

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMCAST CABLE COMMUNICATIONS, LLC,
Petitioner,

v.

TOUCHSTREAM TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2024-00324
Patent 11,048,751 B2

**PETITIONER'S REQUEST FOR REHEARING OF DECISION
GRANTING PATENT OWNER'S REQUEST ON REHEARING OF
DECISION GRANTING INSTITUTION**

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Regulations

37 C.F.R. § 42.71(d) 1, 3, 4, 7, 8

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EXHIBITS (PREVIOUSLY FILED)

Ex. 1101:	U.S. Patent No. 11,048,751 (“the ’751 Patent”)
Ex. 1102:	Expert Declaration of David B. Lett
Ex. 1103:	Curriculum Vitae of David B. Lett
Ex. 1104:	Certified Prosecution History of the ’751 Patent
Ex. 1105-1110:	Reserved
Ex. 1111:	U.S. Pub. No. 2004/0078812 (“Calvert”)
Ex. 1112:	U.S. Pat. No. 9,490,998 (“Danciu”)
Ex. 1113:	U.S. Prov. App. No. 61/411,386 (“Danciu Provisional”)
Ex. 1114:	U.S. Pub. No. 2009/0248802 (“Mahajan”)
Ex. 1115:	U.S. Pub. No. 2009/0172757 (“Aldrey”)
Ex. 1116-1119:	Reserved
Ex. 1120:	Joint Claim Construction Statement, <i>Touchstream Technologies, Inc. v. Google LLC</i> , 6:21-cv-00569-ADA (WDTX) (Feb. 8, 2022)
Ex. 1121:	Exhibit 1 to Joint Disputed Claim Terms Charts, <i>Touchstream Technologies, Inc. v. Vizbee, Inc.</i> , 1:17-cv-06247-PGG-KNF (SDNY) (Aug. 6, 2018)
Ex. 1122:	Jury Instructions, <i>Touchstream Technologies, Inc. v. Google LLC</i> , 6:21-cv-00569-ADA (WDTX) (July 21, 2023)
Ex. 1123-29:	Reserved
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- Ex. 1135: U.S. Pub. No. 2004/0172656 (“Kim”)
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- Ex. 1137: U.S. Pat. No. 7,343,419 (“Robinson”)
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- Ex. 1141: CODING OF MOVING PICTURES AND AUDIO, *MPEG-4 Overview* (Int’l Org. Standardisation 2002)
- Ex. 1142: ROBERT GODWIN-JONES, DIGITAL VIDEO UPDATE: YOUTUBE, FLASH, HIGH-DEFINITION, 11 LANGUAGE LEARNING & TECH. 16, 17 (2007)
- Ex. 1143: John C. Paolillo et al., *A Network View of Social Media Platform History: Social Structure, Dynamics and Content on YouTube*, PROC. 52ND HAWAII INT’L CONF. ON SYS. SCIS., 1, (2019)
- Ex. 1144: *YouTube Opens Internet Video to Masses; Serving 3 Million Videos Daily and Growing, YouTube Unveils a Fast, Fun, and Easy Service for Consumers to Broadcast Original Video*, MARKET WIRE, Dec. 15, 2005
- Ex. 1145: *Hulu Debuts via Private Beta and on Distribution Partners AOL, Comcast, MSN, MySpace and Yahoo!; Company Announces Major Licensing Deals with Metro-Goldwyn-Mayer Studios Inc. and Sony Pictures Television; Providence Equity Partners Makes Strategic Investment in News Corporation/NBC Universal Online Video Joint Venture*, BUS. WIRE, Oct. 29, 2007
- Ex. 1146: *Blockbuster Offers Cheaper Online Rental*, ASSOCIATED PRESS, Jun. 13, 2007
- Ex. 1147: *Adobe Delivers Flash Player 9 With H.264 Video Support; HD Quality Web Video and Audio Now Available With Adobe Flash Player Update*, BUS. WIRE, Dec. 4, 2007

