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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
15/080,232	03/24/2016	Philippe DUCHATEAU	MEGA5US15	1244
76392	7590	11/26/2019	EXAMINER	
ARRIGO, LEE, GUTTMAN & MOUTA-BELLUM LLP 2200 Pennsylvania Ave NW Suite 400E WASHINGTON, DC 20037			MARVICH, MARIA	
			ART UNIT	PAPER NUMBER
			1633	
			NOTIFICATION DATE	DELIVERY MODE
			11/26/2019	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* PHILIPPE DUCHATEAU, CHRISTOPHE PEREZ,  
SYLVIA BRUNEAU, JEAN-PIERRE CABANIOLS,  
JULIANNE SMITH, and AGNES GOUBLE

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Appeal 2018-007697  
Application 15/080,232  
Technology Center 1600

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BEFORE DEBORAH KATZ, JOHN G. NEW, and JOHN E. SCHNEIDER,  
*Administrative Patent Judges.*

SCHNEIDER, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

Appellant<sup>1</sup> filed a Request for Rehearing (“Req. Reh’g”) dated October 24, 2019 of the Decision on Appeal mailed September 27, 2019 (“Decision”). The Decision sustained the Examiner’s rejection of claims 17–39 for lack of enablement and claims 17, 19–22, 24, 26–32, 34–37, and 39 as being obvious under 35 U.S.C. § 103(a)<sup>2</sup>. *See* Decision at 10. Appellant seeks rehearing of the Board’s rehearing “with respect to the rejection of claim 35 under 35 U.S.C. § 112, ¶1, for lack of enablement.” Req. Reh’g 1.

Upon consideration of Appellant’s Request, we deny the Request.

A request for rehearing “must state with particularity the points believed to have been misapprehended or overlooked by the [Patent Trial and Appeal Board, hereinafter “Board”].” *See* 37 C.F.R. § 41.52(a)(1). The Rule also states that arguments not raised in the briefs before the Board and evidence not previously relied upon in the briefs “are not permitted in the request for rehearing except as permitted by paragraphs (a)(2) through (a)(4) of this section.”

A review of the briefs submitted by Appellant reveals that claim 35 was not separately argued by Appellant but that all claims were argued together. *See* Appeal Br. 2–7; Reply Br. 2–8. Our rules provide that “the failure of appellant to separately argue claims which appellant has grouped together shall constitute a waiver of any argument that the Board must

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<sup>1</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Collectis S.A. Appeal Br. 1.

<sup>2</sup> Arnould, US 2004/0002092 A1, published Jan 1, 2004; Draper, US 2004/0054156 A1, March 18, 2004; Norris, US 2004/0220123 A1, Nov. 4, 2004.

Appeal 2018-007697  
Application 15/080,232

consider the patentability of any grouped claim separately.” 37 C.F.R. § 4.37(c)(iv). Therefore Appellant waived any argument that claim 35 is separately patentable. Appellant’s argument that claim 35 is separately patentable represents a new argument that is not permitted.

Our rules regarding request for rehearing list three exception where new arguments or evidence is permitted. They are:

- A new argument based upon a recent decision either of the Board of the Federal Circuit;
- New arguments responding to a new grounds of rejection; or
- New arguments that the Board’s decision contains an undesignated new ground of rejection.

37 C.F.R. § 41.52 (a)(2). Appellant has not shown that any of these exceptions apply to this Request.

### CONCLUSION

For the reasons stated above, Appellant’s Request for Rehearing is denied.

Outcome of Decision on Rehearing:

<b>Claims</b>	<b>35 U.S.C §</b>	<b>Basis</b>	<b>Denied</b>	<b>Granted</b>
35	112	enablement	35	
<b>Overall Outcome</b>			35	

DENIED