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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/755,309	05/30/2007	Scott Howard Gaboury	81156386	8905
28395	7590	11/23/2016	EXAMINER	
BROOKS KUSHMAN P.C./FGTL 1000 TOWN CENTER 22ND FLOOR SOUTHFIELD, MI 48075-1238			THOMPSON, JASON N	
			ART UNIT	PAPER NUMBER
			3744	
			NOTIFICATION DATE	DELIVERY MODE
			11/23/2016	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SCOTT HOWARD GABOURY, LIXIN SITU,
WILLIAM PAUL PERKINS, and STEVEN A. DALEIDEN

Appeal 2014-001564
Application 11/755,309
Technology Center 3700

Before JAMESON LEE, SALLY C. MEDLEY, and JUSTIN T. ARBES,
Administrative Patent Judges.

ARBES, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING

Pursuant to 37 C.F.R. § 41.52, Appellants submitted a Request for Rehearing (“Req.”) of our Decision on Appeal (“Dec.”) of June 28, 2016, affirming the Examiner’s rejection of claim 21. We have reconsidered the Decision in light of Appellants’ comments in the Request. Our Decision is not modified for the reasons discussed below.¹

ANALYSIS

Appellants disagree with the following statement in the Decision:
“Appellants do not address the combination of Okuda and Hendrix or

¹ Our decision will make reference to Appellants’ Appeal Brief (“App. Br.,” filed June 10, 2013) and Reply Brief (“Reply Br.,” filed November 12, 2013), and the Examiner’s Answer (“Ans.,” mailed September 10, 2013).

explain how the Examiner allegedly erred in relying on the combined teachings of the references.” Req. 2 (citing Dec. 4). A request for rehearing, however, “must state with particularity the points believed to have been misapprehended or overlooked by the Board.” 37 C.F.R. § 41.52(a)(1). Appellants do not explain in any detail how we misapprehended or overlooked any points in rendering the Decision. As explained in the Decision, Appellants argued that Okuda does not teach “detect[ing] a blockage of the air passage way in response to a temperature of the battery and a power to the fan increasing together,” as recited in claim 21, but failed to address adequately the Examiner’s specific findings regarding the combined teachings of Okuda and Hendrix. *See* Dec. 3–7; App. Br. 2–4; Reply Br. 2–3; Ans. 8, 10–13. Indeed, Appellants’ only arguments regarding Hendrix in the Appeal Brief were that the reference is not analogous art and that the Examiner’s obviousness analysis was conclusory, both of which we addressed in the Decision. *See* App. Br. 3–4; Dec. 5–7.

Appellants also purport to “restate” arguments made in their Appeal Brief and Reply Brief, specifically that

- (1) “Okuda’s system is such that an increase in battery temperature and a corresponding *decrease* in current are indicative of a blockage,” and
- (2) “[m]odifying Okuda such that it detects blockages in response to an increase in battery temperature and an *increase* in current would impermissibly render such a system unsatisfactory for its intended purpose: no blockages would be detected within the context of Okuda’s environment because increases in current do not accompany increases in battery temperature.”

Req. 2. As to the first argument, we addressed Appellants’ argument regarding the individual teachings of Okuda in the Decision. Dec. 3–5.

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As to the second argument, we also addressed the Examiner's proposed modification of Okuda based on the teachings of Hendrix, and explained why we were not persuaded of error by the Examiner. *Id.* at 7. Further, to the extent Appellants now contend that the modification would render Okuda's system "unsatisfactory for its intended purpose," we do not see where such an argument was made in Appellants' Briefs. *See* Req. 2. Absent certain exceptions not applicable here, new arguments are not permitted on rehearing. *See* 37 C.F.R. § 41.52(a).

DECISION

We discern no error in our conclusions regarding Appellants' arguments and the teachings of Okuda and Hendrix. Accordingly, we decline to modify our Decision.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

REHEARING DENIED