

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NVIDIA CORPORATION,  
Petitioner,

v.

POLARIS INNOVATIONS LIMITED,  
Patent Owner.

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Case IPR2017-00381  
Patent 7,886,122 B2

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Before SALLY C. MEDLEY, BARBARA A. PARVIS, and  
WILLIAM M. FINK, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

DECISION  
Denying Patent Owner's Request for Rehearing  
*37 C.F.R. § 42.71*

## I. INTRODUCTION

Polaris Innovations Limited (“Patent Owner”) filed a Request for Rehearing of the Decision to Institute (Paper 9, “Dec.”) an *inter partes* review as to claims 1–28 of U.S. Patent 7,886,122 B2 (Ex. 1001, “the ’122 patent”). Paper 12, “Req. Reh’g.” For the reasons that follow, the Request for Rehearing is *denied*.

## II. STANDARD OF REVIEW

A party requesting rehearing bears the burden of showing that the decision should be modified. 37 C.F.R. § 42.71(d). The party must identify specifically all matters we misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply. *Id.* When reconsidering a decision on institution, we review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). An abuse of discretion may be determined if a decision is based on an erroneous interpretation of law, if a factual finding is not supported by substantial evidence, or if the decision represents an unreasonable judgment in weighing relevant factors. *Star Fruits S.N.C. v. U.S.*, 393 F.3d 1277, 1281 (Fed. Cir. 2005); *Arnold P’ship v. Dudas*, 362 F.3d 1338, 1340 (Fed. Cir. 2004); *In re Gartside*, 203 F.3d 1305, 1315–16 (Fed. Cir. 2000).

## III. ANALYSIS

Patent Owner contends that we misapprehended or overlooked Patent Owner’s arguments in connection with the claim language regarding the “read clock signal generated from the second clock signal” recited in certain

of the challenged claims, as well as the “read clock” portion of the structure corresponding to the “means for interfacing” limitation recited in claim 24. Req. Reh’g at 1–14. We are not persuaded by Patent Owner’s contentions that we misapprehended or overlooked its arguments in connection with these recitations in the claims.

Regarding the “read clock signal generated from the second clock signal” recited, for example, in claim 2, Patent Owner points to contentions in its Preliminary Response (Paper 7, “Prelim. Resp.”) presented with respect to the second challenge in the Petition, i.e., obviousness over Lee alone. *Id.* at 4–6. Although Patent Owner acknowledges (*id.* at 10) we did not institute on this challenge (*see, e.g.*, Dec. at 27), Patent Owner argues its Preliminary Response indicated those same contentions are applicable to the third and fourth challenges of obviousness over Lee and other art, i.e., Yoo and Kyung. Req. Reh’g at 7–10 (citing Prelim. Resp. 15–16, 21–22, 26, 31).

More specifically, Patent Owner argues we overlooked its contentions regarding improper combination of different embodiments in Lee. *Id.* at 4, 5. Unlike the second challenge of obviousness over Lee alone, however, with respect to the third and fourth obviousness challenges, as discussed in the Decision, Petitioner identified pertinent teachings in the additional prior art references, Yoo and Kyung, for the disputed limitation. *See* Dec. 19–21. Furthermore, Patent Owner identifies in its Preliminary Response only conclusory statements. For example, Patent Owner points to the following: “[a]ll three of these challenges are deficient with respect to the base claims” and “[t]his flaw undercuts all challenges.” Req. Reh’g at 8 (citing Prelim.

Resp. 15–16, 21–22).

We turn to Patent Owner’s contentions regarding the “read clock” portion of the structure corresponding to the “means for interfacing” limitation recited in claim 24. *Id.* at 11–14. Patent Owner points to one conclusory statement without further explanation— “the Petition has not even attempted to show that Lee discloses the read clock signal RDQS2x that is part of the identified corresponding structure.” *Id.* at 12–13 (citing Prelim. Resp. 33–34). Patent Owner argues that the Decision to Institute “failed to find a read clock signal or *anything equivalent*,” (*id.* at 13 (citing Dec. 14)) (emphasis added), which is a new argument. Patent Owner, however, did not develop fully this lack of equivalence argument in its Preliminary Response. *See* 37 C.F.R. § 42.71(d).

A request for rehearing is not an opportunity to express disagreement with a decision. During trial, Patent Owner has an opportunity to resubmit these arguments, along with any new arguments, explanations, and supporting evidence, in its Response. As noted in the Scheduling Order, any arguments for patentability not raised in the Response will be deemed waived. Paper 10, 3.

For the foregoing reasons, Patent Owner has not demonstrated that we abused our discretion for purposes of the Decision on Institution and, consequently, Patent Owner’s Request for Rehearing is *denied*.

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Patent 7,886,122 B2

PETITIONER:

Jeremy J. Monaldo  
W. Karl Renner  
David M. Hoffman  
Katherine Lutton  
FISH & RICHARDSON P.C.  
jjm@fr.com  
axf-ptab@fr.com  
hoffman@fr.com  
lutton@fr.com

PATENT OWNER:

Matthew Phillips  
Kevin Laurence  
LAURENCE & PHILLIPS IP LAW LLP  
mphilips@lpiplaw.com  
klaurence@lpiplaw.com

Bryan Richardson  
WiLAN INC.  
brichardson@wilan.com