

No. 2024-2300

**United States Court of Appeals
for the Federal Circuit**

MANUFACTURING RESOURCES
INTERNATIONAL, INC.,
Appellant,

v.

JOHN A. SQUIRES, Under Secretary of
Commerce for Intellectual Property
and Director of the United States
Patent and Trademark Office,
Intervenor

*Appeal from the United States Patent and Trademark Office,
Patent Trial and Appeal Board in No. IPR2023-00255*

**COMBINED PETITION FOR PANEL REHEARING
AND REHEARING EN BANC**

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FORM 9. Certificate of Interest

Form 9 (p. 1)
March 2023

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 2024-2300

Short Case Caption Manufacturing Resources International, Inc. v. Stewart

Filing Party/Entity Manufacturing Resources International, Inc.

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
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5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 07/01/2026

Signature: /s/ David A. Reed

Name: David A. Reed

FORM 9. Certificate of Interest

Form 9 (p. 2)
March 2023

1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. ☒ None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. ☒ None/Not Applicable
Manufacturing Resources International, Inc.		

☐ Additional pages attached

FORM 9. Certificate of Interest

Form 9 (p. 3)
March 2023

4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable ☐ Additional pages attached

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5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☒ Yes (file separate notice; see below) ☐ No ☐ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

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TABLE OF ABBREVIATIONS***Parties***

Abbreviation	Term
MRI or Patent Owner	Manufacturing Resources International, Inc.
Samsung or Petitioner	Samsung Electronics Co., Ltd and Samsung Electronics America, Inc.
Director	Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Citations

Abbreviation	Term
Appx_____	Joint Appendix at page(s)_____

Terms

Abbreviation	Term
Board	Patent Trial and Appeal Board
'287 Patent	U.S. Patent No. 9,629,287 (Appx0094-0102)
Karppanen	International Patent Application Publication No. WO 2007/116116 A1 to Karppanen et al. (Appx0958-0982)

STATEMENT OF COUNSEL

Based on my professional judgment, I believe the panel decision is contrary to the following decisions of the Supreme Court of the United States or the precedents of this court: *KSR International Co. v Teleflex Inc.*, 550 U.S. 398 (2007); *In re Magnum Oil Tools International, Ltd.*, 829 F.3d 1364 (Fed. Cir. 2016); *In re Nuvasive Inc.*, 842 F.3d 1376 (Fed. Cir. 2016); *Icon Health & Fitness, Inc. v. Strava, Inc.*, 849 F.3d 1034 (Fed. Cir. 2017); *E.I. DuPont de Nemours & Co. v. Synvina C.V.*, 904 F.3d 996 (Fed. Cir. 2018); *Fanduel, Inc. v. Interactive Games LLC*, 966 F.3d 1334 (Fed. Cir. 2020).

Based on my professional judgment, I believe this appeal requires an answer to a precedent-setting question of exceptional importance: whether, under the Administrative Procedure Act, the Patent Trial and Appeal Board must hold a petitioner to its burden of proof and explain its action or, instead, if the Board may adopt a petitioner's contentions without making its own findings as it did here.

/s/ David A. Reed

David A. Reed
Counsel for Appellant

INTRODUCTION AND SUMMARY

For a subset of the claims at issue in the proceeding below, the Patent Trial and Appeal Board reached its obviousness determination without explaining how the prior art teaches each limitation of the claims. Instead of making findings, the Board stated that it reviewed the parties' arguments and evidence and was persuaded by the petitioner's discussion of the prior art. The Board's shortcut approach of citing a party's arguments without explaining its findings is contrary to this Court's precedent, which requires the Board to "make the necessary findings" and "articulate a satisfactory explanation for its action." *Nuvasive*, 842 F.3d at 1382 (citation omitted). For an obviousness ground, this requires the Board to make explicit findings regarding how the prior art teaches or renders obvious each element. *KSR*, 550 U.S. at 418 ("[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (alteration in original) (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006))).