- Ex. 1148: *Microsoft Unveils Silverlight to Power the Next Generation of Media Experiences on the Web; Leading Media Companies and Solution Providers Announce Support for New Solution for Video and Interactivity on Mac- and Windows-Based Web Browsers*, PR NEWSWIRE US, Apr. 16, 2007
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- Ex. 1150: *Netflix, TiVo Team Up After 4-Year Courtship*, ASSOCIATED PRESS, Oct. 30, 2008
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- Ex. 1153: *ENHANCED TV BINARY INTERCHANGE FORMAT 1.0, ETV (OpenCable Specifications*, Nov. 25, 2009)
- Ex. 1154: *Award-Winning Sonos™ Digital Music System Begins Shipping to Customers*, PR NEWSWIRE US, Jan. 27, 2005
- Ex. 1155: *Sonos Introduces the Sonos™ ZonePlayer ZP80*, PR NEWSWIRE, Jan. 4, 2006
- Ex. 1156: *Sonos Introduces the Sonos Controller for iPhone; Free Application Lets Music Lovers Control Leading Multi- Room Music System from Their iPhone*, PR NEWSWIRE, Oct. 28, 2008
- Ex. 1157: *AT&T Opens R&D Lab in Cambridge, England*, BUS. WIRE, Feb. 10, 1999
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- Ex. 1159: *TeamViewer: TeamViewer 3.0 Beta Published; Next Generation of the Popular Remote Support Software*, M2 PRESSWIRE, Aug. 27, 2007

- Ex. 1160: *3am Labs Announces \$10 Million Series A Financing; McNamee Lawrence & Co. Acts as Exclusive Financial Advisor to 3am Labs*, BUS. WIRE, Nov. 16, 2004
- Ex. 1161: *Expertcity's GoToMyPC Product Wins A People's Choice Award At Upside Events' Showcase 2001*, INTERNET WIRE, Feb. 1, 2001
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- Ex. 1164: Final Written Decision, IPR2022-00795 (Sep. 27, 2023)
- Ex. 1165: Patent Owner Response, IPR2022-00795 (Jan. 13, 2023)
- Ex. 1166: Reserved
- Ex. 1167: *Progressive Networks Launches the First Commercial Audio-On-Demand System Over the Internet*, BUS. WIRE, Apr. 10, 1995
- Ex. 1168: *Progressive Networks' RealVideo Launched With Wide Industry Support*, PR NEWswire EUROPE, February 10, 1997
- Ex. 1169: Reserved
- Ex. 1170: U.S. Pat. Application No. 61/477,998
- Ex. 1171: U.S. Pat. No. 8,904,289 to Strober (“the ’289 Patent”)
- Ex. 1172: Certified Copy of Prosecution History of U.S. Pat No. 8,904,289
- Ex. 1173: U.S. Pat. No. 9,767,195 (“the ’195 Patent”)
- Ex. 1174: Certified Copy of Prosecution History of U.S. Pat. No. 9,767,195

- Ex. 1175: U.S. Pat. No. 11,048,751 to Strober (“the ’751 Patent”)
- Ex. 1176: Certified Copy of Prosecution History of U.S. Pat. No. 11,048,751
- Ex. 1177: U.S. Pat. No. 8,356,251 to Strober (“the ’251 Patent”)
- Ex. 1178: Certified Copy of Prosecution History of U.S. Pat. No. 8,356,251
- Ex. 1179: Reserved
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- Ex. 1183: Transcript of Jury Trial, Volume 3 of 5, held July 19, 2023, Dkt No. 262; *Touchstream v. Google*, 6-21-cv-569 (W.D. Tex.)
- Ex. 1184: Google’s Rule 50(b) Renewed Motion for Judgment as a Matter of Law, dated September 20, 2023, Dkt No. 275; *Touchstream v. Google*, 6-21-cv-569 (W.D. Tex.)
- Ex. 1185: Touchstream’s Opposition to Google’s Rule 50(b) Renewed Motion for Judgment as a Matter of Law (Public Version), Dkt No. 287; *Touchstream v. Google*, 6-21-cv-569 (W.D. Tex.)
- Ex. 1186: Google’s Reply in Support of Rule 50(b) Renewed Motion for Judgment as a Matter of Law (Public Version), Dkt No. 292; *Touchstream v. Google*, 6-21-cv-569 (W.D. Tex.)

