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15/241,144	08/19/2016	James WRIGHT	83700672	4294
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BROOKS KUSHMAN P.C./FGTL			CAMPBELL, JOSHUA A	
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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* JAMES WRIGHT, PASPULETI ASHISH KUMAR NAIDU,  
PETER GEORGE BRITTLE, and MATTHEW MITCHELL

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Appeal 2019-003721  
Application 15/241,144  
Technology Center 3700

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Before JENNIFER D. BAHR, EDWARD A. BROWN, and  
MICHAEL J. FITZPATRICK, *Administrative Patent Judges*.

BAHR, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

On February 19, 2020, Appellant<sup>1</sup> filed a Request for Rehearing (hereinafter “Request” or “Req. Reh’g”) under 37 C.F.R. § 41.52 of the Decision on Appeal (hereinafter “Decision” or “Dec.”) dated December 19, 2019.

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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’s Appeal Brief identifies the real party in interest as Ford Global Technologies, LLC. Appeal Br. 1.

In the Decision, the Board affirmed the Examiner’s rejection of claim 13 under 35 U.S.C. § 102(a)(1) as anticipated by Kamada (US 2006/0270519 A1, published Nov. 30, 2006) and rejections of claims 1–12 and 14–20 under 35 U.S.C. § 103 as unpatentable over Kamada in combination with two or more additional references. Appellant’s Request seeks reconsideration of the Board’s Decision affirming the rejection of claim 13. Req. Reh’g 2 (stating, “Appellant respectfully requests rehearing and modification of the decision to reverse the rejection of claim 13 under 35 U.S.C. § 102.”).

#### REQUIREMENTS FOR REQUEST FOR REHEARING

A Request for Rehearing must comply with the following requirements:

The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board. Arguments not raised, and Evidence not previously relied upon, pursuant to §§ 41.37, 41.41, or 41.47 are not permitted in the request for rehearing except as permitted by paragraphs (a)(2) through (a)(4) of this section.

37 C.F.R. § 41.52(a)(1).

#### OPINION

Appellant “believes that the Board has misapprehended ‘predicted NOx feedgas emissions’ as recited in independent [c]laim 13.” Req. Reh’g 1. Appellant contends that “while the map disclosed by Kamada could be used to predict NOx feedgas emissions, i.e. to determine what the feedgas emission will be at a future time based on a predicted instantaneous engine torque and speed at that future time, . . . Kamada does not disclose doing anything in response to a future, i.e. predicted NOx feedgas

emissions” and, thus, “does not anticipate this limitation of [c]laim 13.” *Id.* at 2. According to Appellant, “[a]ctual engine speed and actual engine torque necessarily refer to what the engine speed and engine torque are at that moment, and result in a NOx emission reading from the pre-stored map for that moment, not a future predicted engine speed and torque.” *Id.* Appellant “submits that the Board has misapprehended this disclosure of Kamada and effectively eliminated ‘predicted’ from Appellant’s rejected claim 13 in finding that claim 13 is anticipated by Kamada.” *Id.*

On page 5 of the Decision, in addressing the “predicted” limitation of claim 13, the Board noted that Appellant asserted that “[t]he plain meaning of ‘predict’ is ‘to say or estimate (a specified thin[g]) will happen in the future or *will be a consequence of something.*” Reply Br. 1–2 (emphasis added). The Board appreciated that “Kamada reads in the NOx emission amount that will be a consequence of the *actual* engine rotation speed and the *actual* engine torque of the engine” (Dec. 6 (emphasis added)), and not a consequence of a *future predicted* engine speed and torque. Claim 13 recites “controlling . . . the electric machine to provide torque in response to predicted NOx feedgas emissions associated with a rate of increase of engine torque,” but, notably, does not specify that the engine torque, or the rate of increase of engine torque, be a *future predicted* engine torque (or *future predicted* rate of increase of engine torque). Thus, Appellant’s argument is not commensurate with the scope of claim 13.

For the above reasons, Appellant’s Request does not persuade us that the Board misapprehended “predicted NOx feedgas emissions” as recited in independent claim 13 or erred in sustaining the rejection of claim 13 as anticipated by Kamada.

CONCLUSION

Appellant’s Request has been granted to the extent that we have reconsidered our Decision in light of the arguments in Appellant’s Request, but is denied with respect to our making any modification to the Decision.

Outcome of Decision on Rehearing:

Claims	35 U.S.C. §	Reference(s)/Basis	Denied	Granted
13	102(a)(1)	Kamada	13	

Final Outcome of Appeal after Rehearing:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
13	102(a)(1)	Kamada	13	
1, 2, 7–9, 16, 18, 19	103	Kamada, Wildgen, Nakagawa	1, 2, 7–9, 16, 18, 19	
3	103	Kamada, Wildgen, Nakagawa, Takeshima	3	
4, 11	103	Kamada, Wildgen, Nakagawa, Ortmann	4, 11	
5, 12	103	Kamada, Wildgen, Nakagawa, Ewert	5, 12	
6	103	Kamada, Wildgen, Nakagawa, Ewert, Burckhardt	6	
10	103	Kamada, Wildgen, Nakagawa, Hata	10	
14	103	Kamada, Hata	14	
15	103	Kamada, Nakagawa	15	
17	103	Kamada, Ortmann	17	
20	103	Kamada, Soliman	20	
<b>Overall Outcome</b>			1–20	

Appeal 2019-003721  
Application 15/241,144

TIME PERIOD FOR RESPONSE

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. § 1.136(a)(1)(iv).

DENIED