

Filed on behalf of Microsoft Corporation

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION
Petitioner

v.

PROXYCONN, INC.
Patent Owner

Case IPR2012-00026 (TLG)
Patent 6,757,717 B1

**MOTION FOR REHEARING OF DECISION
ON REQUEST FOR *INTER PARTES* REVIEW OF
CLAIMS 1, 3, 10-12, 14 AND 22-24 OF U.S. PATENT NO. 6,757,717**

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I. INTRODUCTION

The “Decision on Request for Inter Partes Review” (Paper 17, December 21, 2012) (“Decision”) denied the Petition as to claims 11, 12 and 14 of the ’717 patent. This motion seeks reconsideration of that denial and an order including these claims in the trial.

Claim 11 is a “method performed by a sender/computer.” The Board’s first basis for this denial was its interpretation of claim 11’s “receiving” step as requiring the following: “the receiver/computer described must issue a positive, negative and partial signal as required.” (Decision, pp. 21, 22). As explained in Sec. III. A. below, this is not the broadest reasonable interpretation. Rather, in light of the claims as a whole and the specification, this claim is anticipated by a prior art method in which the sender receives only a negative indication signal.

The Board’s second basis for this denial was its understanding that the Petitioner relied, for some claim elements, entirely on its position that the claim language was not entitled to patentable weight. As explained in Sec. III. B. below, however, this understanding is not correct. The Petition argued and showed that these claim elements are disclosed in the prior art even if they were entitled to patentable weight.

II. STATEMENT OF RELIEF

Petitioner moves for rehearing of the Decision's denial of the Petition as to claims 11, 12, and 14 of the '717 patent, including rehearing of all bases for that denial, and moves that the Board authorize as additional grounds for trial the following grounds set forth and supported in the Petition:

- anticipation of these three claims by Perlman;
- anticipation of claims 11 and 12 by each of Yohe and Santos; and
- obviousness of these three claims over the combination of Perlman and Yohe.

Patent Owner Proxyconn, Inc. objects to the relief requested herein and is prepared to file an opposition if requested by the Board to do so.

III. ARGUMENT

A. These Method Claims Do Not Require Receiving Partial Or Positive Indication Signals

Claim 11 is not directed to a machine or article (e.g., computer readable medium) having recited capabilities. It is a "method" claim. It recites "a method performed by a sender/computer" (Decision, p. 20) (quoting claim 11). The first recited step of the sender is to create and transmit to the receiver/computer, "a digital digest" of data. The second recited step of the sender is "receiving a response signal from the receiver/computer," "said response signal containing a positive, partial or negative indication signal for said digital digest." (Emphasis Motion for Rehearing of Decision on Request for *Inter Partes* Review

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