

Paper No. ____
Filed: July 5, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SECURUS TECHNOLOGIES, INC.
Petitioner

v.

GLOBAL TEL*LINK CORPORATION
Patent Owner

Case IPR2016-00267
Patent No. 7,256,816

PETITIONER'S REQUEST FOR REHEARING

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I. Rehearing Is Needed to Correct a Fundamental Misreading of the Evidence and Petition

Rehearing is rarely granted, but it is needed here to correct a fundamental misunderstanding of the prior art and Petitioner Securus' arguments, which resulted in a decision not to institute that is not supported by the evidence. The primary reference, *Bulriss*, discloses two modes of operation—public and privacy. The public-mode disclosure—exclusively relied on by Securus—teaches the claimed communications monitoring, but the Board mistakenly relied on the privacy-mode description of non-monitored attorney-client communications as the basis for denying institution. By overlooking Securus' reliance on the public mode and how that mode functions, the Board reached a conclusion that is contrary to the evidence. For example, the Board noted in several places that *Bulriss*'s communications could be protected by the attorney-client privilege and assumed that its communications occur only when other devices are locked out from monitoring. (*See, e.g.*, Paper 8 (“Decision”) at 8, 10-11.) These statements are only true of *Bulriss*'s privacy mode and do not apply to the public mode described in the reference and presented throughout the Petition.

The Board's remaining reasons for denying institution stem from its mistaken reliance on the privacy mode to the exclusion of the public mode on which the Petition relies. For example, the Board found that *Bulriss* would not have been combined with *Hesse*'s scheduling mechanism because private

communications need to occur on an *ad hoc* basis and having to schedule them would be counter to *Bulriss*'s purpose of providing communications without delay. (Decision at 12.) These concerns, however, overlook that *Bulriss* provides its timely *private* communications because it has already established a *public*-mode communication channel at the beginning of the hearing or trial. Because the courtroom and inmate are already connected in public mode, the judge can quickly and easily enable *Bulriss*'s privacy mode so the attorney and inmate can communicate privately at a moment's notice. Without the preexisting public-mode communication channel, *ad hoc* private communications would take longer to set up during trial, requiring the inmate to move to a location with conferencing equipment and a private connection. Scheduling a public-mode communication channel—the channel relied on throughout the Petition—is not only consistent with *Bulriss*'s goals, it is presupposed to occur in certain *Bulriss* embodiments.

The Board's mistaken reliance on the privacy-mode issues in *Bulriss* was invited by GTL's preliminary response, which failed to address the public mode disclosures that formed the basis of the Petition. Because the Board followed GTL's lead and overlooked or misapprehended the public-mode arguments and evidence when denying institution, Securus respectfully requests rehearing and institution of review on all claims, as set forth in the Petition.

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