The requirement for a reasoned explanation by the Board is a crucial part of the framework established by the Administrative Procedure Act. Without express findings, a patent owner cannot evaluate the basis for the Board's decision and whether it is grounded in substantial evidence. This, in turn, precludes appellate

review of findings that were not made. *Nuvasive*, 842 F.3d at 1382 (“We ‘cannot exercise [our] duty of review unless [we] are advised of the considerations underlying the action under review.’” (alterations in original) (quoting *SEC v. Chenery Corp.*, 318 U.S. 80, 94 (1943))).

This case highlights the problem. Claims 18-23 of the ’287 Patent are narrower than claim 12, which was the focus of the Board’s analysis below. Claim 12 recites “an open loop of ambient air which passes . . . along the backlight” of an LCD display, which the Board found was taught by prior art teaching ambient air flow parallel to the backlight but separated from the backlight by a wall. Claims 18 and 21, by contrast, require direct cooling of the surface of the display by ambient air. Claim 18 recites that “the rear surface of the electronic display is coolable by an open loop of ambient air,” and claim 21 recites that the electronic display is “contactable by ambient air flowing through the open loop ambient air pathway.” Appellant is at a loss for how ambient air that is separated from the backlight by a wall in the prior art nevertheless renders obvious these limitations requiring direct cooling of the electronic display using ambient air. Appellant was precluded from effective review of the Board’s determination because the Board did not explain how the prior art teaches or renders obvious these limitations.

Petitioner raised these issues and received a summary affirmance under Rule 36. Panel review is needed to bring this case in line with the Court’s existing

precedent requiring express findings and a reasoned explanation. In the alternative, en banc review is needed to resolve the exceptionally important question of whether the Board must hold a petitioner to its burden of proof and provide a reasoned explanation for its action or, instead, if it is sufficient for the Board to adopt a petitioner's contentions without making its own findings, as it did here.

BACKGROUND

The '287 Patent is directed to electronic displays coolable by a closed loop of gas and an open loop of ambient air. Claim 12 was the focus of the parties' dispute before the Board. That claim was at issue in a co-pending, and since resolved, ITC investigation. Petitioner Samsung also challenged other claims of the '287 Patent, including independent claims 1, 18, and 21 and their dependent claims. Patent Owner focused its arguments under the Board's word limits on claim 12, and in the face of challenges to nineteen claims based on seven references, chose to hold Samsung to its burden of proof for other claims.

The independent claims recite distinct limitations regarding the positioning of the open loop of ambient air relative to the electronic display. Appx0101-0102.

- Claim 12: "an open loop of ambient air which passes through the housing and *along the backlight*"
- Claim 18: "the *rear surface* of the electronic display is coolable by an open loop of ambient air"
- Claim 21: "the electronic display is...*contactable by* ambient air flowing through the open loop ambient air pathway."

The Board, in its final written decision, found all but one of the challenged claims obvious. Appx0092. The Board analyzed claim 12 and determined that it was taught by prior art that showed ambient air passing parallel to the display but separated from the display by the wall of a sealed casing that housed the display. Appx0026-27 (finding the prior art ambient air flow in “sufficient proximity to teach the ‘along the backlight’ limitation”).

For claims 18-23, the Board made no findings and provided no explanations for how the positioning of the open loop was taught by the prior art. The Board instead adopted Samsung’s petition and expert declaration. *See* Appx0031-32. For example, for claim 21, which requires the ambient air to contact the display, the Board stated that “Patent Owner does not dispute that Karppanen teaches the limitations of claim 21.” Appx0032. The Board then concluded that “Karppanen teaches all of the limitations of claim 21” without identifying those teachings or explaining its conclusion. *Id.* The section of the Board’s decision for claims 18-23 does not address the open loop limitations at all. It appears that the Board simply assumed that the prior art teaches the open loop limitations of the claims because Patent Owner did not separately brief those limitations.

