

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BOE TECHNOLOGY GROUP CO., LTD.,
Petitioner,

v.

138 EAST LCD ADVANCEMENTS LIMITED,
Patent Owner.

IPR2024-00977
Patent 9,557,606 B2

Before GRACE KARAFFA OBERMANN, GEORGE R. HOSKINS, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

KAISER, *Administrative Patent Judge*.

DECISION

Denying Petitioner's Request on Rehearing of
Decision Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.71(d)

I. INTRODUCTION

BOE Technology Group Co., Ltd. (“Petitioner”) filed a petition for an *inter partes* review (Paper 2 (“Pet.”)) challenging claims 7–13 and 15–20 of U.S. Patent No. 9,557,606 B2 (Ex. 1001 (“the ’606 patent”)). 138 East LCD Advancements Limited (“Patent Owner”) filed a Preliminary Response. Paper 6 (“Prelim. Resp.”). With our authorization, Petitioner filed a Reply to Patent Owner’s Preliminary Response (Paper 7 (“Prelim. Reply”)), and Patent Owner filed a Preliminary Sur-Reply (Paper 8 (“Prelim. Sur-Reply”)).

We determined that the information presented in the Petition did not establish a reasonable likelihood that Petitioner would prevail with respect to at least one of the challenged claims, and, accordingly, we did not institute an *inter partes* review. Paper 9 (“Dec.” or “Decision”). Following our denial of institution, Petitioner filed a Request for Rehearing. Paper 10 (“Req. Reh’g”). We have considered Petitioner’s Request for Rehearing and, for the reasons set forth below, we deny the requested relief.

II. STANDARD OF REVIEW

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 on a petition, we review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). 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. DISCUSSION

Petitioner requests rehearing of our denial of institution, arguing that we incorrectly decided that the primary reference asserted in all grounds, Fujikawa (Ex. 1005), does not disclose claim limitation 7[l]. Req. Reh’g 1–4.

Claim limitation 7[l] recites:

wherein the first substrate includes a plurality of wiring lines that connect to the plurality of active elements, and the plurality of wiring lines extend onto the protruding region across the seal member without connecting to the dot conductive points.

Ex. 1001, 56:11–15.

A. The Decision on Institution

Petitioner challenged claims of the ’606 patent on five grounds. Dec. 6. All of those grounds relied on Fujikawa alone or with various combinations of Kang and Ikeguchi. *Id.*

Petitioner relies on Figure 2 of Fujikawa, which is reproduced below.

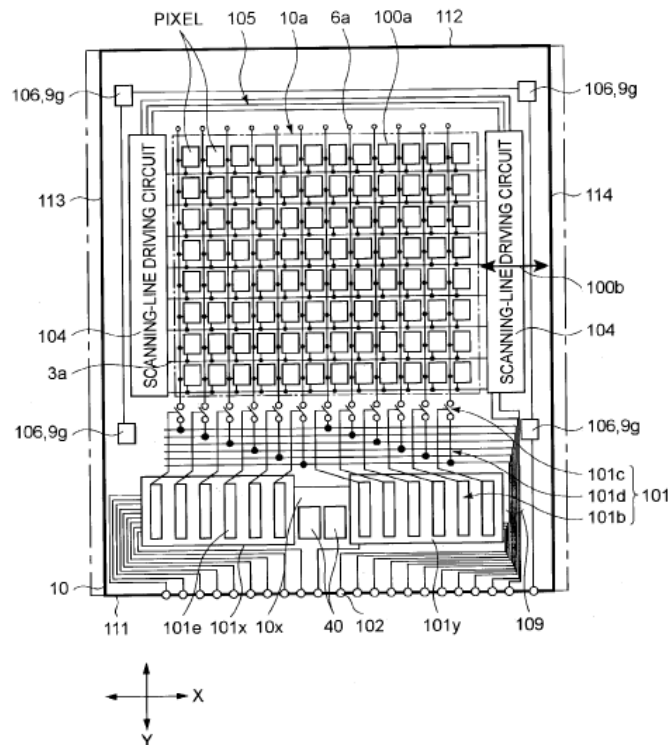


Figure 2 above illustrates data lines 6a, sample hold circuits 101c, image signal lines 101d, and lines 109. Ex. 1005 ¶¶ 54–58.

Upon considering Petitioner’s grounds, we determined that the dispute between the parties is largely one of claim construction. Dec. 12. We explained that in order to determine that Fujikawa discloses or teaches the recited wiring lines, we would need to answer the following question in the affirmative: should the term “wiring line” in claim 7 be construed broadly enough to encompass a collection of lines separated by a sample hold circuit? *Id.* We observed that neither party proposes construing “wiring line,” or any other term used in the claims of the ’606 patent. *Id.* (citing Pet. 18; Prelim. Resp. 7). We concluded “[t]he failure to argue for *and sufficiently support* a broad construction of the term ‘wiring line’ means that Petitioner does not show sufficiently, for purposes of supporting institution

of review, that Fujikawa discloses or teaches the ‘wiring line’ limitation of claim 7.” *Id.* (emphasis added).

