DOCKET NO.: 079833–000045
Filed on behalf of MasterCard International Incorporated.
By: Brian Michaelis, Reg. No. 34,221
David A. Klein, Reg. No. 46,835
Joseph Walker, Reg. No. 66,798
Joseph Lanser, Reg. No. 44,860

Seyfarth Shaw LLP
Two Seaport Lane, Suite 300
Boston, MA 02210–2028
Tel: (617) 946–4830
Email: bmichaelis@seyfarth.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MASTERCARD INTERNATIONAL INCORPORATED
Petitioner

v.

WILLIAM GRECIA
Patent Owner

IPR 2017–00793
Patent 8,887,308

PETITIONER'S REQUEST FOR REHEARING PURSUANT TO 37 C.F.R. § 42.71(d)

TABLE OF CONTENTS

I. INTRODUCTION

Petitioner, having requested review in the Petition for *Inter Partes* Review filed in IPR2017-00793 (the "Petition"), respectfully requests reconsideration of the Decision Denying Instituting *Inter Partes* Review (the "Decision") of U.S. Patent No. 8,887,308 (the "'308 Patent").[1]

The Petition was denied because the Patent Trial and Appeal Board (the "Board") misapprehended Petitioner's argument in the Petition as to what in *Muller* corresponded to the claimed "computer readable authorization object." Based on this misapprehension, the Board asserted that the Petition did not "explain adequately how items [mentioned in the Petition] meet all the requirements of" the claim limitations for "a computer readable authorization object by writing into the data store of (a) . . . ." and "wherein the computer readable authorization object is processed by the apparatus of (a) using a cross-referencing action during subsequent user access requests to determine one or more of a user access permission for the cloud digital content."

The Decision overlooks and misapprehends several aspects of the Petition as detailed below. Petitioner respectfully requests rehearing on these points.

[1] Prior art and other abbreviations are those used in the Petition and the Decision

II. RELIEF REQUESTED

Petitioner requests a rehearing of the Decision and institution of an *inter partes* review ("IPR") based on obviousness over *Ameerally*[2] and *Muller*[3], as set forth in the Petition.

III. STANDARD OF REVIEW

Under 37 C.F.R. § 42.71(c), "[w]hen rehearing a decision on petition, a panel will review the decision for an abuse of discretion." 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. Inc.*, 840 F.2d 1565, 1567 (Fed. Cir. 1988) (citations omitted). The request 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, or a reply." 37 C.F.R. § 42.71(d). The PTAB has noted that, "in [its] view, when [it] recognize[s] that [it has] misapprehended or overlooked a significant fact, the necessary abuse of discretion" is established. IPR2014-01279, Paper 18 at 8 (noting that "[t]he 'abuse of discretion' standard applicable to requests for rehearing of decisions not to

[2] U.S. Patent Application Pub. No. 2006/0212401 (Ex. 1004; "*Ameerally*").

[3] U.S. Patent Application Pub. No. 2005/0203959 (Ex. 1005; "*Muller*").

institute is based on the Director's rule (37 C.F.R. § 42.71(c)), and not necessarily Article III practice").

IV. MATTERS MISAPPREHENDED / OVERLOOKED - OBVIOUSNESS OVER *AMEERALLY* AND *MULLER*

A. The Decision misapprehended and overlooked Petitioner's explanation of how the stored media access response information of *Muller* corresponds to the claimed "computer readable authorization object."

The Decision asserted on pages 10-11 that:

> Petitioner asserts, at various points in the Petition, that each of the following items in Muller corresponds to the recited "computer readable authorization object": query data response from the media commerce server; media commerce server response; media access response; media content URL; a download key; a security token; digital media item components 115; license keys; user account information; media access information; media access response information; licensing information; DRM data; media storage access pointers; media information response; various combinations of these items; and various combinations of these items when "written into the memory of the client computer." This listing is

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.