I. INTRODUCTION

Petitioner respectfully requests that the Board reverse the rehearing decision and denial of institution because it is improperly premised on an argument not raised in Patent Owner's ("PO") Preliminary Response. PO's Request for Rehearing ("Request") argues a claim construction issue it did not brief in its POPR, and that was therefore improperly raised on rehearing. As the Board noted, "[i]n its request for rehearing, the dissatisfied party must... (2) identify the place "where each matter was previously addressed [in a motion, an opposition, a reply, or a sur-reply]." Decision Granting Patent Owner's Request for Rehearing ("Reh.") 3, *quoting* 37 C.F.R. § 42.71(d). But here, the POPR did not raise any issue of claim construction; indeed, the POPR plainly stated: "Patent Owner reserves the right to address the proper construction of any claim terms in the future, as needed. By reserving such arguments at this stage, Patent Owner does not concede that the Petition uses claim language consistent with its proper construction(s)." POPR 19. Following institution, PO then improperly raised claim construction in its Request. Despite not raising claim construction in the POPR, 14 of 15 pages in the Request argued claim construction issues allegedly based on district court claim constructions issued six months after the Petition had been filed. Req. 9, citing Ex. 2024, 22-26. Petitioner respectfully asserts that the Board erred in failing to enforce 37 CFR § 42.71 which places the burden on the requestor to "specifically identify all matters the party

believes the Board misapprehended or overlooked, and *the place where each matter was previously addressed*” (emphasis added).

Not only did PO improperly inject new claim construction arguments into its Request, but it also failed to meet its burden of proof in requesting rehearing. On the critical issue of what Petitioner’s prior art shows relative to the new claim construction, PO’s Request provides only a single sentence stating that Petitioner “fails to demonstrate ‘compelling merits’ ... for the reasons described in Patent Owner’s Preliminary Response.” Req. 14-15. This sentence wholly fails to meet PO’s burden to “*specifically* identify all matters the party believes the Board misapprehended or overlooked” and instead attempts to again place the burden on Petitioner when the Board already found Petitioner’s arguments compelling in the Institution Decision.

In any event, Petitioner presented compelling arguments for why the cited references meet the claims, even under the newly-adopted constructions, which require commands to be in a first format different from a second format, because, *inter alia*, that limitation is explicitly required by certain of the dependent claims. With regard to claim 1, the Petition describes how Mahajan teaches platform-specific commands (i.e., a first format) that were translated from generic commands (i.e., a second format). Pet. 27-29. Then, in discussing claim 2, the Petition states that “[a]s discussed above regarding limitation [1D], Danciu-Mahajan and Danciu-

Mahajan-Calvert teaches a system *wherein commands are translated between universal and platform-specific formats* for transmission to a client device.” Pet. 39 (emphasis added). These arguments, also duplicated in discussions of other dependent claims (e.g., claims 3, 5, and 6) that explicitly require the different formats that PO now alleges is required by the independent claims, have never been addressed by PO (or the Board), so the burden of proof for reversal was not met.

Rather than accepting these new claim construction arguments on rehearing and reconsidering the Petition *de novo*, the Board should have allowed PO’s claim construction arguments to be fully vetted in PO’s Response and Petitioner’s Reply as intended by the AIA. Accordingly, the rehearing decision should be reversed.

II. STANDARD FOR REVIEW

Pursuant to 37 C.F.R. § 42.71(d), a party may request rehearing of a decision not to institute trial by the Board. The party requesting rehearing has the burden of showing that the decision from which rehearing is sought should be modified, and “[t]he 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, a reply, or a sur-reply.” 37 C.F.R. § 42.71(d); *Apple Inc., et al. v. Uniloc Luxembourg S.A.*, IPR2017-00225, Paper 31, at 2 (P.T.A.B. Sept. 6, 2018) (“The burden here, therefore, lies with [the requester] to show we misapprehended or overlooked the matters it requests that we review.”).

