

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

BLAZE MOBILE, INC.,
Patent Owner.

IPR2021-01569
Patent 9,652,771 B2

Before HYUN J. JUNG, NATHAN A. ENGELS, and
SEAN P. O'HANLON, *Administrative Patent Judges*.

ENGELS, *Administrative Patent Judge*.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71(d)(2)

I. INTRODUCTION

Samsung Electronics Co., Ltd. (“Petitioner”) filed a Petition for *inter partes* review of claims 1–19 of U.S. Patent No. 9,652,771 B2 (Ex. 1001, “the ’771 patent”). Paper 1 (“Pet.”), 1. The Board entered a Decision Denying Institution of *Inter Partes* Review, determining “Petitioner has not adequately established that the claimed ‘identification code’ should be construed to include the prior art’s teachings of credit card numbers, expiration dates, and CVV codes.” Paper 16 (the “Decision” or “Dec.”), 9. Petitioner filed a Request for Rehearing Under 37 C.F.R. § 42.71. Paper 17.

Under 37 C.F.R. § 42.71(d), Petitioner bears the burden to show that we misapprehended or overlooked matters that warrant reconsideration of our Decision. For the reasons explained below, Petitioner’s Request for Rehearing is *denied*.

II. DISCUSSION

Petitioner requests rehearing “for two reasons.” Req. Reh’g 1. According to Petitioner, (1) the Board’s Decision reflects a misapprehension of the Petition’s contentions regarding the claim elements “identification code” and “payment method,” and (2) “the Board’s analysis of the intrinsic evidence” was limited by the Board’s misapprehension of the Petition as treating those two claim elements as the same thing. Req. Reh’g 1. Further, according to Petitioner, “the Board interpreted ‘identification code’ to exclude credit card numbers, expiration dates, and CVV codes, as shown by its statement in the Decision that *Petitioner failed to establish* that ‘the claimed “identification code” should be construed to include the prior art’s teachings of credit card numbers, expiration dates, and CVV codes.’” Req. Reh’g 10 (quoting Dec. 9) (emphasis added).

To be sure, the Board did not misapprehend Petitioner’s contentions; the Decision quotes and discusses Petitioner’s contentions extensively. *See* Dec. 6–9. Fatal to Petitioner’s contentions, though, “because the Petition does not address the scope or meaning of ‘identification code,’ the Petition does not explain why a ‘credit card’s number, its expiration date and CVV security code’ would fall within the scope of ‘identification code’ as claimed.” Dec. 6 (quoting Pet. 32). Thus, contrary to Petitioner’s characterization of the Decision (Req. Reh’g 7–9), the Decision does not misapprehend any “payment-method-versus-identification-code distinction”—the Decision addresses Petitioner’s failure to directly address the “identification code” and “payment method” limitations as one part of the Petition’s overall failure to address the scope and meaning of “identification code.” Dec. 6–9.

Similarly, the Decision discusses Petitioner’s failure to properly address the intrinsic evidence relevant to the scope of “identification code.” Dec. 7–8. Contrary to Petitioner’s new discussion of intrinsic evidence (Req. Reh’g 10–13), the Board’s analysis of intrinsic evidence was not limited by the Board’s understanding of Petitioner’s contentions; the Board’s discussion of intrinsic evidence was “limited” to explaining Petitioner’s failure to properly present and analyze relevant intrinsic evidence—the Petition includes no analysis of relevant intrinsic evidence, and even Petitioner’s Reply fails to properly address relevant intrinsic evidence. *See* Dec. 7–8. In fact, Petitioner’s arguments in the Request for Rehearing regarding intrinsic evidence and the scope of “identification code” stand in telling contrast to Petitioner’s failures in the Petition.

Finally, contrary to Petitioner's new arguments (Req. Reh'g 10), the Board did not construe "identification code." Rather, noting *Petitioner's burden* under 35 U.S.C. § 312(a)(3) and 37 C.F.R. § 42.104(b), the Board determined "Petitioner has not adequately established that the claimed 'identification code' should be construed to include the prior art's teachings of credit card numbers, expiration dates, and CVV codes." Dec. 9. None of the belated arguments in Petitioner's Request for Rehearing can establish that Petitioner carried its burden with the Petition.

III. CONCLUSION

For the reasons set forth above, Petitioner has not persuaded us that the outcome of our Decision should be modified.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that Petitioner's Request for Rehearing is *denied*.

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