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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte BARRY A. KRITT, THOMAS S. MAZZEO, and RODNEY E. SHEPARD II

Appeal 2015-003012
Application 11/852,309
Technology Center 2400

Before ELENI MANTIS MERCADER, CATHERINE SHIANG, and STEVEN M. AMUNDSON, *Administrative Patent Judges*.

SHIANG, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellants requested rehearing of the Decision entered October 30, 2017 ("Decision" or "Dec."), which affirmed the Examiner's rejections of claims 1–19 under 35 U.S.C. § 103(a).[1] We have considered Appellants' arguments, and such arguments have not persuaded us that we misapprehended or overlooked any arguments, facts, or points of law in our Decision. Therefore, we deny Appellants' Request for Rehearing ("Req.").

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[1] Our Decision also affirms the Examiner's rejection of claims 1–19 under 35 U.S.C. § 101, which the Request for Rehearing excludes.

DISCUSSION[2]

A request for rehearing "must state with particularity the points [of law or fact] believed to have been misapprehended or overlooked by the Board," and must comply with 37 C.F.R. § 41.52(a)(1).

Appellants assert the Board overlooked their argument that Uemura's "2A" is a "printed document," because the Board cited Uemura's paragraph 50, but "neglected to provide any analysis at all." Req. 5;[3] *see also id.* at 4–6.

Appellants' assertion is incorrect and contradicts the record. Our Decision explicitly cites Uemura's paragraph 50, italicizes the relevant portion showing Appellants' assertion about a "printed document" is incorrect, and provides analysis to show Appellants' assertion about the "printed document" is incorrect. *See* Dec. 7.

As discussed in our Decision (Dec. 7), Uemura teaches "the original document . . . being previewed at the display part" (Uemura ¶ 50)—not a printed document as Appellants assert. In fact, Uemura explicitly states, "the original document . . . being previewed at the display part" is not "a print state of the printed document" and does not constitute a printed document. *See* Uemura ¶ 50 ("The different outputs in FIG. **4**A and FIG. **4**B *show the original document **1**a being previewed at the display part **111** or* a print state of the printed document *2a* output") (emphasis added). Consistent with that disclosure, Uemura's Figure 4A is labeled "PREVIEW IMAGE." *See* Uemura's Fig. 4A. As a result, our Decision correctly states

[2] "Arguments not raised, and Evidence not previously relied upon . . . are not permitted in the request for rehearing except as permitted . . . ." 37 C.F.R. § 41.52(a)(1). Therefore, to the extent Appellants advance new arguments without showing good cause, Appellants' new arguments are untimely.

[3] Appellants incorrectly state our Decision cites "Demara." Req. 5.

that Appellants' assertion about the "printed document" is unpersuasive. *See* Dec. 7.[4]

CONCLUSION

For the reasons stated above, Appellants have not persuaded us that we misapprehended or overlooked any issue of fact or law in our Decision.

We have *granted* Appellants' Request for Rehearing to the extent that we have reconsidered our Decision. Appellants have not shown that we misapprehended or overlooked any issue of law or fact in reaching that decision. Accordingly, we deny Appellants' Request for Rehearing.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

DENIED

[4] Appellants also acknowledge their argument is not directed to the Examiner's findings, as the Examiner "relied *only* upon Figure 4"—not Figure 2A cited by Appellants. Req. 5 (emphasis added).