Here, in granting rehearing and reversing its prior institution decision, the Board overlooked that the claim construction arguments raised by PO in its Rehearing Request were not previously addressed in the POPR (and thus should not have been permitted on rehearing) and that the Petition demonstrated that the claims are obvious in view of the prior art grounds even under this new claim construction.

III. ARGUMENT

A. The Board Erred by Considering New Attorney Argument on Claim Construction Never Raised in the POPR

PO's Request is entirely based on a claim construction issue it did not brief in its POPR. This is contrary to 37 C.F.R. § 42.71(d), which requires identification "where each matter was previously addressed in a motion, an opposition, a reply, or a sur-reply." PO admits that claim construction was never addressed in the POPR which merely "reserv[ed] such arguments at this stage." POPR 19, Req. 7-8. Following institution, PO raised claim construction *for the first time* in its Request. The Board erred by considering this new argument on rehearing.

PO purposefully excluded any arguments on claim construction from its POPR. Rather, PO chose to rebut Petitioner's argument regarding Danciu-Mahajan teaching commands in first and second formats by alleging that *the source* of those commands was inconsistent with the claims, *without* arguing for any particular construction regarding formats. POPR 26 ("The process identified by Petitioner as the translation or conversion of a *second message including at least one command*

in a second format into a first message that includes at least one command in a first format is performed by Mahajan’s client, not by the server.”) (emphasis original). And while PO points to a discussion in the POPR of the specification of the ’751 Patent, the POPR did not raise any argument as to why the specification required a particular claim construction. Req. 7, *citing* POPR 21.

Indeed, in its Request, PO *conceded* it raised no argument as to claim construction in the POPR:

Although Patent Owner reserved the right to dispute Petitioner’s claim constructions, Response at 19, it had no need to dispute Petitioner’s implicit construction requiring different first and second formats (with which Patent Owner agreed) and Patent Owner made clear that the “first format” and “second format” limitations found in the claims should be construed to require two different formats. *Id.* at 20-21, 28.

Req. 7-8.

Patent Owner asserts that it “had no need” to raise its claim construction argument in the POPR, allegedly because the Petition implicitly construed the claims as requiring two different formats. But there was no implicit construction and PO misrepresents the Petition in this regard as the Petition stated that “all claim terms herein should be given their ordinary and customary meaning to a POSITA.” Pet. 20. Furthermore, the Petition was filed six months before the district court claim construction order. Req. 9, *citing* Ex. 2024, 22-26. Hence, the Petition argued invalidity under various possible claim constructions for likely contested limitations.

Petitioner argued that “when receiving a message from the remote control intended for the controlled device, ‘server 24 may process and/or repackage the control information of the message into a new message.’” Pet. 27, *citing* Ex. 1112, 16:63-67. Petitioner also argued, in view of dependent claim 2, which narrows claim 1 as to these limitations, that “[a]s discussed above regarding limitation [1D], Danciu-Mahajan and Danciu-Mahajan-Calvert teaches a system wherein commands are translated between universal and platform-specific formats for transmission to a client device.” Pet. 39. The Petition shows that the references teach the limitations under *any* construction – dependent claims 2-6 explicitly impose limitations on the formats including that “the first format is different than the second format” (claim 3). Petitioner showed the narrowest reading was met (a reading PO newly argued on Rehearing was required by the independent claims, claim differentiation notwithstanding). Petitioner never raised an argument that such a reading was *required* in the independent claims, but addressed this narrow interpretation because it was one construction that the district court could adopt (and is explicitly required by certain dependent claims).

More fundamentally, it is of course true that PO need not argue claim construction in the POPR. A PO may always wait until the POR to make such arguments; POPRs are optional. But, having chosen to file its POPR and *not* make claim construction arguments in the POPR, PO cannot then raise them in a request

for rehearing. *Cf.* 37 C.F.R. § 42.71(d).

