

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JUNIPER NETWORKS, INC. and PALO ALTO NETWORKS, INC.,
Petitioner,

v.

PACKET INTELLIGENCE LLC,
Patent Owner.

IPR2020-00335
IPR2020-00485
Patent 6,651,099 B1

Before STACEY G. WHITE, CHARLES J. BOUDREAU, and
JOHN D. HAMANN, *Administrative Patent Judges*.

HAMANN, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Requests¹ for Rehearing
35 C.F.R. § 42.71(d)

¹ We exercise our discretion to issue a single Decision to be entered in each case using a joint caption in light of Petitioner's Requests for Rehearing in both cases presenting the same substantive arguments. For efficiency, we cite to the papers filed in IPR2020-00335 unless otherwise indicated. The parties are not permitted to use this caption.

I. INTRODUCTION

In IPR2020-00335, Juniper Networks, Inc. and Palo Alto Networks, Inc. (collectively “Petitioner”) filed a Request for Rehearing (Paper 21, “Req. Reh’g”) of our Decision denying institution of *inter partes* review (Paper 19, “Dec. on Inst.”) of claims 1 and 2 of U.S. Patent No. 6,651,099 B2 (“the ’099 patent”). In IPR2020-00485, Petitioner filed a Request for Rehearing (Paper 21) of our Decision denying institution of *inter partes* review (Paper 19) of claims 4 and 5 of the ’099 patent. For the following reasons, Petitioner’s Requests for Rehearing are *denied*.

II. STANDARD OF REVIEW

A party requesting rehearing bears the burden of showing that a decision should be modified. 37 C.F.R. § 42.71(d). The party must identify all matters it believes the Board misapprehended or overlooked, and the place where each matter was addressed previously in a motion, an opposition, or a reply. *Id.* When rehearing a decision on petition, we review the decision for an abuse of discretion. 37 C.F.R. § 42.71(c). 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.*, 840 F.2d 1565, 1567 (Fed. Cir. 1988) (citations omitted).

III. ANALYSIS

Petitioner requests that we rehear our Decisions on Institution and institute *inter partes* review as to the ’099 patent. Req. Reh’g. 15. In particular, Petitioner argues that we “improperly interpreted the plain and ordinary meaning of ‘state transition patterns,’ and overlooked or

misapprehended Petitioner’s testimonial evidence showing that Riddle and Yu teach that limitation.” *Id.*

A. State Transition Patterns

Petitioner argues that we improperly interpreted the plain and ordinary meaning of state transition patterns. *Id.* at 3–8. These arguments relate to claim 1’s limitation of “a set of predefined state transition patterns . . . such that traversing a particular transition pattern as a result of a particular conversational flow-sequence of packets indicates that the particular conversational flow-sequence is associated with the operation of a particular application program.” Ex. 1001, 35:31–39; Req. Reh’g 3–8. In particular, Petitioner argues that “the Board’s [D]ecision[s] interpret[] the claim term ‘state transition pattern(s)’ to require ‘state transitions across multiple packets,’ . . . [which] runs contrary to the claim language.” Req. Reh’g 1 (citing Dec. on Inst. 18–20). According to Petitioner, “[t]he claim is agnostic on whether traversal is triggered by a single packet, or by more than one packet, in a flow-sequence of packets.” *Id.*

We disagree. Claim 1 explicitly recites that “traversing a particular transition pattern *as a result* of a particular conversational flow-sequence of packets indicates” the associated application program. Ex. 1001, 35:31–39 (emphases added). In other words, the claim requires “classifying a flow based on . . . a state transition pattern of a sequence of packets (i.e., across multiple packets) in the flow.” Dec. on Inst. 19. In the context of the limitation, the “particular transition pattern” is one of the “set of predefined state transition patterns.” Ex. 1001, 35:31–39. Hence, state transition patterns include state transition patterns that involve multiple packets, contrary to Petitioner’s arguments. Put differently, and as we stated in our

Decisions on Institution, “the plain and ordinary meaning of ‘state transition patterns,’ *in the context of a sequence of packets*, comprises state transitions across packets in a flow.” Dec. on Inst. 18 (citing Ex. 1001, 35:31–39) (emphasis added). Petitioner’s Requests for Rehearing fail to address directly that the limitation recites “of packets” (i.e., packet in the plural form or multiple packets) for the particular conversational flow-sequence that results in the traversal of the particular transition pattern. *See generally* Req. Reh’g.

Moreover, this limitation’s plain and ordinary “meaning is consistent with the Specification’s disclosure that a current packet is ‘analyzed in the context of the sequence of previously encountered packets (the state).’” Dec. on Inst. 18 (quoting Ex. 1001, 11:16–20). The Specification is replete with support for this plain and ordinary meaning requiring patterns involving multiple packets. For example, the Specification discloses:

In a complex analysis, state transitions are traversed as more and more packets are examined. Future packets that are part of the same conversational flow have their state analysis continued from a previously achieved state. When enough packets related to an application of interest have been processed, a final recognition state is ultimately reached, i.e., a set of states has been traversed by state analysis to completely characterize the conversational flow.

Ex. 1001, 16:10–20; Dec. on Inst. 19 (quoting same); *see also* Ex. 1001, 9:14–23 (disclosing that an application program “will produce an exchange of a sequence of packets over” a network that is characteristic of the program, but “[s]uch characteristics may not be completely revealing at the individual packet level[, and] . . . may require the analyzing of many

packets . . . to have enough information needed to recognize particular application programs”); Dec. on Inst. 19 (quoting same).

We are not persuaded by Petitioner’s argument that we “conflate[d] the terms ‘state transition pattern(s)’ and ‘sequence of packets.’” Req. Reh’g 4. To that end, Petitioner argues that we improperly “replace[d] the words ‘as a result of’ with ‘for’ or ‘of’ . . . [, which] altered this limitation’s meaning to require a sequence of transitions, which is contrary to the claim.” *Id.* at 4 (citing Dec. on Inst. 18–19). We disagree. Rather, our phrasing regarding this limitation remains consistent with requiring that state transition patterns, including at least the traversed particular transition pattern, are patterns which involve multiple packets — having one or more transitions is separate from this requirement. Ex. 1001, 35:31–39; *see also id.* at 34:27–32 (discussing single state transitions versus a sequence of state transitions, rather than the number of packets). Again, the limitation recites “traversing a particular transition pattern *as a result* of a particular conversational flow-sequence *of packets.*” *Id.* at 35:31–39 (emphases added).

We also are not persuaded by Petitioner’s argument that our view of the plain and ordinary meaning of the claimed state transition patterns is incorrect because it excludes embodiments (e.g., “a single packet can provide the state transition information indicating association of a flow-sequence with operation of a particular application program”) disclosed in the Specification. Req. Reh’g 5–6 (citing *SynQor, Inc. v. Artesyn Techs., Inc.*, 709 F.3d 1365, 1378–79 (Fed. Cir. 2013)). The Specification clearly contrasts embodiments that require patterns covering multiple packets with patterns that allow for a single packet. *See, e.g.*, Ex. 1001, 9:14–23, 10:48–

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