “trunk link” (or LAG as argued by Petitioner) is explicitly disclosed as a link to a core network, not as the links (or traces 34

on backplane 26) to subsidiary modules 24, as argued by Petitioner:
“In network access systems, for example, a backplane may be used to connect *a main module, having a trunk link to a core network*, to a number of subsidiary modules, such as line cards, with ports serving network users. Ex. 1007, 1:25–30 (emphasis added); *see id.* at 1:61–2:4 (“The master module comprises *a switch, which is typically used for linking* the subsidiary modules via the connection lines *to a network trunk.*” (emphases added)); Dec. 25. Bruckman also explicitly discloses that “[a]t any given time, a number of the connection lines [between main module 22 and subsidiary modules 24, i.e., traces 34] are likely to be idle” (Ex. 1007, 2:2–4), which is contrary to a purpose of a LAG (*see* Ex. 1001, 2:10–16 (“The [LAG] forwarding entity usually attempts *to distribute the load evenly over each physical output port* of the aggregated logical link.” (emphasis added))). *See* Dec. 25–28. Thus, in the Decision, we found neither Petitioner nor its declarant had explained sufficiently, let alone with particularity, why the skilled artisan, but for hindsight, would have understood Bruckman to teach the Physical/Logical Link Limitations, *of which the physical links are subject to the Designating Limitations*, as recited, for example, in claim 1. Indeed, we were not persuaded by Petitioner’s arguments in its Petition as to the Physical/Logical Link Limitations, and having reviewed the Request, remain unpersuaded. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) (“[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.”).

Accordingly, the Board has not misunderstood the evidence or arguments before us or incorrectly applied the law to the record evidence

before us as to the Physical/Logical Link Limitations. Because this determination alone provides sufficient basis to deny Petitioner's Request, we need not and do not consider Petitioner's arguments concerning the Designating Limitations.

IV. CONCLUSION

We are not persuaded by Petitioner that the Board misapprehended or overlooked any arguments or record evidence before us, or incorrectly applied the law to the record evidence before us, in reaching our decision on institution in this case as reflected in the Decision (Paper 12).

V. ORDER

For the foregoing reasons, it is:

ORDERED that Petitioner's Request for Rehearing is *denied*.

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