

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NOKIA SOLUTIONS AND NETWORKS US LLC and  
NOKIA SOLUTIONS AND NETWORKS OY,  
Petitioner,

v.

HUAWEI TECHNOLOGIES CO. LTD.,  
Patent Owner.

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Case IPR2017-00592  
Patent 8,798,575 B2

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Before JENNIFER MEYER CHAGNON,  
MICHELLE N. WORMMEESTER, and CHRISTA P. ZADO,  
*Administrative Patent Judges.*

WORMMEESTER, *Administrative Patent Judge.*

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

## I. INTRODUCTION

Nokia Solutions and Networks US LLC as well as Nokia Solutions and Networks Oy (collectively, “Petitioner”) filed a Request for Rehearing (Paper 10, “Rehearing Request” or “Req. Reh’g”) of our Decision Denying Institution of *Inter Partes* Review (Paper 8, “Institution Decision” or “Inst. Dec.”) of U.S. Patent No. 8,798,575 B2 (Ex. 1001, “the ’575 patent”). Petitioner seeks rehearing of our determination not to institute *inter partes* review of claims 1–3, 5, 8, 9, 11, 16, 17, and 19 of the ’575 patent over the first of two asserted grounds: obviousness over TS 23.125<sup>1</sup> and the Tdoc list.<sup>2</sup> Req. Reh’g 1. In our Institution Decision, we determined that Petitioner had not explained sufficiently “why one of ordinary skill in the art would have considered combining TS 23.125 and the Tdoc list to arrive at the claimed invention, namely a [Charging Rule Function (CRF)] providing a [Traffic Plane Function (TPF)] with address information of a charging system.” Inst. Dec. 18. According to Petitioner, we “misapprehended Petitioners’ argument regarding obviousness” and “overlooked evidence of obviousness cited by Petitioners and their expert.” Req. Reh’g 1. For the reasons that follow, Petitioner’s request for rehearing is *denied*.

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<sup>1</sup> *Overall High Level Functionality and Architecture Impacts of Flow Based Charging; Stage 2 (Release 6) (3GPP TS 23.125 V6.0.0)*, Technical Specification (3rd Generation P’ship Project), Mar. 2004 (Ex. 1006, “TS 23.125”).

<sup>2</sup> *3GPP TSG SA WG2 Meeting #40, tdoc list draft 02*, Temporary Document (3rd Generation P’ship Project), May 17–21, 2004 (Ex. 1012, “Tdoc list”).

## II. BACKGROUND

The Petition challenged claims 1–3, 5, 8, 9, 11, 16, 17, and 19 of the '575 patent on the following grounds. Pet. 3, 35–70.

References	Basis	Claims Challenged
TS 23.125 and the Tdoc list	§ 103	1–3, 5, 8, 9, 11, 16, 17, and 19
TS 23.125 and Tdoc '930	§ 103	1–3, 5, 8, 9, 11, 16, 17, and 19

For the first ground, Petitioner relied on the combined teachings of TS 23.125 and the Tdoc list for the disputed limitation: “the CRF providing a Traffic Plane Function (TPF) with the . . . address information of a charging system.” We denied institution of review on that ground because we were not persuaded that Petitioner had provided adequately articulated reasoning with some rational underpinning to support the legal conclusion of obviousness over TS 23.125 and the Tdoc.

We also denied institution of review based on Petitioner’s second asserted ground. Petitioner does not challenge this determination in its Rehearing Request.

## III. STANDARD OF REVIEW

When considering a request for rehearing of a decision, the Board reviews the decision for an abuse of discretion. *See* 37 C.F.R. § 42.71(c). An abuse of discretion occurs when a “decision [i]s 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). “The burden of showing that a decision should be modified lies with the party challenging the decision.” Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,768 (Aug. 14, 2012). In its request for rehearing, the dissatisfied party must (1) “specifically identify all

matters the party believes the Board misapprehended or overlooked,” and (2) identify the place “where each matter was previously addressed.” 37 C.F.R. § 42.71(d); Office Patent Trial Practice Guide, 77 Fed. Reg. at 48,768. We address Petitioner’s arguments with these principles in mind.

#### IV. ANALYSIS

In our Institution Decision, we were persuaded by Petitioner’s argument that a skilled artisan would have known that the CRF *could have* provided the address information of a charging system to the TPF. Inst. Dec. 17–18. We found that Petitioner did not explain sufficiently, however, the rationale for why a skilled artisan *would have* implemented a CRF providing a TPF with address information of a charging system, rather than implementing either a User Equipment (UE) providing a TPF with the address information or a TPF that is already preconfigured with the address information, in view of the teachings of TS 23.125 and the Tdoc list. *Id.* at 18–20.

Petitioner now contends that our “analysis misapprehends or overlooks significant evidence” that Petitioner presented. Req. Reh’g 5. Petitioner first argues that it showed there is an explicit teaching to combine the Tdoc list with TS 23.125. *Id.* at 6–8. In support of that argument, Petitioner identifies evidence cited in the Petition, which Petitioner now contends was proffered in support of demonstrating a motivation to combine the Tdoc list with TS 23.125. *Id.* Petitioner has not identified, however, any matters that we have misapprehended or overlooked. We considered Petitioner’s evidence and argument. In our Decision, we determined that Petitioner had not sufficiently shown a rationale to combine the references in

order to arrive at the claimed invention. Inst. Dec. 18–20. It is insufficient to show that a skilled artisan would have combined the references. *Id.* Petitioner had the burden of also demonstrating that a skilled artisan would have arrived at the claimed invention, namely a CRF providing a TPF with address information of a charging system, which we found Petitioner had not shown. *Id.*

Petitioner further argues that we “overlooked [its] evidence as to why the combination would have led a [skilled artisan] to arrive specifically at a *CRF* providing address information of a charging system.” Req. Reh’g 8. In particular, Petitioner states that it “offered ample evidence that in TS 23.125 [], charging rules are provided *from—and only from—a CRF*,” and asserts that “[t]he Board agreed.” *Id.* (citing Inst. Dec. 12–14, 18). Petitioner also notes that “neither Patent Owner nor the Board cited any evidence that anything besides a CRF ever provides charging rules.” *Id.* at 9 (original emphasis omitted).

We disagree with Petitioner that we overlooked the evidence identified by Petitioner in the Rehearing Request. We considered the evidence Petitioner identifies. *See, e.g.*, Inst. Dec. 14–20. Mere disagreement by Petitioner with our findings and conclusions does not mean we misapprehended or overlooked Petitioner’s evidence.

We also disagree with Petitioner’s characterization that in our Institution Decision we agreed that the charging rules are provided “*from—and only from—a CRF*.” Although we acknowledged that the charging rules in TS 23.125 could be provided by a CRF, nowhere did we purport to agree that the rules could *only* be provided by a CRF. *See id.* at 14. Indeed, TS 23.125 teaches that “charging rules may be statically configured at the

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