B. The Board Erred by Applying an Incorrect Standard of Review

The Board erred by applying a “compelling merits” standard *de novo* based on new arguments raised for the first time in the Rehearing request and failed to place the burden on PO as required by regulation. Shifting the burden to PO (i.e., the rehearing requestor) is required by 37 C.F.R. § 42.71(d): “The burden of showing a decision should be modified lies with the party challenging the decision.” The Board briefly acknowledged this burden in its Standard of Review (Reh. 3), but did not properly apply the requirement in its decision.

Specifically, the Board erred in its discussion regarded claim construction of the terms “first format” and “second format.” While there is no indication of the standard of review applied, it is apparent that the Board reconsidered this construction *de novo*. Reh. 5-9. While the Board is free to reconsider constructions in any Final Written Decision, on a Request for Rehearing the Board was required to place the burden on PO to identify where in the POPR it had argued claim construction, and the Board failed to do so.

Also, the Board erred in reconsidering the Petition *de novo* in view of the new construction. The Board applied the same standard as at institution, namely whether “the evidence, if unrebutted in trial, would plainly lead to a conclusion that one or more claims are unpatentable by a preponderance of the evidence” and “if it is highly

likely that the petitioner would prevail.” Reh. 9-10. This is *de novo* review, which does not properly place the burden on PO to show what “the Board misapprehended or overlooked” in previously finding that Petitioner’s argument met the compelling merits standard. Reh. 9-19.

That PO failed to show what the Board misapprehended about the prior art is proven by the fact that the Request did not address the content of the prior art, and thus did not substantively undermine or disprove the previously-found compelling merits of the Petition. With regard to the prior art, the PO provides only a single sentence, stating merely that Petitioner “fails to demonstrate ‘compelling merits’ ... for the reasons described in Patent Owner’s Preliminary Response.” Req. 14-15, *citing* POPR 20-22, 27-29, 32-35, 37.

37 C.F.R. § 42.71(d) requires that any question of whether the claim constructions set forth in the institution decision are correct, or whether the art teaches those constructions, be addressed in the post-institution Response and Reply because they were not addressed by the PO in the POPR. Following 37 C.F.R. § 42.71(d) would also allow the parties the opportunity to examine issues beyond those considered by the district court. For example, only claim 12 of the ’751 Patent was before the district court for claim construction, so the court did not consider claim differentiation in view of claim 3 (which has no mirrored dependent as to claim 12). Ex. 2024, 25. A full record examining the claim construction issues as they apply to

this IPR is warranted. Further, even under the narrow construction now proposed by PO, the prior art teaches this construction as outlined in the Petition.

C. The Board Erred by Failing to Consider the Teachings of Danciu-Mahajan and Aldrey-Mahajan, as Argued by Petitioner

Petitioner raised several arguments for why Danciu in view of Mahajan (with or without Calvert) teaches a “first format” and a “second format” as claimed. Petitioner argued that Danciu teaches that Danciu’s “server 24 may process and/or repackage the control information of the message into a new message.” Pet. 27, *quoting* Ex. 1112, 16:63–67. In its discussion of the independent claims, Petitioner argued that Danciu (or Aldrey) in view of Mahajan teaches converting commands from a first format to a second format. Pet. 27-32, 64-69. And in its discussion of the dependent claims, Petitioner expanded its argument that Danciu (or Aldrey) in view of Mahajan teaches conversion of commands from a first format to a second format. Pet. 39-45, 71-75.

The Petition’s actual argument differs substantially from the description put forward by PO. PO erroneously paraphrases Petitioner’s argument as stating that “Danciu’s remote control, the alleged *second computing device*, would perform the disclosed operations of the server’s abstraction module in Mahajan” and that “Danciu’s controlled device, the alleged *first computing device*, would perform the operations of Mahajan’s client abstraction module.” POPR 32, *citing* Pet. 31. This is not Petitioner’s argument.

