Filed on behalf of Textron Innovations Inc.
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WAVELOCK ADVANCED TECHNOLOGY CO., LTD.
Petitioner

v.

TEXTRON INNOVATIONS INC.
Patent Owner

Case IPR2013-00149
Patent 6,455,138

CORRECTED
TEXTRON INNOVATIONS' PATENT OWNER RESPONSE PURSUANT TO 37 C.F.R. §42.120

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I. INTRODUCTION

Pursuant to 37 C.F.R. §42.120, Patent Owner Textron Innovations Inc. ("Textron") submits this Patent Owner Response ("Response") in reply to the Decision to Institute Inter Partes Review dated August 1, 2013 ("Decision") of Murano, U.S. Patent No. 6,455,138 (the "'138 patent"). Textron also submits this Response to the Petition for Inter Partes Review filed February 15, 2013, ("Petition") to the extent the Patent Trial and Appeal Board (PTAB) relied on the Petition in rendering its decision to institute.

The Petitioner, Wavelock Advanced Technology Co., Ltd. ("Wavelock") has failed to carry its burden in proving that the only document relied upon to reject the sole independent claim, Kuwahara, JP 63-286337 ("Kuwahara") inherently anticipates the claims. Specifically, Wavelock has failed to prove that Kuwahara necessarily produces a discontinuous layer including discrete islands of metal in an adhesive. The entire basis for Wavelock's position is premised on one sentence in Kuwahara, and one sentence in each of paragraphs 39 and 57 of Dr. Robert Iezzi's declaration (the "Declaration"). Wavelock has not produced any evidence other than unsupported opinion testimony, which is legally insufficient to carry its burden in proving that the prior art necessarily will produce the claimed invention. In addition, Dr. Iezzi is forced to make assumptions regarding Kuwahara's disclosure in rendering his conclusion that islands of Sn deposited in Kuwahara are

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"in the adhesive." Wavelock Exhibit 1017, ¶57, pg. 26. Assumptions regarding the prior art disclosure are wholly inadequate to establish inherent anticipation, which requires the alleged inherent claim limitation to be the necessary result of the prior art. A mere probability (which must result when assumptions are made) precludes inherency as a matter of law. Accordingly, the rejections of all of the claims at issue in this proceeding based on Kuwahara are legally erroneous.

II. MATERIAL FACTS

Petitioner did not include a statement of material facts. Textron presents the following material facts pursuant to 37 C.F.R. §42.23[1]:

1. The '138 patent claims all require the presence of a discontinuous layer including discrete islands of metal in an adhesive (Wavelock Exhibit 1001, pg. 9);
2. Some of the problems the '138 patent seeks to minimize or overcome are delamination of metallized polymer composite, corrosion of the metal layer, and popping that can occur when solvents are used and then evaporated during processing of the composite (*Id* at pg. 5);

[1] The list is by no means exhaustive, and more material facts may be established during this proceeding. The list presented in Patent Owner's response is merely illustrative of the important material facts for the particular issues discussed herein.

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