The Board took a similar approach for two elements of claim 1, “an electronic display positioned within the electronic display housing but outside of the closed loop gas cooling chamber” and “an open loop ambient air pathway

through the electronic display housing.” The section of the final written decision addressing claim 1 omitted discussion of those two limitations. Appx0047-56. The Board instead incorporated by reference Samsung’s contentions, stating that “we agree with, and adopt as our own, Petitioner’s analysis.” Appx0056. The Board did not provide analysis or explanation of its own.

MRI raised this issue on appeal and explained this Court’s precedent requiring the Board to make findings to support a conclusion of obviousness. Opening Br. at 40-44, 53. The Director intervened to defend the Board’s decision but did not even respond regarding the Board’s failure to address two elements of claim 1, thus conceding the error. *See* Reply Br. at 16. For claims 18-23, the Director excused the Board’s failure to make the required findings by trying to flip the burden to MRI. The Director incorrectly asserted that the independent claims are “substantially similar” and that MRI should have separately argued the claims. *See* Reply Br. at 12-16.

The panel asked no questions about the Board’s failure to make independent findings at oral argument and summarily affirmed the Board’s decision. Dkt. No. 63. MRI is left with no understanding how the prior art renders obvious the limitations of claims 1, 18, and 21 and their dependents.

ARGUMENT

Rehearing is warranted to secure uniformity in this Court's decisions or to resolve an exceptionally important question. Fed. R. App. P. 40. Panel rehearing is needed to bring this case in line with the Court's existing precedent requiring express findings and a reasoned explanation. In the alternative, en banc review is needed to resolve the exceptionally important question whether the Board must hold a petitioner to its burden of proof and provide a reasoned explanation for its action or, instead, if it is sufficient for the Board to adopt a petitioner's contentions without making its own findings. Without rehearing, summary incorporation of petitioner arguments could become an accepted substitute for reasoned agency decision-making.

A. Panel rehearing is needed to secure uniformity with this Court's decisions requiring the Board to make findings and explain its reasoning.

The Board did not make factual findings regarding how the prior art teaches each limitation of independent claims 1, 18, and 21 or provide a reasoned explanation for its conclusions. The Board instead adopted Samsung's petition and expert declaration in conclusory sentences. This shortcut approach leaves MRI without administrative findings that this Court can assess for substantial evidence. The Board did not identify the prior art that allegedly teaches the open loop limitations, leaving MRI with no finding to attack for lack of substantial evidence.

The Board’s shortcut approach does not meet the requirements of the APA and this Court’s precedents, which require the Board to “articulate a satisfactory explanation” for its findings sufficient to enable appellate review. *Nuvasive*, 842 F.3d at 1382. Panel rehearing is appropriate to apply the Court’s existing precedent and to vacate and remand for the Board to make findings and provide a reasoned explanation for claims 1, 18, and 21 and their dependents.

The burdens of production and persuasion play an important role here, where Patent Owner did not separately brief each limitation of every challenged claim under each of the seven grounds. The burden always rests on the petitioner to prove obviousness. *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1375-76 (Fed. Cir. 2016); 35 U.S.C. § 316(e) (“In an inter partes review..., the petitioner shall have the burden of proving a proposition of unpatentability by a preponderance of the evidence.”). No burden of production falls on the patent owner, and there is no burden shifting to the patent owner. *Id.* “Where, as here, the only question presented is whether due consideration of the four *Graham* factors renders a claim or claims obvious, no burden shifts from the patent challenger to the patentee.” *Magnum Oil*, 829 F.3d at 1376.

The lack of burden shifting means that a patent owner does not concede unpatentability by not advancing evidence or argument regarding a claim or any element of the claim. This Court has made this explicit: a patent owner “has ***no***

‘burden’ to do anything to defend the validity of its patent other than hold the patent challenger to its own burden of persuasion.” *DuPont*, 904 F.3d at 1008 (emphasis added). Indeed, “the IPR regulations do not require a patent owner to submit *any response* to the petition, either before or after institution.” *Fanduel, Inc.*, 966 F.3d at 1342 (emphasis added) (citing 37 C.F.R. §§ 42.107(a) and 42.120(a)); *see also Magnum Oil*, 829 F.3d at 1376 n.1 (“[T]he patent owner is not required to use its opportunity under the regulations to file a patent owner response”). This means the Board must assess the petitioner’s evidence to determine whether petition meets its burden on each claim limitation, regardless of whether the patent owner files a response on any particular limitation.

