

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD., and  
SAMSUNG ELECTRONICS, AMERICA, INC.,

Petitioners

v.

FENDGO, LLC,

Patent Owner

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IPR2024-00114

U.S. Patent No. 11,265,404

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**Petitioners' Request for Rehearing of the Final Written Decision  
Pursuant to 37 C.F.R. §42.71(d)**

## I. INTRODUCTION

Petitioners Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (together, “Samsung”) request rehearing under 37 C.F.R. § 42.71(d) of the Board’s Final Written Decision (“Decision,” Paper No. 32) holding that Samsung had not demonstrated that claims 1-8 of U.S. Patent No. 11,265,404 (“the ’404 patent”) are unpatentable. Decision at 2.

Rehearing is warranted because the Board misapprehended Samsung’s petition. In particular, the Board held that Samsung did not carry its burden with respect to challenged claims 1-8 because Samsung did not show that *Strack* discloses a panic button that readies itself to perform the claimed functions. This conclusion reflects a misapprehension of Samsung’s petition because Samsung did not rely on *Strack* individually for its teaching of that limitation. Rather, the Petition relied on the **combination** of *DiPerna964* and *Strack* for that limitation. That is, Samsung relied on *Strack* for its teaching of an “arming and timer technique” that, when combined with *DiPerna964*’s teachings of a panic button that itself performs the claimed functions, renders the claimed invention obvious, including a “panic button” that “readies itself” to perform the claimed functions. The Board’s conclusion does not hold when the Petition is properly understood. Therefore, rehearing is warranted.

## II. LEGAL STANDARD

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, the Board reviews the decision for an abuse of discretion. *See generally* 37 C.F.R. § 42.71(b)–(d). 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. ARGUMENT

Limitation 1[d] recites “a panic button, adapted to, when activated, ready itself to perform the following panic button functions: (1) dialing a public or private network for an emergency purpose and (2) activating the transmitting unit.”

In the Petition, Samsung explained that *DiPerna964* discloses a mobile phone with a “panic button” that is “adapted to activate . . . the transmitting unit” and that the panic button “can automatically contact 911 upon a press or series of presses of the button.” Petition at 13 (citing *DiPerna964* ¶¶[0023], [0041], EX1002 ¶¶70-71). Thus, Samsung relied on *DiPerna964* for its teaching of a panic button that performs

the claimed functions of “dialing a public or private network,” i.e., 911, and “activating the transmitting unit.”

Samsung then described the relevant portions of *Strack*’s disclosure, including the description of a mobile device that executes a mobile application that starts a “duress timer” upon the occurrence of an “arming event,” such as the user pressing one or more buttons on the device. Petition at 15. During the timer, audio and video is recorded, and when the timer expires, the mobile application enters an “alarm state” that triggers an alert and transmission of the recorded audio and video data, among other things. *Id.* Contrary to the Board’s analysis in the Final Written Decision, Samsung did not assert that *Strack* discloses a button that, when activated, readies itself to perform the claimed operations. Samsung focused on *Strack*’s teachings related to arming the application and a timer during which audio and video were recorded. *Id.*, at 15-18.

Samsung then argued that a POSITA would have considered it obvious to implement *Strack*’s “**arming and timer technique**” in combination with *DiPerna964*’s teachings and that “[t]he **DiPerna964-Strack combination** discloses or suggests a mobile device with a panic button that, when activated, arms itself to start recording the image, audio, and location data, and that upon expiration of a timer, triggers the device to dial 911 and transmit the image, audio, and location data

to a specified location, along with the specific information.” *Id.*, at 16-18 (emphasis added).

Patent Owner did not dispute that the combination of *DiPerna964* and *Strack* rendered claim 1 obvious, except to argue that *DiPerna964* did not qualify as prior art. *See* PO Response, Paper 14, at 8.

If there was any doubt about Samsung’s position, it was clarified during the oral hearing, during which the Board asked Samsung’s counsel, “[w]hat in *Strack* disclosed that during the duress timer period, the device is, or the button is, readying itself to dial or activate?” Samsung’s counsel responded, “to be clear our position is that it is the combination of the *DiPerna964* and *Strack* that teaches the entire limitation. It’s not *Strack* by itself.” Paper 31 at 45:20-25.

In the Final Written Decision, however, the Board held that Samsung did not carry its burden with respect to challenged claims 1-8 because Samsung purportedly “fail[ed] to explain how *Strack*’s button press that collects and then transmits audio, video, and location data would ready the panic button to perform recited functions (1) and (2). It appears that *Strack*’s button press readies the device, not the button, to perform the functions.” Decision at 22.

The Board’s conclusion reflects a misapprehension of Samsung’s petition because Samsung *did not rely on Strack for a teaching of a button press that readies the button to perform the claimed functions*. Rather, Samsung’s petition

relied on *DiPerna964* for the teaching of a panic button that itself performs functions (1) and (2) recited in 1[d] when activated (Petition at 13-14), and relied on Strack’s teaching of an “arming and timer technique” (Petition at 15-16) that, when combined with *DiPerna964*’s teachings, renders the challenged claims obvious, including a panic button that “readies itself” to perform the claimed functions (Petition at 16-18). Stated differently, *DiPerna964* discloses that activating the panic button causes it to perform functions (1) and (2) recited in 1[d], and *Strack* teaches an arming and timer technique that would have been obvious to apply to *DiPerna964* such that their combined teachings render the challenged claims, including limitation 1[d], obvious.

To the extent the Board implicitly required Samsung to show that either *DiPerna964* or *Strack* individually disclosed limitation 1[d], that would be an independent basis for rehearing because Samsung was not required to show that *DiPerna964* or *Strack* teach limitation 1[d] individually. *See Fleming v. Cirrus Design Corp.*, 28 F.4th 1214, 1222 (Fed. Cir. 2022) (“That the proposed combination of [Reference A] and [Reference B]—rather than one of the individual references—discloses the disputed claim limitations does not defeat the Board’s conclusion of obviousness.”). It was sufficient, per *Fleming*, for Samsung to argue as it did in the Petition, that *DiPerna964* discloses a panic button that performs the claimed functions when it is activated, and that it would have been obvious to modify

*DiPerna964* in a manner that meets the claim in view of *Strack*'s arming and timer technique.

#### IV. CONCLUSION

For the reasons set forth above, Petitioner respectfully requests that the Board institute a rehearing to cancel claims 1-8 of the '404 Patent.

Date: May 30, 2025

Respectfully submitted,

/Ali R. Sharifahmadian/

Ali R. Sharifahmadian (Reg. No. 48,202)  
Counsel for Petitioners

**CERTIFICATE OF SERVICE**

I certify that on May 30, 2025, I caused a true and correct copy of the foregoing Petitioners' Request for Rehearing of the Final Written Decision Pursuant to 37 C.F.R. §42.71(d) to be served on the Patent Owner via electronic mail to Patent Owner's counsel of record below:

James R. Nuttall (jnuttall@step toe.com)  
SJFendgoSamsung@Step toe.com

/Douglas Smith/

Douglas Smith  
Senior Paralegal II