

NOTE: This order is nonprecedential.

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

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**IN RE JOHN NICHOLAS GROSS**

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2014-1073

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Appeal from the United States Patent and Trademark  
Office, Patent Trial and Appeal Board in No. 10/770,937.

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**ON MOTION**

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Before PROST, O'MALLEY, and TARANTO, *Circuit Judges*.  
TARANTO, *Circuit Judge*.

**ORDER**

The parties jointly move to remand this appeal for further proceedings before the Patent Trial and Appeal Board.

A Board decision sustained the examiner's rejection of various claims of John N. Gross's patent application as obvious over a combination of prior art references. After the Board's decision, Gross requested a rehearing arguing that the Board's decision constituted a new ground of rejection. The Board disagreed and denied the rehearing. Gross timely appealed to this court.

The parties state that Gross now intends to raise the new ground of rejection issue on appeal. Because this court agrees with the parties that it would be best for all involved to remand this case to the Board for reconsideration of Gross's new ground of rejection argument in light of *Rambus Inc. v. Rea*, 731 F.3d 1248 (Fed. Cir. 2013), the parties' joint motion to remand the case for additional proceedings is granted.

Accordingly,

IT IS ORDERED THAT:

(1) The motion is granted. The Board's decision is vacated and the case is remanded for additional proceedings consistent with this order.

(2) Each side shall bear its own costs.

FOR THE COURT

/s/ Daniel E. O'Toole  
Daniel E. O'Toole  
Clerk of Court

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ISSUED AS A MANDATE: March 27, 2014