

From: [Anderson, Kevin](#)
To: [Director PTABDecision Review](#)
Cc: pwang@raklaw.com; [McPherson, Patrick D.](#); [Reza Mirzaie](#)
Subject: RE: IPR2024-00314: Document(s) Filed - Ericsson Inc. v. XR COMMUNICATIONS LLC: Petitioner's Request for Director Review
Date: Wednesday, August 14, 2024 12:11:59 PM
Attachments: [Petitioners' Request for Director Review.pdf](#)

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Dear Director Vidal,

Petitioners in the above-captioned IPR respectfully request Director Review of the Board's decision not to institute review.

In the Decision, the Board panel concluded that Petitioners could not satisfy the reasonably likely standard because it held that the prior art did not meet the panel's *sua sponte* claim construction of the term "pre-equalization parameter," of which Petitioners did not have any opportunity to either address the incorrectness of the construction or explain that the prior art of record met the construction.

Petitioners hereby provides the following priority-ranked list of the issues for which Petitioners seeks Director Review:

1. Whether the panel erred as a matter of law when, in conflict with the Director's August 2, 2024 Decision in IPR2024-00040 (*Samsung v. Slyde Analytics*), as well as recent Federal Circuit decisions such as *Qualcomm Inc. v. Intel Corp.* and Director review decisions like *Assa Abloy AB v. CPC Patent Techs. Pty., Ltd.*, it failed to allow the parties to be heard on a sua sponte claim construction before rendering its decision whether to institute. In the alternative, if not a legal error, whether, as a matter of policy and fairness, the panel should have allowed the parties to be heard on a sua sponte claim construction before it rendered its decision whether to institute. This is the same important issue addressed in the recently issued Director decision in *Slyde Analytics* (IPR2024-00040).
2. Whether the Board erred as a matter of law when, in conflict with Federal Circuit case law, it issued an overly narrow claim construction that: (1) improperly crafted a new limitation including a new step to the challenged method claim; (2) excluded the only specification embodiments relevant to the claims; (3) left the claims indefinite and (4) failed to consider Petitioners' evidence, which would have satisfied even the incorrectly narrowed construction.

For the reasons above, and further discussed in Petitioners' Request for Director Review, Petitioners respectfully request that the Director review the panel's decision and correct the errors therein.

Thank You,

Kevin Anderson

Lead Counsel for Petitioners, Ericsson Inc. and Nokia of America Corporation

IPR2024-00314
Ex. 3100

From: PTACTS_System@uspto.gov <PTACTS_System@uspto.gov>
Sent: Wednesday, August 14, 2024 4:38 PM
To: rmirzaie@raklaw.com; McPherson, Patrick D. <PDMcPherson@duanemorris.com>
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**UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT TRIAL AND APPEAL BOARD**

Document Filing Notice

AIA Review No.: IPR2024-00314
Petitioner: Ericsson Inc. of Washington, DC
Patent Owner: XR COMMUNICATIONS LLC of , CA
Patent No.: 7177369
Submitted Date: 08/14/2024
Submitted By: Patrick McPherson, pdmcpherson@duanemorris.com

The following document(s) has/have been filed.

Document(s) List

No.	Document No.	Document Type	Document Name	Filing Party	Availability
1	13	Request for Director Review - Institution Decision	Petitioners? Request for Director Review	Petitioner	Available for everyone.

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