Rather, as acknowledged by the Board (Reh. 11-12), Petitioner first argued that Danciu's "server 24 may process and/or repackage the control information of the message into a new message." Pet. 27, *quoting* Ex. 1112, 16:63-67. Then, Petitioner explains that, to any extent implementation details are not disclosed, they are taught by Mahajan. Pet. 27-32. The Rehearing decision, as with the POPR, stops there. Reh. 11-14; POPR 32-34. But while the Board acknowledges that its new construction imports a limitation found in dependent claim 3 ("the first format is different than the second format"), neither PO nor the Board ever address Petitioner's argument regarding that same limitation in claim 3, nor specific arguments regarding conversion between formats made with regard to claims 2-3 and 5-6. *See* Pet. 39-45. These sections make clear that the Board erred when it asserted that "Petitioner did not rely on Mahajan to teach or suggest the recited first and second formats but relied on Mahajan instead as providing 'implementation details for transmission of commands for controlling a client.'" Reh. 12, *citing* Pet. 27.

In fact, the Petition does describe how Mahajan also teaches first and second formats that are different. With regard to claim 1, the Petition describes how Mahajan teaches platform-specific commands (i.e., a first format) that were translated from generic commands (i.e., a second format). Pet. 27-29. More particularized discussion of the application of Mahajan to messages in different

formats, such those converted at a remote server device, appears with regard to claims 2-3 and 5-6. For example, regarding claim 2, the Petition states that “[a]s discussed above regarding limitation [1D], Danciu-Mahajan and Danciu-Mahajan-Calvert teaches a system wherein *commands are translated between universal and platform-specific formats for transmission to a client device.*” Pet. 39, emphasis added. The discussion of claim 3 makes clear that the focus of the argument is on “separate messages from the remote control to the server, and from the server to the controlled device.” Pet. 40. Claim 5 explicitly requires conversion, and the Petition makes clear that the conversion in the combination occurs “on an intermediary device,” namely “at a server, such as in [Danciu’s] Servers 24A-24N.” Pet. 43. And claim 6 makes clear that Petitioner is arguing for processing a command by translating it, at server, in order to send the command to the controlled device:

Thus, when a user selects content, information on the corresponding media player may be included with the command selecting the content (“at least one command in the second format”) in the message from remote control to the controlled device (“the second message”), in **processing/formulating the command from the remote control by the server into a command to send to the controlled device** (“at least one command in the first format”), that command may be selected based on the information about the corresponding media player (“a reference to the first media player application”). Ex. 1102, ¶ 190.

Pet. 45, emphasis added. Thus, the Board’s assertion that “[i]t is not clear how the proposed combination in this way teaches or suggests the format of a command sent from the remote control to a server is different from the format of a command sent from the server to the controlled device” is error, as the Petition as a whole makes clear how the alleged limitation is taught, and PO (who here carries the burden) failed to fully dispute those teachings. Reh. 13.

The Board’s analysis of the Aldrey-Mahajan ground begins with a significant error, leading to an additional misreading of the Petition. The Board starts its analysis by stating that “[u]nder its first theory, based on Aldrey alone, Petitioner provided an annotated version of Figure 1 of Aldrey...” Reh. 15. The Board then summarizes Petitioner’s argument relating to Aldrey’s architecture. *Id.* But Petitioner’s Ground C is Aldrey *in view of Mahajan* – there is no argued ground citing Aldrey alone. The Board then refers to “[Ppetitioner’s] second theory, based on Aldrey and Mahajan,” and summarizes Petitioner’s argument that an RTS Media Abstraction module located at Aldrey’s Service Provider Network 103 would translate commands. Reh. 16. The Board apparently bifurcated Petitioner’s argument, thus failing to properly consider it – Petitioner relied on Aldrey for teachings regarding the architecture for the system, and relied on Mahajan “to teach or suggest at least one command in a first format, and at least one command in a second format” by teaching “implementation details regarding transmitting

commands from a computing device (e.g., an end terminal) to a client (e.g., a STB)” wherein the commands are converted “at a server, such as in Service Provider Network 103.” Pet. 64, 67.¹