In all cases, even where no argument is advanced by a patent owner disputing a petitioner’s invalidity ground, the Board must hold the petitioner to its burden and assess whether the petitioner met its burden to prove unpatentability. “First, the PTAB must make the necessary findings and have an adequate ‘evidentiary basis for its findings.’” *Nuvasive*, 842 F.3d at 1382 (citation omitted). “Second, *the PTAB ‘must . . . articulate a satisfactory explanation for its action* including a rational connection between the facts found and the choice made.” *Id.* (emphasis added) (citation omitted). The required logical and rational explanation is necessary because it “enables the court to exercise its duty to review the PTAB’s decisions.” *Id.* The Board’s reasoned explanation for its action must be sufficient

for the Court “to see that the agency has done its job.” *Id.* at 1383 (citing *In re Huston*, 308 F.3d 1267, 1281 (Fed. Cir. 2002)). It is not adequate to summarize and accept or reject an argument “without explaining why the PTAB accepts the prevailing argument.” *Id.* (citing *Cutsforth, Inc. v. MotivePower, Inc.*, 636 F. App’x 575, 578 (Fed. Cir. 2016)); *see also KSR*, 550 U.S. at 418 (“[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” (alteration in original) (citation omitted)).

The Court applied this principle in *Icon Health & Fitness, Inc. v. Strava, Inc.*, 849 F.3d 1034, 1047 (Fed. Cir. 2017). There, “[t]he PTAB’s sole reason for its finding was that Icon ‘d[id] not challenge’ the combination rationale.” *Id.* (second alteration in original) (citation omitted). The Court rejected this finding as insufficient because even where the Board credits a party’s argument, it “still must ‘explain[] why [it] accepts the prevailing argument.’” *Id.* (alteration in original) (quoting *Nuvasive*, 842 F.3d at 1383).

Rehearing is needed to ensure that the Board’s decision conforms with this Court’s precedent. The Board did not make findings regarding how the prior art renders obvious each element of claims 1, 18, and 21 and their dependent claims. The Board simply stated its conclusion, writing that it was “persuaded that

Petitioner’s discussion of the particular structures in Karppanen and the explanations in the Petition and the Smith-Gillespie Declaration, shows that Karppanen teaches all of the limitations.” Appx0031-33. The Board stated that it “reviewed the parties’ arguments and evidence” but from the final written decision, it is not possible to see that it did so. The Board did not explain why it was persuaded, or what “particular structures” in Karppanen or “explanations” in the Petition and expert declaration it found persuasive. *Id.* The Board instead faulted MRI’s decision not to separately brief and argue those claims. *Id.* (“Patent Owner does not dispute that Karppanen teaches the other limitations”). This flips the burden onto MRI. It was not MRI’s burden to disprove Samsung’s obviousness grounds. MRI’s decision to focus its word-limited briefing on claim 12, which was at issue in the ITC investigation, did not relieve Samsung’s burden on claims 1, 18, or 21 and their dependent claims. Nor did it relieve the Board of its obligation to provide reasoned explanation of how Samsung met its burden. *Nuvasive*, 842 F.3d at 1382.

Appellant respectfully submits that panel rehearing is needed to conform this case with the Court’s existing precedent. Appellant is entitled to understand the basis for obviousness where, for example, a claim requires ambient air to contact the backlight and the prior art only teaches ambient air separated from the backlight by a wall. A reasoned decision from the Board is not too much to ask

when the result of the Board's decision is invalidation of established patent rights. Appellant respectfully requests that the Court grant this request and vacate and remand the Board's decision for fact-finding and reasoned explanations for each element of claims 1, 18, and 21, and their dependent claims.

