

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EMERSON ELECTRIC CO.,
Petitioner,

v.

SIPCO, LLC,
Patent Owner.

Case IPR2015-01579
Patent 6,914,893 B2

Before LYNNE E. PETTIGREW, STACEY G. WHITE, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, *Administrative Patent Judge*.

DECISION
Denying Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Emerson Electric Co. (“Petitioner”) seeks rehearing (Paper 8, “Req. Reh’g”) of the Decision (Paper 7, “Decision”) denying a request to institute *inter partes* review of claims 1, 2, 10, and 37 of U.S. Patent No. 6,914,893 B2 (“the ’893 patent”). Petitioner disputes our construction of “a receiver address comprising a scalable address of the at least one of the intended receiving transceivers,” as recited in claim 1 and similar recitations in claim 37. Req. Reh’g 1–2. Petitioner asserts that our construction resulted in an erroneous determination that the relied upon prior art would not likely render the challenged claims unpatentable. *Id.*

For reasons we discuss below, Petitioner has not satisfied its burden of showing our Decision should be modified.

II. DISCUSSION

The applicable standard for granting a request for rehearing of a petition decision is abuse of discretion. 37 C.F.R. § 42.71(c). The party seeking rehearing has the burden of showing the decision should be modified:

(d) Rehearing. . . . The burden of showing a decision should be modified lies with the party challenging the decision. The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, and opposition, or a reply.

37. C.F.R. § 42.71(d).

Petitioner requests that we modify our construction of the term “a receiver address comprising a scalable address of the at least one of the intended receiving [transceivers/remote devices]” (“disputed claim term”) to read on a field containing identifiers for both a destination transceiver and

intermediate transceivers, wherein the field is scalable due to the variable number of intermediate transceivers. Req. Reh’g 8–9. For reasons that follow, Petitioner has not persuaded us to modify our construction.

The term “address” appears twice in the disputed claim term. Specifically, the term recites a “receiver address” that includes or comprises “a scalable address of the at least one of the intended receiving [transceivers/remote devices].” In our Decision, we concluded that the “receiver address” is not limited to including only an intended receiving transceiver address. Decision 8–9. The “receiver address” also may include additional information. We further concluded that the term “scalable” refers to the intended receiving transceiver address. *Id.* at 10.¹ Based on our construction, we concluded that, with respect to its unpatentability arguments, Petitioner needed to show, with respect to Kahn (Ex. 1002) and Kantronics (Ex. 1003), that the identifier for a destination transceiver is scalable. *Id.* at 11–13.

As an initial matter, in its rehearing request Petitioner misstates our construction of “receiver address.” Petitioner asserts that the Board construed the term “receiver address comprising a scalable address . . .” to “only read[] on the unique identifier of a destination transceiver.” Req. Reh’g 1. Petitioner also asserts that the Board “incorrectly equated a single transceiver identifier with the claimed ‘receiver address.’” *Id.* at 5. Contrary to Petitioner’s assertions, we stated in our Decision that “[t]he language of claims 1 and 37, however, does not preclude the ‘receiver address’ from including additional data beyond the address of an intended

¹ In our Decision, we interpreted the term “scalable” to mean “having a variable size.” Decision. 8. Petitioner does not challenge this interpretation.

receiving transceiver/remote device.” Decision 8. We also stated that “the claimed ‘receiver address’ is not limited to including only an address identifying the intended receiving transceiver/remote device,” and “[t]he ‘receiver address’ may also include additional data.” *Id.* at 9. Our construction is consistent with the plain and ordinary meaning of the language of claims 1 and 37 because the word “comprising” indicates the “receiver address” may include data in addition to the address of an intended receiving transceiver/remote device. For reasons we discussed in our Decision, our construction is also consistent with the ’893 specification which discloses a “to” address that comprises both a unique transceiver address that uniquely identifies an intended transceiver and additional bytes of data. Decision 8–9. Accordingly, Petitioner incorrectly asserts that we equated “receiver address” with a unique identifier of a destination transceiver.

Petitioner also implies that the term “scalable” refers to or modifies “receiver address.” Req. Reh’g 4. This misinterprets the plain and ordinary meaning of the claim language, which does not recite a scalable receiver address, but rather recites a receiver address that comprises a scalable address of an intended receiving transceiver/remote device. Petitioner’s proposal overlooks the requirement that the address of the intended receiving transceiver/remote device must be scalable. It is insufficient to require, as Petitioner suggests, that the receiver address be scalable because the receiver address’s scalability may be due to the variable size of the additional data rather than the variable size of the address of the intended receiving transceiver/remote device. We made clear in our Decision that “scalable” refers to the address of the intended receiving transceiver/remote

device. Decision 10. (“[T]he ‘address of the at least one of the intended receiving [transceivers/remote devices]’ must be scalable.”). As discussed in our Decision, our interpretation is consistent with the ’893 specification’s disclosure that the “unique transceiver identification” or “unique transceiver address” uniquely identifying an RF transceiver may be scalable. *Id.* at 9 (citing Ex. 1001 at 6:53–56).

Petitioner also proffers arguments directed to the “receiver address” being scalable. Req. Reh’g 4–8 (“The data in ‘to’ address field 700 other than the ‘additional data’ is the receiver address or the ‘scalable address.’” (emphasis omitted)). These arguments, however, are not persuasive because, for reasons we discuss above, “scalable” refers to the address of the intended receiving transceiver/remote device. Petitioner addresses the meaning of receiver address (*i.e.*, it includes addresses for intermediate transceivers, according to Petitioner), but Petitioner does not address squarely what “address of the at least one of the intended receiving [transceivers/remote devices]” means. In particular, Petitioner does not explain sufficiently why we should construe this latter address to include address(es) for intermediate transceivers, especially when the language of this term does not mention intermediate transceivers.

