

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

RØDE MICROPHONES, LLC, and
FREEDMAN ELECTRONICS PTY LTD,
Petitioner,

v.

ZAXCOM, INC.,
Patent Owner.

IPR2025-00557
Patent 12,051,444 B2

Before JUSTIN T. ARBES, MIRIAM L. QUINN, and
STEPHEN E. BELISLE, *Administrative Patent Judges*.

QUINN, *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

On September 30, 2025, the Board issued a Decision Denying Institution in this proceeding. Paper 15 (“Dec. on Inst.”). On October 15, 2025, Petitioner filed a Request for Rehearing by the Board. Paper 16 (“Req. Reh’g” or “Request”). Pursuant to our authorization provided by email, Patent Owner filed a Response to Petitioner’s Request. Paper 17 (“Response” or “Resp.”). Petitioner’s Request essentially urges the Board to reconsider statements Petitioner made in the Preliminary Reply as statements that allegedly were overlooked when the Board determined not to institute *inter partes* review. Req. Reh’g 1–5.

According to 37 C.F.R. § 42.71(d), “[t]he burden of showing a decision should be modified lies with the party challenging the decision,” and the “request must specifically identify all matters the party believes the Board misapprehended or overlooked.” The burden here, therefore, lies with Petitioner to show we misapprehended or overlooked the matters it requests that we review. We are not persuaded that Petitioner has shown that we misapprehended or overlooked the matters raised in the Request for Rehearing.

A. FOOTNOTE 1 OF THE REPLY

Petitioner asserts that the Board’s denial of institution is premised on an incomplete assessment of Petitioner’s contentions. Specifically, the pre-institution Preliminary Reply (Paper 13), according to Petitioner,

- (1) expressly disputed that the synchronization pulses [of Strub] are limited to visual data—since, among other things, Strub repeatedly states that its “recording data” includes audio data, and
- (2) explained why a [person of ordinary skill in the

art] would apply Strub’s synchronization pulses to audio data recorded by an audio device.

Req. Reh’g 3. Petitioner cites footnote 1 at page 2 of the Preliminary Reply as support for the quoted statements. *Id.*; Paper 13, 2 n.1 (the “footnote”). According to Petitioner, had the Board considered this footnote, the Board would have found that Petitioner disputed Patent Owner’s assertions concerning the “genlocking” technique of Strub. *Id.*; *see* Dec. on Inst. 23 (“Petitioner has not disputed Patent Owner’s assertions that the described “genlocking” technique is a video synchronization technique that does not apply to or affect the synchronization of system clocks or audio timestamps and has no bearing on audio synchronization.”).

We do not agree with Petitioner that the Board overlooked the footnote. As Patent Owner argues in its Response, the footnote appears in a page that was summarized in the Decision on Institution and cited several times. Resp. 1. Although not cited specifically, the contents of the footnote do not impact the substance of the Board’s determination that Petitioner did not dispute Patent Owner’s assertions concerning “genlocking” as inapplicable to audio timestamps or audio synchronization. *See* Resp. 1–2 (citing Paper 15, 21, 23, 25–26). We are persuaded by Patent Owner’s arguments.

The footnote, in its entirety, states:

Strub teaches that “recording data” includes audio data. Ex. 1003, 27:45–50, 29:66–30:2, 31:27–34, 32:23–25. In any event, it makes little sense to synchronize the visual recording data but not the corresponding audio recording data, else the audio and video would get out of sync relative to one another. *See, e.g., id.*, 3:25–45 (explaining desirability of synchronizing audio recordings with visual recordings), 80:10–16 (using either the audio or video to synchronize the “recording data”

from different recording units, which necessarily indicates that the audio and video are synchronized relative to one another).

Paper 13, 2 n.1. First, this footnote does not address the “genlocking” technique of Straub. Second, referring generally to “recording data” does not address the issue that the Decision on Institution focused on: “the *cited procedure* involves synchronizing frames of visual recording data, not audio recording data.” Dec. on Inst. 23 (emphasis added and citing the Preliminary Response of Patent Owner at page 36). Furthermore, as discussed in the next section concerning Strub’s synchronization pulses, arguments concerning synchronization of “recording data” in general do not address the specific determination that the portion of Strub on which Petitioner relies has not been shown sufficiently to refer to “recording data” in general; but rather, focuses on visual recording data, not audio recording data. The Board’s decision therefore did not overlook the footnote, because it correctly notes that Petitioner failed to address “genlocking” specifically, according to Strub, and its applicability to only to visual recording data, in light of Patent Owner’s very specific argument on this point.

B. STRUB’S SYNCHRONIZATION PULSES

Petitioner next argues that its assertions about Strub’s synchronization pulses are correct and they convey that both audio and video recording data are synchronized. Req. Reh’g 4–5. In particular, relying on the footnote, Petitioner asserts that Strub discloses “recording data” broadly to include audio data because of embodiments described in the citations included in the footnote. *Id.* For instance, one of the cited embodiments includes mention of “recording data” from a video camera (which has a microphone). *Id.* at 4 (citing Ex. 1003, 27:45–50, among other citations in Strub). Petitioner sums

up what the footnote conveys, that the synchronization pulses are used to coordinate “recordings” between recording units and those “recordings” include both visual and audio recording data. *Id.* at 4–5. After all, Petitioner argues, it “make[s] little sense” to use synchronization pulses to synchronize only the video but not the audio because the audio and video would get out of sync relative to one another. *Id.* at 5.

We are not persuaded that the Board overlooked Petitioner’s contention asserted in the footnote. The Decision on Institution noted the lack of explanation by Petitioner of “why an ordinarily skilled artisan would have applied *this teaching* to audio data recorded by an audio device.” Dec. on Inst. 23 (emphasis added). The general statement that all “recordings” in Strub include audio data is an insufficient explanation. Strub does not support Petitioner’s statements, because as Patent Owner notes, and we agree, the passage describing the “genlocking” technique does not describe synchronizing “recording data,” because the passage addresses “[d]ata other than recording data.” Ex. 1003, 38:29–30; Resp. 2–3. That passage also specifically refers to synchronization of “frames of visual recording data.” Ex. 1003, 38:30–34. Thus, although Strub may disclose other processes applicable to audio and video data, Petitioner relied specifically on the disclosure of synchronization pulses known as “genlocking,” which Strub describes only in connection with visual recording data. Pet. 34 (“Strub’s synchronization pulses comprise master timecodes.”); Ex. 1003, 38:34–39. Therefore, we are not persuaded that the footnote, or any other explanation by Petitioner to-date, explains sufficiently why a person of ordinary skill in the art would understand that Strub applies the “genlocking” technique to anything other than visual recording data.

Furthermore, the allegation that “it makes little sense” to use synchronization pulses for video data amounts to a bare assertion of “common sense.” *See* Req. Reh’g 5. Such an assertion is unmoored from how Strub describes the use of “genlocking” and lacks a sufficient motivation to apply “genlocking” to audio data as Petitioner asserts. Accordingly, we are not persuaded that the Decision on Institution concludes in error that Petitioner failed to show sufficiently why a person of ordinary skill in the art would have applied the “genlocking” technique as disclosed in Strub to audio data recorded by an audio device.

II. CONCLUSION

We deny Petitioner’s Request for Rehearing because we determine that Petitioner has not met its burden to show that, in the Institution Decision, the panel misapprehended or overlooked any matter or abused its discretion to deny institution.

III. ORDER

In consideration of the foregoing, it is hereby
ORDERED that Petitioner’s Request for Rehearing is denied.

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