

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AMAZON.COM, INC.,
Petitioner,

v.

RENSSELAER POLYTECHNIC INSTITUTE,
Patent Owner.

IPR2019-01068
Patent 7,177,798 B2

Before JOSIAH C. COCKS, TREVOR M. JEFFERSON, and
MIRIAM L. QUINN, *Administrative Patent Judges*.

JEFFERSON, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request on Rehearing of
Decision Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.71(d)

I. INTRODUCTION

Amazon.com, Inc. (“Petitioner”) filed a Request for Rehearing (Paper 11, “Req. Reh’g”) on the Decision Denying Institution of Inter Partes Review (Paper 10, “Decision” or “Dec.”) of claims 1–8 (“the challenged” claims”) of U.S. Patent No. 7,177,798 B2 (Ex. 1001, “the ’798 patent”).

Petitioner seeks rehearing of our determination that the Petition failed to establish a reasonable likelihood of prevailing, in showing that claims 1–8 would have been anticipated by or rendered obvious over Livowsky;¹ claim 6 would have been obvious over Livowsky and Shwartz;² claims 1–8 would have been obvious over Shwartz and Livowsky; claims 1–8 would have been obvious over Shwartz and Weber;³ and claims 1–8 would have been obvious over Meng.⁴ Dec. 17–18, 21–22, 23–24. For the reasons below, the Request for Rehearing is *denied*.

II. LEGAL STANDARDS

“The burden of showing a decision should be modified lies with the party challenging the decision,” and the challenging party “must specifically identify all matters the party believes the Board *misapprehended or*

¹ U.S. Patent No. 6,598,039 B1, to Livowsky, filed Jun 8, 1999, issued July 22, 2003 (Ex. 1003, “Livowsky”).

² U.S. Patent No. 5,197,005, to Shwartz et al., filed May 1, 1989, issued May 23, 1993 (Ex. 1004, “Shwartz”).

³ U.S. Patent No. 6,532,444 B1, to Weber, filed Oct. 5, 1998, issued Mar. 11, 2003 (Ex. 1005, “Weber”).

⁴ Meng & Chu, *Database Query Formation from Natural Language using Semantic Modeling and Statistical Keyword Meaning Disambiguation*, TECHNICAL REPORT CSD-TR 990003, University of California, Los Angeles, 1999 (Ex. 1014, “Meng”).

overlooked, and the place where each matter was previously addressed” in a paper of record. 37 C.F.R. § 42.71(d) (2019) (emphasis added). When rehearing a decision on petition, the Board will review the decision for an abuse of discretion. *See* 37 C.F.R. § 42.71(c). An abuse of discretion may be determined if a decision: (1) is clearly unreasonable, arbitrary, or fanciful; (2) is based on an erroneous conclusion of law; (3) rests on clearly erroneous fact findings; or (4) involves a record that contains no evidence on which the Board could rationally base its decision. *Redline Detection, LLC v. Star Envirotech, Inc.*, 811 F.3d 435, 442 (Fed. Cir. 2015) (internal citations omitted).

III. ANALYSIS

Petitioner argues that the Board misapprehended the meaning of “case information,” a term that was construed in a prior *Inter Partes* Review and a related District Court case. Req. Reh’g 2–3; *see Apple Inc. v. Rensselaer Polytechnic Institute and Dynamic Advances LLC*, IPR2014-00077 at 5–6 (PTAB April 15, 2014) (the “Apple IPR”); Claim Construction Decision and Order, dated June 12, 2014, in *Rensselaer Polytechnic Institute and Dynamic Advances LLC v. Apple Inc.*, No. 1:13-CV-0633-DEP (N.D.N.Y.) (the “Apple Litigation”); Paper 1 (“Pet.”) 11–13. The parties did not dispute the prior constructions and we adopted the construction that “case information” means “information about prior instances of use of the natural language processing method.” Dec. 9–10.

