

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CHONGQING HKC OPTOELECTRONICS TECHNOLOGY CO., LTD.,
Petitioner,

v.

138 EAST LCD ADVANCEMENTS LIMITED,
Patent Owner.

IPR2023-00476
Patent 7,335,913 B2

Before GRACE KARAFFA OBERMANN, DONNA M. PRAISS,
and CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

OBERMANN, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71(c), (d)

I. INTRODUCTION

Chongqing HKC Optoelectronics Technology Co., Ltd. (“Petitioner”) filed a Request for Rehearing (Paper 10, “Request” or “Req.”) of the Decision (Paper 9, “Decision” or “Dec.”) denying institution of *inter partes* review of claims 1–11 of U.S. Patent No. 7,335,913 B2 (Ex. 1001, “the ’913 patent”). For the reasons that follow, Petitioner’s Request is *denied*.

II. STANDARD OF REVIEW

On request for rehearing, “[t]he burden of showing a decision should be modified lies with the party challenging the decision.” 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 addressed in a motion, an opposition, reply, or a sur-reply.” *Id.* A rehearing request is not an opportunity for the requesting party to reargue its case or merely to express disagreement with a decision. Nor is it an opportunity for the moving party to present new arguments that were not in its original submissions.

III. DISCUSSION

In the Decision, we determined that Petitioner failed to sufficiently show that the asserted prior art teaches or suggests “a plurality of lead wiring lines provided on the extending portion and that are led from one of the sides of the wiring lines to the extending portion” as recited in independent claims 1 and 5 of the ’913 patent. Dec. 12, 18, 19, 24, 30, 31. Specifically, we construed claims 1 and 5 to require “wiring lines” and “a plurality of lead wiring lines” as separate and distinct elements (*id.* at 12–13), and determined

that “Petitioner fails to sufficiently establish the recited plurality of lead wiring lines where wiring lines and lead wiring lines are, at the very least presumptively, separate elements” (*id.* at 14, 20, 25, 32; *see id.* at 28–29).

Petitioner relies on Adachi’s wiring groups 13a, 13b for the recited “wiring lines for driving the circuit unit and the display electrodes,” and relies on “segments of the wirings” in Adachi’s wiring groups 13a, 13b for the recited “plurality of lead wiring lines provided on the extending portion and that are led from one of the sides of the wiring lines to the extending portion.” Pet. 13–14. Petitioner similarly relies on certain wirings in Sekado, Takezawa, and Hirose for the recited “wiring lines,” and relies on respective “segments” of those wirings for the recited “plurality of lead wiring lines.” *Id.* at 32–33, 41, 58–59, 74, 88–89.

Petitioner argues that our claim construction, insofar as requiring the wiring lines and lead wiring lines to be separate elements, is unsupported by the specification. Req. 7–10. Specifically, Petitioner argues that an embodiment in the specification discloses the wiring lines as connected to driving circuits, and the lead wiring lines as connected to external terminals. *Id.* at 6 (citing Ex. 1001, 7:41–46, 8:3–6). According to Petitioner,

[B]ecause the driving circuits are connected to the external terminals for supplying image signals, (Ex. 1001, col. 1:30-36), the “wiring lines” connecting the driving circuits and the “lead wiring lines” connecting the external terminal must be correlated in some form to form connections between the external terminals and the driving circuits.

The Specification, however, does not explicitly describe what form the “wiring lines” and “lead wiring lines” are arranged together to form the connections between the external terminals and the driving circuits. In this regard, if the “wiring lines” and

“lead wiring lines” are separate and distinct lines, none of the Specification describes “a plurality of lead wiring lines . . . led from one of the sides of the wiring lines to the extending portion” recited in the above claims.

