PTAB Highlights | Takeaways from Recent Decisions in Post-Issuance Proceedings

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So, what's new at the PTAB? Improper use of claim charts, public accessibility of standard documents, the meaning of "processor," and more!

Long on pages, short on particulars. Nearmap US, Inc. v. Eagle View Technologies, Inc., IPR2024-00716, Paper 9 (October 9, 2024) (White, joined by Baer and Cass) (denying institution because Petitioner's single 64-page claim chart that included quoted portions of prior art without explanation failed to address any claim limitation with particularity).

Standards in stealth mode: a date on a public server does not necessarily establish a publication date. AT&T Mobility LLC et al v. Daingean Technologies Ltd., IPR 2024-00644, Paper 9 (October 10, 2024) (Ogden, joined by Kenny and Hoffman) (denying institution because there no evidence that a standard technical document was actually discussed or disseminated at a meeting or that the meeting was open to the interested public, and because there was no evidence of record that the document was placed on 3GPP's public FTP server prior to the effective filing date of the challenged claims).

Common term "processor"—not as simple as one would imagine. Samsung Electronics Co., Ltd. et al v. Slyde Analytics LLC, IPR 2024-00040, Paper 17 (October 10, 2024) (Lee, joined by Horvath and Courtenay) (denying institution after remand because Petitioner failed to show that the prior art disclosed a processor under the Board's construction of the term, which required a device having a structure that is configured to execute programmable code).

Make sure your arguments don't cut both ways. Forte Biosciences, Inc. v. University of Massachusetts, PGR2023-00014 (October 30, 2024) (Braden, joined by Pollock and Valek)

(denying request for rehearing and finding Patent Owner's argument – that the Petitioner's Declarants were not competent and failed to consider the 300+ incorporated references – to "directly undercut" its own arguments).

Battle of the bottles: the heart sets it apart. Trove Brands, LLC d/b/a BlenderBottle Company v. CamelBak Products, LLC, IPR2024-00858 (October 31, 2024) (DeFranco, joined by Jung and Engels) (granting institution because the cited reference is not substantially the same as the corresponding design patent cited during prosecution and the feature in the cited reference that is absent from the corresponding design patent goes to the "very heart" of the Petitioner's showing of anticipation and obviousness).

2-4-6-8 what do we appreciate? All the elements! Samsung Electronics Co., Ltd. et al v. Maxell, Ltd. f/k/a Hitachi Maxell, Ltd., IPR2024-00828 (November 4, 2024) (McMillin, joined by Trock and Melvin) (granting institution because the Board found "no evidence that any of the Examiners handling these matters appreciated that the art cited in this proceeding taught all the elements of any challenged claim").

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