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Table with 5 columns: APPLICATION NO., FILING DATE, FIRST NAMED INVENTOR, ATTORNEY DOCKET NO., CONFIRMATION NO. Includes application details for 14/732,202 and 20151 7590, inventor Jochen Bretschneider, attorney BRETSCHNEIDER-11, examiner DANG, HUNG H, art unit 2117, and notification date 06/23/2020.

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOCHEN BRETSCHNEIDER and THOMAS PITZ

Appeal 2018-008425
Application 14/732,202
Technology Center 2100

Before BRADLEY W. BAUMEISTER, JASON V. MORGAN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING
STATEMENT OF THE CASE

Appellant¹ timely requests rehearing under 37 C.F.R. § 41.50(b)(2) (“Request” or “Req. Reh’g”) for reconsideration of our Decision on Appeal mailed March 13, 2020 (“Decision” or “Dec.”). The Decision affirmed the Examiner’s rejection of claims 1 and 3–9 under 35 U.S.C. § 103. Dec. 9. We have considered Appellant’s Request, but we do not modify our opinion.

¹ 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 SIEMENS AKTIENGESELLSCHAFT. Appeal Br. 2.

DISCUSSION

Requests for Rehearing are limited to matters misapprehended or overlooked by the Board in rendering the original decision, or to responses to a new ground of rejection designated pursuant to § 41.50(b). 37 C.F.R. § 41.52.

Appellant argues “the Decision introduces an undesignated new ground of rejection by stating that the Roders reference relied upon by the Examiner is WO 2016/078781, dated May 26, 2016,” rather than DE10343785A1. Req. Reh’g 2. Appellant notes that “[t]he specific portions of Roders relied upon in the Decision are from Roders DE10343785A1 and not from Roders WO 2016/078781,” but argues that the Decision’s identification of Roders as WO 2016/078781 (Decision 3) causes “a great deal of uncertainty that enables appellant only to speculate as to the actual basis of the Decision.” *Id.*

We deny Appellant’s Request for Rehearing. We do not agree that our Decision was an undesignated new ground of rejection. We are mindful that the Board may not rely on “new facts and rationales not previously raised to the applicant by the Examiner” where “such facts change[] the thrust of the rejection.” *In re Leithem*, 661 F.3d 1316, 1319 (Fed. Cir. 2011). In the Decision, however, the Board did not find new facts or alter the Examiner’s reasoning. As noted by Appellant, “[t]he specific portions of Roders relied upon in the Decision are from Roders DE10343785A1 and not from Roders WO 2016/078781.” Req. Reh’g 2. We confirm that all citations to Roders in the Decision are to DE10343785A1. The Decision’s identification of Roders in the REFERENCES section of the Opinion as WO 2016/078781 is merely a clerical error. Decision 3. We correct that

clerical error here by confirming that all portions of Roders identified and relied upon in the Decision are from DE10343785A1, consistent with the Examiner's rejection.

Accordingly, Appellant has not established that our Decision was an undesignated new ground of rejection because the Decision does not rely on new facts or rationales not previously raised by the Examiner.

Appellant's Request for Rehearing is denied.

CONCLUSION

Outcome of Decision on Rehearing:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1, 3-5, 7-9	103	Roders, Higasayama	1, 3-5, 7-9	
6	103	Roders, Higasayama, Kimura	6	
Overall Outcome			1, 3-9	

Final Outcome of Appeal after Rehearing:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1, 3-5, 7-9	103	Roders, Higasayama	1, 3-5, 7-9	
6	103	Roders, Higasayama, Kimura	6	
Overall Outcome			1, 3-9	

DENIED