Finally, regardless of our construction of the disputed claim term, we are not persuaded that the “to” address in the ’893 specification includes an address or identifier for intermediate transceivers. Req. Reh’g 4–5. Petitioner asserts the “to” address depicted in the third message of Figure 9 includes the identifier for an intermediate transceiver. *Id.* at 5. Petitioner’s argument is flawed. Petitioner argues the identifier for the receiving device is only one byte in length, *i.e.*, the byte “A0,” and, therefore, another of the

bytes in the “to” field must “hold[] the identifier of an intermediate transceiver.” *Id.* at 6. Petitioner asserts that “the third message in Figure 9 states that the destination address is ‘A0,’” without specifically identifying where this statement is in Figure 9. *Id.* Figure 9 is reproduced below.

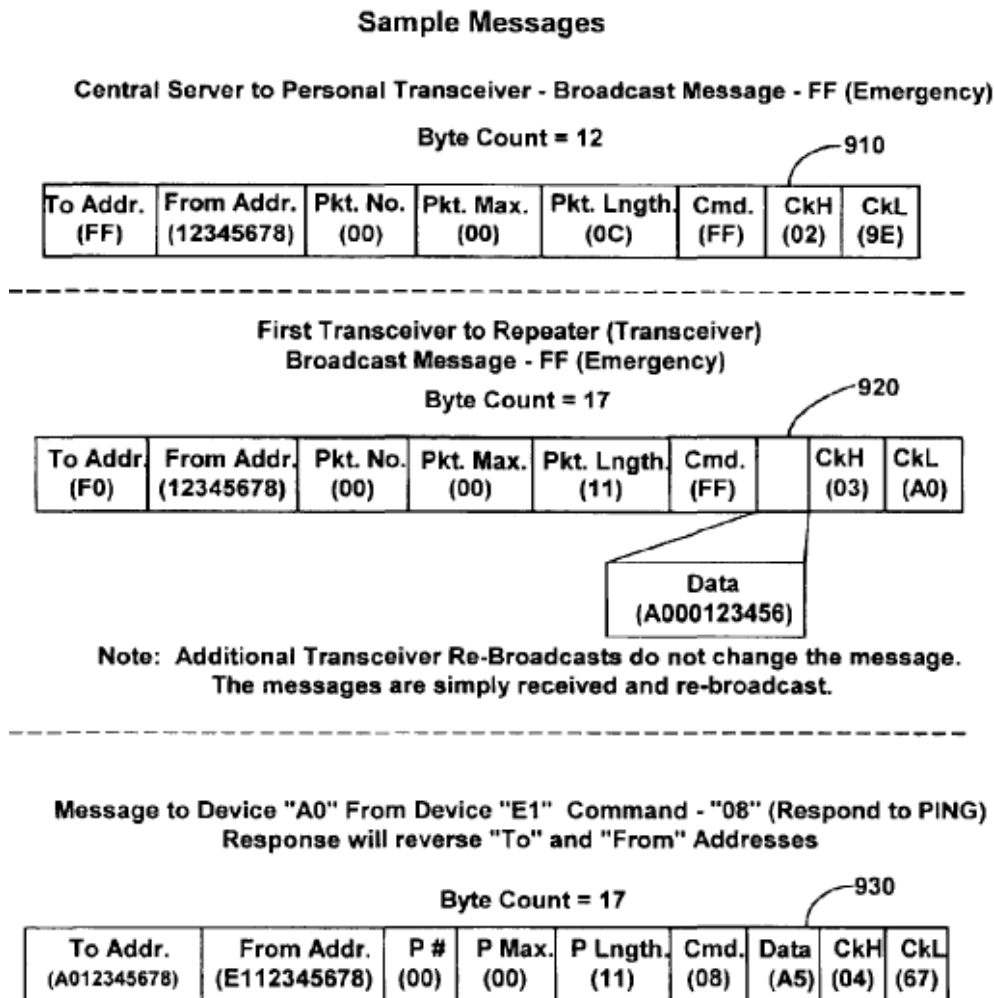


FIG. 9

Ex. 1001, Fig. 9. Figure 9 depicts three sample message packets. The third message, relied upon by Petitioner, is a “Message to Device ‘A0’ from Device ‘E1.’” *Id.* The “To Addr.” field contains the string “(A012345678).” *Id.* Nothing in Figure 9 states that the destination address

is “A0.” Moreover, Petitioner’s interpretation of Figure 9 contradicts the ’893 specification, which clarifies that the data shown in the “To Addr.” field in Figure 9 refers to a single transceiver, identified as “A012345678.” *Id.* at 12:33. Petitioner’s assertion also contradicts the ’893 specification’s disclosure that intermediate transceiver identification information is in an “additional command” field of a message, and, therefore, not in an address field such as the “To Addr.” field. *Id.* at 12:24–27.

For the foregoing reasons, we are not persuaded that we abused our discretion in determining Petitioner’s arguments and evidence are insufficient to establish a reasonable likelihood that it would prevail in showing the unpatentability of claims 1, 2, 10, and 37 of the ’893 patent.

III. ORDER

Accordingly, it is

ORDERED that Petitioner’s request for rehearing is *denied*.

IPR2015-01579
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