Id. at 7. In Petitioner’s view, the specification’s disclosure of an embodiment in which lead wiring lines 103c are connected to both external connecting terminals 102c and data line driving circuit 101c supports a construction that “the ‘wiring lines’ and ‘lead wiring lines’ are coincident as a single line.” *Id.* at 7–8 (citing Ex. 1001, 15:7–15). Petitioner additionally argues that, in Figure 1 of the ’913 patent, “it appears that the ‘wiring lines’ connecting to the data line driving circuit 101a . . . are simply zig-zag routed to become the ‘lead wiring lines’ 103a, forming a single zig-zag’ed line” and, “[t]hus, in this embodiment, the ‘wiring lines’ and the ‘lead wiring lines’ are parts or segments of the single lines.” *Id.* at 8 (citing Ex. 1001, Fig. 1).

We determine that Petitioner identifies no reversible error in our claim construction. Specifically, we are not persuaded that the specification commands a construction that the wiring lines and lead wiring lines are the same line or segments of the same line, as argued by Petitioner. As we pointed out in the Decision, the specification describes wiring lines 105 (connected to scanning line driving circuits 104) and lead wiring lines 103a (connected to external connecting terminals 102a) as separate elements in a

single embodiment. Ex. 1001, Fig. 1, 7:42–46, 8:26–29 (cited at Dec. 13); *see also id.* at 8:17–26.¹

Petitioner argues that the Board “did not identify any embodiment where the wiring lines 105 and lead wiring lines 103 were arranged as required by the claims,” i.e., arranged such that the “plurality of lead wiring lines provided on the extending portion. . . are led from one of the sides of the wiring lines to the extending portion.” Req. 2. In the same vein, Petitioner submits that, under the Board’s construction, “the ’913 patent neither describes nor enables the claimed arrangement of ‘wiring lines’ and ‘lead wiring lines.’” *Id.* at 9; *see also id.* at 10 (arguing that “a construction requiring distinct ‘wiring lines’ is not compatible with the specification and figures, and thus lacks written description, and/or renders the claim indefinite”).

Against that backdrop, Petitioner argues, if the Board maintains its claim construction, the “claims should be declared as indefinite and/or invalid under 35 U.S.C. § 112.” *Id.* at 10. Because Petitioner does not identify the place in the record where it previously addressed this matter, we determine that this issue is raised improperly for the first time in the Request. *See* 37 C.F.R. § 42.71(d) (a request for rehearing must specifically identify, for each matter the party believes the Board misapprehended or

¹ We do not disagree with Petitioner’s contention that “claim elements can be the same entity or different parts of the same entity even if being given different names, as long as they are construed as the same entity or different parts of the same entity.” Req. 4–5 (citing *BOT M8 LLC v. Sony Interactive Entm’t LLC*, Nos. 2022-1569, 2022-1570, 2023 WL 5606978 (Fed. Cir. Aug. 30, 2023)). Here, however, we do not construe the “wiring lines” and “lead wiring lines” to be different parts of the same entity.

overlooked, the place in the record where that matter previously was addressed in the party's submissions).

Alternatively, even if we overlook that Petitioner's § 112 argument is an untimely new argument, we deny the Request because Petitioner seeks relief that is not available in this proceeding. The Board has no authority to invalidate a patent under § 112 in an *inter partes* review. *See* 35 U.S.C. § 311(b) (limiting the scope of *inter partes* review to "ground[s] that could be raised under section 102 or 103"); 37 C.F.R. § 42.104(b)(2).

Finally, Petitioner argues that during prosecution of the '913 patent, Patent Owner did not argue that the claimed "wiring lines" and "lead wiring lines" are distinct from the prior art. Req. 10–11. According to Petitioner, Patent Owner has thus "waived its argument that those claim elements carry significant weight of patentability." *Id.* at 11. This is a new argument raised improperly for the first time in the Request. *See* 37 C.F.R. § 42.71(d).

Alternatively, even if we overlook that Petitioner's prosecution waiver argument is an untimely new argument, Petitioner fails to articulate an adequate rationale, supported by case law or any other authority, as to why Patent Owner's alleged failure to raise an issue during patent prosecution effects a waiver in this proceeding.

IV. CONCLUSION

Having considered the arguments in Petitioner's Request for Rehearing, we determine that Petitioner has not carried its burden of demonstrating that the Board reversibly erred in the Decision. 37 C.F.R. § 42.71(c), (d).

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V. ORDER

It is

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

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