

28. The '177 patent relates generally, to “light emitting panel assemblies” including a transparent panel member for efficiently conducting light, and controlling the light conducted by the panel member to be emitted from one or more light output areas along its length. ('177 patent, Ex. 1001, 1:19-29.)

Ex. 2016, para 28

The '177 patent relates generally, to “light emitting panel assemblies” including a transparent panel member for efficiently conducting light, and controlling the light conducted by the panel member to be emitted from one or more light output areas along its length. '177 patent, Ex. 1001, 1:19-29.

Patent Owner Response, p. 3

29. For instance, the '177 patent relates to different light emitting panel assembly configurations that provide for better control of the light output from the panel assemblies and for more efficient utilization of light, which results in greater light output from the panel assemblies. *Id.*

Ex. 2016, para 29

The '177 patent relates to different light emitting panel assembly configurations that provide for better control of the light output from the panel assemblies and for more efficient utilization of light, which results in greater light output from the panel assemblies. *Id.*; Ex. 2016 (“Werner Decl.”) ¶ 28.

Patent Owner Response, p. 3

30. The '177 patent also relates to a light emitting assembly configurations that can provide very efficient panel assemblies that have increased uniformity and higher light output from the panel members with lower power requirements, allowing the panel members to be made thinner and/or longer, and/or of various shapes and sizes. '177 patent at 2:1-6.

31. The Petition attempts to characterize the '177 patent as merely describing “several different light emitting panel assembly configurations which allegedly provide for better control of light output from the panel assembly and for more ‘efficient’ utilization of light, thereby resulting in greater light output from the panel assembly.” Pet. at 6. The Petition alleges seven different grounds that the claimed light emitting panel assemblies would have been anticipated and/or obvious in view of Melby, Nakamura, Baur, Sasuga, Farchmin, or Pristash. Pet. at 10-12. It is my understanding that the Board denied institution on five of these grounds as not being reasonably likely to prevail in a validity challenge. Institution Decision, Paper 9 at 19-20.

Ex. 2016, para 30-31

In particular, the '177 patent relates to a light emitting assembly configurations that can provide very efficient panel assemblies that have increased uniformity and higher light output from the panel members with lower power requirements, allowing the panel members to be made thinner and/or longer, and/or of various shapes and sizes. '177 patent at 2:1-6; Werner Decl. at ¶ 29-30.

The Petition attempts to characterize the '177 patent as merely describing “several different light emitting panel assembly configurations which allegedly provide for better control of light output from the panel assembly and for more ‘efficient’ utilization of light, thereby resulting in greater light output from the panel assembly.” Petition at 6; Werner Decl. ¶ 31. The Petition alleges seven different grounds that the claimed light emitting panel assemblies would have been anticipated and/or obvious in view of Melby, Nakamura, Baur, Sasuga, Farchmin, or Pristash. Petition at 10-12; Werner Decl. at ¶ 31. The Board denied institution on five of these grounds as not being reasonably likely to prevail in a validity challenge. Paper 12 at 19-20.

Patent Owner Response, p. 4

32. The Petition fails to show by a preponderance of the evidence that the remaining two grounds demonstrate (1) that the claims of the '177 patent would have been anticipated by Nakamura and (2) that one having skill in the art would understand that the modifications and combinations suggested would result in the light emitting panel assemblies disclosed by the '177 patent as required to find obviousness by Melby.

Ex. 2016, para 32

Patent Owner shows herein that the Petition fails to show by a preponderance of the evidence that the remaining two grounds demonstrate (1) that the claims of the '177 patent would have been anticipated by Nakamura and (2) that the modifications and combinations suggested would result in the light emitting panel assemblies disclosed by the '177 patent as required to find obviousness by Melby.
Werner Decl. ¶ 32.

Patent Owner Response, p. 4-5

34. For the purposes of institution, the Board construed the term “deformities” to include “any change in the shape or geometry of a surface and/or coating or surface treatment that causes a portion of light to be emitted.” (Institution Decision, Paper 9 at 3-4.). The positions in this Declaration stand in light of that construction and in light of the Board’s constructions upon institution.

Ex. 2016, para 34

For the purposes of institution, the Board construed the term “deformities” to include “any change in the shape or geometry of a surface and/or coating or surface treatment that causes a portion of light to be emitted.” (Institution Decision, Paper 9 at 3-4.) The positions in this Response stand in light of that construction and in light of the Board’s constructions upon institution, and thus this Response does not take a position on claim construction at this point.

Patent Owner Response, p. 8

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