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SEATTLE, WA 98101

EXAMINER
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JASTRZAB, JEFFREY R

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PAPER

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* UNIVERSITY OF WASHINGTON  
Appellant

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Appeal 2014-006569  
Reexamination Control No. 90/012,388  
Patent No. 5,560,360  
Technology Center 3900

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Before STEFAN STAICOVICI, MICHAEL L. HOELTER, and  
LYNNE H. BROWNE, *Administrative Patent Judges*.

BROWNE, *Administrative Patent Judge*

DECISION ON REQUEST FOR REHEARING

STATEMENT OF THE CASE

The University of Washington (Appellant) filed a request for rehearing under 37 C.F.R. § 41.52 (hereinafter “Request”), dated September 30, 2014, of our decision mailed July 31, 2014 (hereinafter “Decision”). In the Decision, we affirmed the Examiner’s rejection of claims 3–5, 18, 25, and 35.

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## OPINION

A request for rehearing is limited to matters overlooked or misapprehended by the Panel in rendering the original decision. *See* 37 C.F.R. § 41.52; *see also Ex parte Quist*, 95 USPQ2d 1140, 1141 (BPAI 2010) (precedential) (quoting Manual of Patent Examining Procedure (MPEP) § 1214.03 (8th ed., Rev. 9, Aug. 2012)). It may not rehash arguments originally made in the Brief, neither is it an opportunity to merely express disagreement with a decision. The proper course for an Appellant dissatisfied with a Board decision is to seek judicial review, not to file a request for rehearing to reargue issues that have already been decided. *See* 35 U.S.C. §§ 141, 145.

Appellant contends that “the Board has overlooked or misapprehended the bases for Appellant’s legal position that “[i]nherent anticipation requires that the disclosure of a reference must necessarily (i.e., inevitably) result in what is called for by the patent claims.” Request 2.

We did not overlook or misapprehend this position. A claim is anticipated only if each and every element as set forth in the claim is found, either *expressly* or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added). In this case we determined that Middleton *expressly* anticipates independent claims 3 and 18. Decision 4–7. Thus, as further noted in the Decision, Appellant’s arguments pertaining to inherent anticipation are not on point. *Id.* at 6.

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Appellant does not identify any other matter as allegedly overlooked or misapprehended. As noted *supra*, a request for rehearing is not the proper forum for requests for reconsideration.

#### DECISION

We grant the Request to the extent that we have considered the arguments pertaining to matters allegedly overlooked or misapprehended, but otherwise deny the Request.

DENIED

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