

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DALI WIRELESS INC.
Petitioner

v.

COMMSCOPE TECHNOLOGIES LLC
Patent Owner

Case IPR2017-01324
U.S. Patent No. 7,848,747 B2
Issued: December 7, 2010
Filed: October 27, 2009

**PETITIONER'S REQUEST FOR REHEARING
PURSUANT TO 37 C.F.R. § 42.71**

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I. INTRODUCTION

The undersigned, on behalf of and acting in a representative capacity for petitioner Dali Wireless (“Petitioner”), hereby respectfully requests rehearing of the November 1, 2017, Decision (“Decision”) denying institution of trial. In particular, Petitioner requests rehearing of the Board’s decision not to institute review with regard to claims 1-5, and 7-17. In rendering its Decision, the Board did not interpret the claimed “sample rate selected based on the bandwidth” and similar limitations under the Broadest Reasonable Interpretation standard, and as a result misapprehended the Petition’s application of the Bellers and Ichiyoshi references to this claim limitation. In addition, the Board did not fully analyze the evidence provided by Petitioner that supports the motivation to combine. As a result, the Board inadvertently overlooked evidence provided by the Petition that supports a finding of a motivation to combine these references.

II. APPLICABLE RULES

37 C.F.R. § 42.71 (d) states:

(d) Rehearing. A party dissatisfied with a decision may file a request for rehearing, without prior authorization from the Board. The burden of showing a decision should be modified lies with the party challenging the decision. 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. A request for rehearing does not toll times for taking action. Any request must be filed:

- (1) Within 14 days of the entry of a non-final decision or a decision to institute a trial as to at least one ground of unpatentability asserted in the petition; or
- (2) Within 30 days of the entry of a final decision or a decision not to institute a trial.

In accordance with 37 C.F.R. § 42.71 (d)(2), this request is being filed within 30 days of the entry of a decision not to institute a trial.

III. REQUESTED RELIEF

Petitioner respectfully requests reconsideration of the Board's decision not to institute a review of claims 1-5 and 7-17 of U.S. Patent No. 7,848,747 as being rendered obvious by the combination of Bellers in view of Farhan and of claims 1, 7, 8, 10, 11, and 14 as being rendered obvious by the combination of Ichiyoshi and Farhan. Petitioner submits that Ichiyoshi in view of Farhan, and similarly Bellers in view of Farhan, render obvious at least the claimed "selecting the sample rate based on the bandwidth" and similar limitations, and respectfully requests that the Board institute review of claim 1-5 and 7-17 on at least one of these grounds.

IV. CLAIM LIMITATIONS AT ISSUE

The Board determined that neither Ichiyoshi and Farhan nor Bellers and Farhan render obvious the claimed invention. The Board made this determination because, in its view, none of the references disclosed or taught or suggested the claimed "selecting the sample rate based on bandwidth," or variants of this limitation. *See* Decision, at p. 9-13. This determination used an improperly narrow

construction of the phrase that fails to meet the “Broadest Reasonable Interpretation” standard. *See Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144–45, 195 L. Ed. 2d 423 (2016) (affirming Broadest Reasonable Interpretation standard for IPR proceedings); *In re Smith Int'l, Inc.*, 871 F.3d 1375, 1382–83 (Fed. Cir. 2017) (“The correct inquiry in giving a claim term its Broadest Reasonable Interpretation in light of the specification is not whether the specification proscribes or precludes some broad reading of the claim term adopted by the examiner. And it is not simply an interpretation that is not inconsistent with the specification. It is an interpretation that corresponds with what and how the inventor describes his invention in the specification, i.e., an interpretation that is ‘consistent with the specification.’”)(citations omitted).

The following claims contain claim language directly implicated by the Board’s improperly narrow construction, with the language at issue emphasized.

Independent claim 1 recites:

1. A method comprising:
 - receiving a plurality of analog inputs each having an associated bandwidth containing an arbitrary number of channels;
 - sampling each of the plurality of analog inputs with a selected sample rate, ***the selected sample rates selected based on the bandwidth of the associated one of the plurality of analog inputs***;
 - combining the samples of the plurality of analog inputs;
 - converting the combined samples to a serial data stream; and
 - transmitting the serial data stream over a communication medium.

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