Petitioner argues that the Apple IPR and Apple Litigation construed the term case information “and explicitly relied on the same embodiment from the specification that describes case information as including

clarifications from a user. [Ex. 1011, 31–32.] Specifically, the district court stated that ‘the specification indicates a case includes . . . the user’s selection among possible choices.’ [*Id.*]” Req. Reh’g 3. Petitioner argues that the ’798 patent specification confirms that the Apple IPR and Apple Litigation is correct and explains that the “natural language processing method obtains case information by prompting a user for clarification and learning from the response.” Req. Reh’g 4. Extensively citing the specification, Petitioner argues that information from users can be the source of “case information” as recited in the claims under the parties’ agreed claim construction. *Id.* at 4–5 (citing Ex. 1001, 5:30–37, 8:5–19, 17:58–63, 20:34–51, 35:62–36:2, 36:18–25).

Petitioner argues that based on Patent Owner’s false and narrow application of the construction for “case information” (Req. Reh’g 5–7), the Board mistakenly found that the clarifying prompts from the system in Weber and Meng were not disclosed in the prior art (*id.* at 7–8 (Weber), 8–9 (Meng)). In sum, Petitioner argues that the Board’s decision with respect to case information in the prior art contradicted the Apple IPR and applied the erroneous narrow interpretation. Req. Reh’g 5–7.

We disagree with Petitioner’s arguments with respect to the interpretation of the claim construction in the Apple IPR. *See* Req. Reh’g 3. The Apple IPR cites the embodiment from the ’798 patent specification (Ex. 1001, 5:36–38, 16:52–17:5). Apple IPR 5–6. The Board in the Apple IPR expressly clarified that in the case information construction “‘instances of use’ of the system [did not] mean indications cover instances of use of the system, e.g. how the system interprets words or phrases.” Apple IPR 6.

Thus, the Apple IPR Board adopted Patent Owner’s argument that as applied to the prior art, the term “case” in “case information” requires “uses of the system contemplated by the invention, not uses of any other natural language processing system.” Apple IPR 6. The Board rejected that such prior use was found in rules regarding how the system interprets current word or phrase input. *Id.* We find that the Apple IPR discussed a user’s selection among possible choices, but also addressed that the “case” required use of the system of the ’798 invention. *Id.* at 5–6. Thus, we do not agree we misapprehended the meaning of the claim language. Req. Reh’g 2.

Contrary to Petitioner’s arguments, we did not construe “case information” to exclude clarifications from users. *Id.* at 5–6, 7–11. Petitioner argues that our Institution Decision adopts Patent Owner’s narrow construction and finds that “clarifying prompts” in grounds including Weber are not “case information.” *Id.* at 7–8. Our Institution Decision found that Petitioner did not persuasively and sufficiently assert how the prior art disclosed the “case information.” Dec 19–20. Our determination was based on the sufficiency of Petitioner’s evidence and argument in the regarding whether Weber’s prompting the user for information, which was contested by Patent Owner, teaches or suggests “information about prior instances *of use of the natural language processing method.*” Dec. 19–20 (emphasis added). Petitioner’s arguments does not identify any evidence we overlooked or misapprehended. Req. Reh’g 7–8. Instead, Petitioner characterizes our Institution Decision as broadly excluding user prompts. Our determination was based on the full claim construction, which is

supported by the Apple IPR’s emphasis of “prior instances of use of the natural language processing method.” Apple IPR 5–6; Dec. 19–20.