B. Alternatively, rehearing is needed to resolve whether the Board is permitted to adopt a petitioner's contentions without making its own findings.

Appellant requests en banc rehearing, in the alternative, to resolve the question whether, under the APA, the Board must hold a petitioner to its burden of proof and explain its action or, instead, if the Board may adopt a petitioner's contentions without making its own findings as it did here. This question is of exceptional importance in view of the central role of the Board in resolving questions of obviousness as part of U.S. patent litigation. How the Board makes and explains its decisions is a fundamental procedural safeguard for the accuracy of the Board's decisionmaking, the ability of this Court to conduct effective review, and the trust of the public—including the community of patent owners—in the process.

Without rehearing, this Court's affirmance stands for the rule that the Board may adopt arguments from a petition or an expert declaration, without further explanation, in any case where there is not contrary evidence or argument presented by a patent owner. This is a remarkable outcome that brings into question

compliance with the APA and with the statutory burdens governing inter partes review.

MRI respectfully submits that the panel's summary affirmance runs counter to this Court's precedent requiring findings and reasoned explanation, and if left untouched, would confuse the applicable standard for decision-making by the Board. More broadly, the panel's affirmance of the Board's shortcut approach opens the door for burden shifting to patent owner on every issue that a patent owner does not expressly argue. This would effectively allow the Board to incorporate a petitioner's argument for every issue not expressly argued by a patent owner, thereby depriving patent owner of its validity presumption. In a case where a patent owner foregoes a patent owner response, as permitted, this could broadly sweep away the presumption altogether.

The APA requires reasoned fact-finding. 5 U.S.C. § 557(c)(3)(A) ("The record shall show the ruling on each finding, conclusion, or exception presented . . . and shall include a statement of . . . findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record"). And when creating the statutory framework for IPR, Congress placed the evidentiary burden on petitioners. 35 U.S.C. § 316(e). The Court's precedents, before now, have collectively required the Board to make explanation-supported findings for each challenged claim and to explain why it accepts a party's argument

as its own analysis. Rehearing is warranted to address the recurring and important question of what the APA requires of the Board when it finds claims obvious, lest summary incorporation of petitioner arguments become an accepted substitute for reasoned agency decision-making.

CONCLUSION

For the foregoing reasons, MRI respectfully requests that the Court grant panel rehearing, or in the alternative, rehearing en banc.

Dated: July 1, 2026

Respectfully submitted,

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FORM 19. Certificate of Compliance with Type-Volume Limitations

Form 19
July 2020

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS

Case Number: 2024-2300

Short Case Caption: Manufacturing Resources International, Inc. v. Stewart

Instructions: When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

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Date: 07/01/2026

Signature: /s/ David A. Reed

Name: David A. Reed

NOTE: This disposition is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

**MANUFACTURING RESOURCES
INTERNATIONAL, INC.,**
Appellant

v.

**JOHN A. SQUIRES, UNDER SECRETARY OF
COMMERCE FOR INTELLECTUAL PROPERTY
AND DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE,**
Intervenor

2024-2300

Appeal from the United States Patent and Trademark
Office, Patent Trial and Appeal Board in No. IPR2023-
00255.

JUDGMENT

DAVID A. REED, Kilpatrick Townsend & Stockton LLP,
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ROBERT MCBRIDE, Office of the Solicitor, United States

Patent and Trademark Office, Alexandria, VA, argued for intervenor. Also represented by NICHOLAS THEODORE MATICH, IV, ROBERT J. McMANUS.

THIS CAUSE having been heard and considered, it is

ORDERED and ADJUDGED:

PER CURIAM (PROST, CLEVINGER, and STARK, *Circuit Judges*).

AFFIRMED. See Fed. Cir. R. 36.

ENTERED BY ORDER OF THE COURT

April 15, 2026
Date



Jarrett B. Perlow
Clerk of Court