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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RICHARD A. CARLOW, EUGENIA J. CHEN,
MICHAEL J. CHEN, CRAIG STEEL, ASHLEY TILLING,
ROOZBEH MOUSAVI, and DAVID T. HAMM

Appeal 2014-005649
Application 29/373,729
Technology Center 2900

Before: JOHN C. KERINS, BIBHU R. MOHANTY, and JILL D. HILL,
Administrative Patent Judges.

HILL, *Administrative Patent Judge.*

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

Richard A. Carlow et al. (Appellants) filed a request for rehearing on September 8, 2014 (hereinafter “Request”), in response to our Decision on Appeal mailed July 7, 2014 (hereinafter “Decision”), affirming the Examiner’s rejection of the claim under 35 U.S.C. § 251 as based on a defective reissue declaration.

ISSUE RAISED ON REQUEST FOR REHEARING

Did the Examiner and the Patent Trial and Appeal Board (“Board”) incorrectly group all of the requested drawing changes into one unitary design?

ANALYSIS

37 C.F.R. § 41.52 (2012) states in relevant parts:

(a)

(1) Appellant may file a single request for rehearing within two months of the date of the original decision of the Board. . . . The request for rehearing must state with particularity the point believed to have been *misapprehended or overlooked* by the Board. *Arguments not raised [in the brief before the Board], and [e]vidence not previously relied upon [in the brief and the reply brief(s)] are not permitted in the request for rehearing* except as permitted by paragraphs (a)(2) through (a)(4) of this section. . . .

(2) Appellant may present a new argument based upon a recent relevant decision of either the Board or a Federal Court.

(3) New arguments responding to a new ground of rejection made pursuant to § 41.50(b) are permitted.

....

(Emphasis added).

Appellants are required to state with particularity the point(s) believed to have been misapprehended or overlooked by the Board.

37 C.F.R. § 41.52(a)(1). The Request for Rehearing does not identify any such points; rather, it merely alleges that the Examiner and the Board incorrectly interpreted the requirements for a reissue declaration by incorrectly grouping all of the requested drawing changes into one unitary

design. Appellants did not argue in the Brief that the Examiner incorrectly interpreted the requirements for a reissue declaration by incorrectly grouping all of the requested drawing changes into one unitary design. Accordingly, this argument, not previously raised in the Appeal Brief, is not permitted in the request for rehearing. *See* 37 C.F.R.

§ 41.52(a)(1).

We therefore conclude that Appellants have not shown any points which we misapprehended or overlooked in our Decision.

DECISION

Appellants' Request for Rehearing is granted to the extent that we have reconsidered our Decision in light of the arguments in Appellants' Request. Appellants' Request is denied to the extent that we do not modify the outcome of the Decision.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

DENIED

llw