Moreover, the Board again failed to consider Petitioner’s Aldrey-Mahajan argument regarding dependent claims 2-3 and 5-6. For example, regarding claim 3’s recitation of “wherein the first format is different than the second format,” Petitioner raises an alternative theory in view of the claim not reciting “convert[ing]” or a “remote server device”: “the message formatted for an application on the portable device is in the second format, and the message formatted for an application on the STB is in the first format different from the second format.” Pet. 72. This argument has never been addressed by PO or the Board. And the Board’s failure to address this argument is consistent with its apparent confusion about how Aldrey’s remote end terminal and network service provider could both convert commands. *See* Reh. 18-19. But this confusion is resolved by Petitioner’s explanation that Mahajan teaches two conversions – conversion from a server-command to a universal command, and then conversion from the universal command to a client-command.

¹ It is improper for the Board to view the teachings of a reference in isolation rather than in the context of a combination asserted in a Petition. *See Provisur Techs., Inc. v. Weber, Inc.*, 50 F.4th 117, 125 (Fed. Cir. 2022).

See Pet. 28-29. The Board thus appears to never consider Petitioner's argument that a remote end terminal may convert a command into a universal command, and then that command may be converted into a command specific to a STB on an RTS Media Abstraction module at a server, as clarified by Petitioner's discussion of claims 2-3:

As discussed above regarding limitation [1D], Aldrey-Mahajan teaches a system wherein commands are translated into a universal format for transmission to a client device. Those commands are in a universal format because the devices need not be aware of all possible media platforms, and can instead convert genericized commands into a platform-specific command as appropriate.

...

As discussed above in Section VI.B.1.d, it would have been obvious to a POSITA that one or more RTS Media Abstraction Modules could operate at a server, such as in Service Provider Network 103.

Pet. 71 (internal citations omitted).

Finally, the Board erred by failing to properly consider the references in concluding that "it is not readily apparent *why* an ordinarily skilled artisan would have considered locating the RTS Media Abstraction Module at a *server* based on Mahajan's disclosure of command conversion at a *client*." Reh. 18 (emphasis original). But the Board's rigid application of "server" directly contradicts Mahajan:

Various examples may be practiced in distributed computing environments, where tasks are performed by remote processing devices that are linked through a communications network. In a

distributed computing environment, program modules may be located in both local and remote memory storage devices. Further, **the terms server and client as used herein do not connote any relative capabilities of the two devices.** The client may have more, less, or equal processing capabilities than the server. Rather, **in this description, the names server and client describes the relative relationship of the two components.** For example, a computing environment of a first or server device is remoted to a second or client device. **For ease of explanation the examples provided in this document relate to a single server and a single client; however, this is but one potential configuration.** It is to be appreciated that in other implementations may include one or more servers supporting multiple clients. **In some implementations a first computer may act as a server for a second computer, which acts as a server for a third computer.**

Ex. 1114, [0018] (emphasis added); Pet. 43, 67. Further, as argued in the Petition, Mahajan teaches that a “collaboration media abstraction layer 130,” shown as being in network 106 rather than at Mahajan’s server or client, can perform the translation of the commands. Pet. 43, 67, *citing* Ex. 1114 [0022]-[0023], FIG. 1. This argument, too, has never been addressed by PO or the Board.

IV. CONCLUSION

In view of these errors, reversal of the Board’s Decision Granting Patent Owner’s Request for Rehearing and institution of *inter partes* review are respectfully requested.

Dated: November 8, 2024

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I hereby certify that the foregoing
**PETITIONER'S REQUEST FOR REHEARING OF DECISION GRANTING
PATENT OWNER'S REQUEST ON REHEARING OF DECISION
GRANTING INSTITUTION** in connection with IPR2024-00324 to be served via
e-mail on November 8, 2024, in its entirety on the following counsel of record for
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