Petitioner also argues that the Board erred in finding that “user input” in Meng was not “case information” as recited in the challenged claims. Req. Reh’g 8–11. With respect to Meng, our Institution Decision did not find generally that “user input” was not “case information.” To the contrary, we found that “Petitioner’s limited discussion of Meng and supporting testimony fail to explain adequately and persuasively *how* the n-gram vectors [in Meng] represent case information as recited in the claims.” Dec. 22 (emphasis added). We also agreed with Patent Owner that Meng’s evidence supports that a correction to keyword meanings in Meng are based on user inputted data or forms, which undermined Petitioner’s contention that the case information was “information about prior instances *of use of the natural language processing method.*” *Id.* at 22 (citing Paper 6 (“Prelim. Resp.”), 41; Ex. 1014, 9, 12) (emphasis added). Thus, we did not “rel[y] on Patent Owner’s false premise that clarification obtained from a user is not case information” and did not misapprehend the meaning of case information. Req. Reh’g 9. Petitioner’s argument and evidence failed to sufficiently address the scope of the claim term, as addressed in the Apple IPR. *See* Apple IPR 5–6; Dec. 21–22.

Petitioner’s rehearing argument further asserts that the Board may have required a specific format or representation. Req. Reh’g 10–11. Petitioner argues, for the first time, that under our construction “case information may be as simple as the text of natural language queries the method previously received as input. Such text is ‘information about prior

instances of use’ because it specifies what words the method previously processed.” *Id.* at 11. Petitioner does not indicate where this argument was presented in the Petition. Regardless, we do not agree as our decision did not restrict case information to a specific format or representation. *See* Dec. 21–22. We did not overlook or misapprehend Petitioner’s argument that were not presented in the Petition. We do not agree with Petitioner that our finding was an abuse of discretion based on the facts or law as applied to Meng.

Petitioner also asserts that the Board misapprehended the meaning of case information by limiting it to information that is “the result of” the natural language processing method.” Req. Reh’g 11–12. Petitioner again cites our prior decision in the Apple IPR and the Apple Litigation claim construction as contradicting Patent Owner’s narrowing of case information to being the result of the claimed method. *Id.* We disagree with Petitioner.

The claim construction in the Apple IPR as adopted by the Apple Litigation and in the present case states that case information is “information about prior instances *of use of the natural language processing method.*” Dec. 9–10; Apple IPR 6. As the Apple IPR further discussed, other sources for “how the system interprets current word or phrase input” did not disclose case information which requires “prior uses must be uses of the system contemplated by the invention, not uses of any other natural language processing system.” Apple IPR 6.

We disagree with Petitioner that we mistakenly adopted Patent Owner’s narrow construction requiring that the information must be “the result of” the claimed natural language processing method. Req. Reh’g 13–

15. Our decision found that that Meng and Livowsky failed to persuasively show that the identified case information in each cited reference was “information about prior instances of use of the natural language processing method,” and that Petitioner’s evidence and argument failed to persuasively establish *how* the user’s content selection disclosed the claim term. *See* Dec. 15–18, 21–22; *see also* Apple IPR 6 (noting distinctions in prior instances of use).

Our Institution Decision addressed the sufficiency of Petitioner’s evidence and argument regarding how Livowsky’s preference file and the comparative analysis process relates to the natural language method. Dec. 15–16. Similarly, our decision determined that Petitioner’s limited discussion of Meng failed to support how the vectors in Meng represents case information. Dec. 22. Petitioner’s rehearing argument focuses on whether obtaining user’s selection is “part of” or a “result of” the natural language processing method but fails to show overlooked or misapprehended facts or claim construction that show *how* the teachings of Livowsky and Meng disclose case information as “information about prior instances of use of the natural language processing method.” Dec. 17. We are not persuaded by Petitioner’s arguments regarding a user selection being sufficient for case information in light of the Apple IPR’s discussion of the claim construction or that we misapprehended the meaning of case information. Req. Reh’g 15.

IV. CONCLUSION

For the reasons expressed above, we determine Petitioner has failed to demonstrate error or an abuse of discretion in our Institution Decision.

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Accordingly, we decline to change our Institution Decision and, thus, deny Petitioner's Request for Rehearing.

V. ORDER

For the reasons given, it is:

ORDERED Petitioner's Request for Rehearing of the Institution Decision is *denied*.

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