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919	7590	01/17/2013	EXAMINER	
PITNEY BOWES INC. INTELLECTUAL PROPERTY & PROCUREMENT LAW DEPT. 37 EXECUTIVE DRIVE MSC 01-152 DANBURY, CT 06810			CRAVER, CHARLES R	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZUMBOX, INC.
Requester and Appellant

v.

PITNEY BOWES, INC.
Patent Owner and Respondent

Appeal 2012-002779
Reexamination Control 95/001,301
Patent 7,058,586
Technology Center 3900

Before KARL D. EASTHOM, STEPHEN C. SIU, and JOSIAH C. COCKS,
Administrative Patent Judges.

COCKS, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING

A. INTRODUCTION

Third Party Requester Zumbox, Inc. (“Zumbox”) requests rehearing of our Decision mailed August 20, 2012 (“Decision”) declining to adopt proposed claim rejections.¹ Patent Owner Pitney Bowes, Inc. (“Pitney Bowes”) has filed comments in opposition to Zumbox’s request for rehearing.²

We have considered Zumbox’s request but decline to modify our Decision. Accordingly, the request is **denied**.

B. DISCUSSION

A “request for rehearing must state with particularity the points believed to have been misapprehend or overlooked in rendering the Board’s opinion reflecting its decision.” 37 C.F.R. § 41.79(b)(1). Zumbox urges that there are two points which were misapprehended or overlooked in the Decision.

First, Zumbox contends that “the Board overlooked the Miller et al reference when it concluded at page 13 that ‘[it] is similarly not evident how the portions of those references that have been cited account for the above-noted claim features.’” (Rh’g Req., 1.) The apparent basis for that contention is that at page 13 of the Decision we observed that we were unable to discern where certain features of claim 10 were accounted for in the prior art references: “Creswell, Harkins, Goodman, Frey, Shaffer, and Armstrong[.]” (Decision, 13.) Our observation in referencing those

¹ See Zumbox’s “Request for Rehearing” filed September 20, 2012.

² See Pitney Bowes’ comments filed October 19, 2012.

particular items of prior art was hardly surprising as it was the prior art which Zumbox had been content to rely on for the particular involved claim features. Rather than point out any points misapprehended or overlooked with respect to those noted references, Zumbox now seeks to remake its case. In particular, in its Request for Rehearing, Zumbox belatedly attempts to rely on newly cited portions of Miller et al. to account for the pertinent features. It is, however, axiomatic that we could not have misapprehended or overlooked a point or position that was not previously offered by Zumbox to the Board. A Request for Rehearing is not an opportunity to bolster prior insufficiently supported argument.

The second point that we allegedly misapprehended or overlooked concerns Application 11/446,791 (the “‘791 Application”). According to Zumbox, we misapprehended the particular matter raised in Zumbox’s Briefing directed to the ‘791 Application. Zumbox, in its Request for Rehearing, proceeds to effectively restate the same position that it had already submitted to this Board. (Rh’g Req., 3-5.) That Zumbox wishes a different outcome with respect to our consideration of the matter of the ‘791 Application does not demonstrate any misapprehension by the Board. As reflected in our Decision (pages 7-8), we fully considered the position that Zumbox advocated and now re-advocates. We, however, were simply not persuaded that Zumbox’s position was correct.

C. CONCLUSION

We have considered Zumbox’s Request for Rehearing but decline to modify our Decision. The request is **denied**.

Appeal 2012-002779
Reexamination Control 95/001,301
Patent 7,058,586

DENIED

PATENT OWNER:

PITNEY BOWES INC.
INTELLECTUAL PROPERTY & PROCUREMENT LAW DEPT.
37 EXECUTIVE DRIVE
MSC 01-152
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