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Subject: IPR2022-00734: Petitioner's Request for Director Review - Nearmap US, Inc., v. Eagle View Technologies, Inc.
Date: Monday, November 27, 2023 9:11:13 PM
Attachments: [IPR2022-00734 Request for Director Review.pdf](#)

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Honorable Director,

Nearmap US, Inc., the Petitioner in IPR2022-00734, respectfully recommends and requests Director Review of the Final Written Decision issued by the Board in that proceeding. Concurrently herewith, Petitioner has filed the attached Petitioner's Request for Director Review.

In the Final Written Decision, the Board left unresolved disputes over two claim constructions, and yet the Board reached a conclusion of non-obviousness that hinged on interpretations of each disputed claim term. The analysis of the Board not only presents legal error, but raises an important issue of law and policy that impacts the credibility of the PTAB. Where the briefing indicates a dispute between parties over the meaning of a claim term, and where the meaning of the term impacts an outcome-determinative issue, the Board has a duty to resolve the dispute by construing the claim term.

The following list of five issues presented for Director Review begins with two issues corresponding to unresolved disputes over claim construction. Pursuant to the Revised Interim Director Review guidance, Petitioner has presented these five issues within the Request in the order of priority ranking. Still, each of five issues implicates an important issue of law and policy leading to erroneous conclusions rendered in the Final Written Decision:

1) Director Review Should be Granted to Correct the Board's Error in Finding a Presumption of Nexus Without Addressing an Underlying Claim Construction Dispute

2) The Board Erred in Concluding Render House and Twister Embody Claim 9 Without Construing the Disputed Claim Term

3) The Board Erred in Finding Coextensiveness with a Focus on Patent Owner's Commercial Products

4) The Board Erred in Criticizing Petitioner for Failing to Show Unclaimed Features Were Critical

5) The Board Erred in Holding the Challenged Claims Nonobvious Based Solely on Secondary Considerations

Respectfully,

IPR2022-00734
Ex. 3100

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