B. Petitioner’s Arguments on Rehearing

In its Request for Rehearing, Petitioner argues:

With respect to claim limitation 7[1], the Petition said “[e]ach wiring line in *Fujikawa* comprises three line segments, i.e., data line 6a, image signal line 101d, and line 109. Decl. ¶ 122.” Pet., 49. *The Board thus should have addressed whether this collection of line segments meets the claimed requirements for a line*, namely that they “connect to the plurality of active elements” and “extend onto the protruding region across the seal member.”

Req. Reh’g 1 (second emphasis added). In its Request for Rehearing, Petitioner further argues:

Fujikawa’s image signal lines 101d, which the Petition said are parts of the wiring lines, *meet the claim limitations*, i.e., they: **(1)** connect to the TFT 30 “active elements” (via sample hold circuits 101c and data lines 6a), and **(2)** extend onto a protruding region across sealing member 107 (both by themselves and via lines 109).

Id. at 1–2 (second and third emphases added).

C. Analysis

We are not persuaded that we abused our discretion for any of the reasons that Petitioner advances. We consider each of Petitioner’s arguments below.

1. Petitioner’s argument that we should have addressed whether the collection of line segments meets the claimed requirements for a line

This issue is whether Fujikawa’s collection of data line 6a, image signal line 101d, and line 109 collectively constitute the “wiring line[]” recited in the challenged claims. Dec. 10–12. In *Fujikawa*, data line 6a is separated from image signal line 101d by sample hold circuit 101c, which

has an analog switch that is operated in response to a signal output from a corresponding shift register circuit 101b. Ex. 1005 ¶¶ 54–58, Fig. 2.

We addressed this issue in the original Decision. Dec. 10–12. As we determined there, the evidence and arguments submitted by Petitioner did not establish a reasonable likelihood that Petitioner would prevail in demonstrating that Fujikawa’s data line 6a, image signal line 101d, and line 109 collectively constitute the claimed “wiring line[]” for several reasons. First, Petitioner had not provided any definition or construction of a “wiring line” or “line” for comparison to the prior art. Dec. 12; *see, e.g.*, Pet. 18 (“[n]o terms require construction”), 47–50. Second, Petitioner had not provided sufficient evidentiary support for its contention that lines 6a and 101d, which are separated from each other by the sample hold circuit 101c, are part of the same wiring line. Dec. 12 (Petitioner did not “sufficiently support a broad construction”). Petitioner did not argue that the sample hold circuit itself was a line and did not provide sufficient evidence that two lines separated from each other by a non-line component made up the same line. *See* Pet. 47–50.

In the Request for Rehearing, Petitioner argues only that we failed to consider its argument that the collection of data line 6a, image signal line 101d, and line 109 collectively constitute the “wiring line[]” recited in the challenged claims. As discussed above, however, we addressed this argument. Accordingly, Petitioner’s argument that we failed to consider this argument does not persuade us that we abused our discretion.

2. *Petitioner’s argument that image signal lines 101d meet the claim limitations*

In the Request for Rehearing, Petitioner argues that lines 101d alone are the “wiring lines” of limitation 7[1]. Req. Reh’g 1–4. This argument

was not raised in the Petition or Reply to Patent Owner’s Preliminary Response. Pet. 47–50 (arguing the claimed wiring line comprises data line 6a, image signal line 101d, and line 109); Prelim. Reply 1–5 (addressing only issues related to stipulation). Because this is a new argument, we do not consider it.¹ See 37 C.F.R. § 42.71(d) (“[t]he request [for rehearing] 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”).

IV. CONCLUSION

For the foregoing reasons, Petitioner has not demonstrated that the Board abused its discretion in declining to institute an *inter partes* review of claims 7–13 and 15–20 of the ’606 patent.

V. ORDER

It is hereby

ORDERED that the Request for Rehearing is *denied*.

¹ We also do not consider Petitioner’s contentions on pages 2 to 4 of the Request for Rehearing, which are offered in support of this new argument.

IPR2024-00977
Patent 9,557,606 B2

FOR PETITIONER:

Joshua L. Goldberg
James R. Barney
Qingyu Yin
Sydney R. Kestle
Tyler M. Akagi
Kevin D. Rodkey

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, LLP

joshua.goldberg@finnegan.com

james.barney@finnegan.com

qingyu.yin@finnegan.com

sydney.kestle@finnegan.com

tyler.akagi@finnegan.com

kevin.rodkey@finnegan.com

FOR PATENT OWNER:

Cyrus A. Morton
Samuel J. LaRoque
ROBINS KAPLAN LLP
CMorton@RobinsKaplan.com
SLaRoque@RobinsKaplan.com