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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/911,079	02/09/2016	Mathieu Boivin	3C105-017US1	9599
69713	7590	09/29/2020	EXAMINER	
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50 Congress Street			ART UNIT	
Suite 1000			PAPER NUMBER	
Boston, MA 02109			2495	
			NOTIFICATION DATE	
			DELIVERY MODE	
			09/29/2020	
			ELECTRONIC	

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MATHIEU BOIVIN

Appeal 2019-004083
Application 14/911,079
Technology Center 2400

Before JASON V. MORGAN, IRVIN E. BRANCH, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

MORGAN, *Administrative Patent Judge*.

DECISION ON REQUEST FOR REHEARING

Appellant¹ requests rehearing of the Decision entered July 24, 2020. In the Decision, we affirmed the Examiner’s rejection of claims 8–11 and 13–18 as obvious. Appellant files this request pursuant to 37 C.F.R. § 41.52(a)(1) (“Appellant may file a single request for rehearing within two months of the date of the original decision of the Board”). We have reconsidered the Decision in light of Appellant’s contentions in the Request for Rehearing. Appellant’s request is DENIED.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as VIACCESS. Appeal Br. 1 (Sept. 7, 2018).

DISCUSSION

Appellant requests rehearing because “step (*e*) of claim 8 must occur *at the license server.*” Req. Reh’g 1. Specifically, Appellant argues that “because step (*e*) is recited as being a sub-set of step (*b*), i.e., ‘computing a license,’” and because “step (*b*) is carried out ‘at the server,’ step (*e*) must also be ‘at the server.” *Id.* Appellant argues that the limitation of step (*e*) occurring at the license server is important for leveraging the recommendation list “to benefit the content-delivery system.” *Id.* at 3. Appellant submits “this important detail of the claim may have been overlooked” (*id.*) because “[t]he Decision relies on ¶61 of *Horvitz* as disclosing a recommendation list in which entries are ranked according to the probability of being viewed” (*id.* at 1). Appellant argues that “recommendation list **126** [in *Horvitz*] is generated and consumed locally, at the user’s terminal.” *Id.*

Appellant does not cite to a single page in either the Appeal Brief or the Reply Brief showing where Appellant argued that the prior art fails to teach or suggest step (*e*) of claim 8 occurring at the license server. We have reviewed these briefs and we are unable to identify where such an argument was previously made. “Arguments not raised . . . are not permitted in [a] request for rehearing,” with limited exceptions that are not applicable here. 37 C.F.R. § 41.52(a)(1).

Appellant also does not cite to a single page in the Decision as evidence that an argument Appellant made was misapprehended or overlooked even though a “request for rehearing must state with particularity the points believed to have been misapprehended or overlooked by the Board.” *Id.* We noted that *Horvitz* paragraph 61 teaches “ranking selections

‘that the user is most likely to be interested in viewing’” and that the Examiner cites to Horvitz paragraph 61 as teaching a “user interface . . . ‘that allows a user to review available selections quickly without unduly search’ by providing the user with a ‘plurality of recommendations . . . ranked according to selections that the user is most likely to be interested in viewing.’” Dec. 4, 5. But Appellant fails to show how these citations to Horvitz paragraph 61 shows that we misapprehended or overlooked issues raised by during the appeal.

Furthermore, we did not rely exclusively on Horvitz paragraph 61 in affirming the Examiner rejection. In particular, in the Decision we noted that “Horvitz specifically teaches that inference system 18, which is ‘used to infer the likelihood of a user’s preferences for content’ . . . can ‘reside . . . remotely at a remote server.’” *Id.* at 10 (quoting Horvitz ¶ 30). Thus, contrary to Appellant’s argument that Horvitz merely teaches generating a recommendation list locally (Req. Reh’g 1), Horvitz *also* teaches generating such recommendations (i.e., inferred user preferences for content) remotely (Horvitz ¶ 30). Appellant fails to address this cited teaching of Horvitz or contest our reliance on it affirming the Examiner’s rejection. Req. Reh’g 1–3.

For these reasons, Appellant does not show that the Board misapprehended or overlooked any issues raised by Appellant with respect to the Examiner’s 35 U.S.C. § 103 rejections.

Appellant’s Request for Rehearing is DENIED.

SUMMARY

Outcome of Decision on Request for Rehearing:

Claims Rejected	35 U.S.C. §	References	Denied	Granted
8-10, 13-16	103	Inoue, Horvitz	8-10, 13-16	
11	103	Inoue, Horvitz, Leighton	11	
17, 18	103	Inoue, Horvitz, Relan	17, 18	
Overall Outcome			8-11, 13-18	

Final Outcome of Appeal after Rehearing:

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
8-10, 13-16	103	Inoue, Horvitz	8-10, 13-16	
11	103	Inoue, Horvitz, Leighton	11	
17, 18	103	Inoue, Horvitz, Relan	17, 18	
Overall Outcome			8-11, 13-18	

DENIED