

Filed on behalf of Innovative Display Technologies LLC
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MERCEDES-BENZ USA, LLC and
MERCEDES-BENZ U.S. INTERNATIONAL, INC.
Petitioners

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC
Patent Owner

Case IPR2015-00360
U.S. Patent No. 7,300,194

PATENT OWNER'S OPPOSITION TO MOTION FOR JOINDER

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Patent Owner Innovative Display Technologies (“IDT” or “Patent Owner”) hereby files this opposition to the Motion for Joinder (“Motion,” Paper No. 3) filed by Mercedes-Benz USA, LLC and Mercedes-Benz U.S. International (“Petitioners”). Patent Owner hereby requests the relief that the Board deny Petitioners’ Motion.

I. STATEMENT OF MATERIAL FACTS

1. IDT’s patent portfolio is currently subject to 20 IPRs:
 - a. IPR2014-01092 (U.S. Patent No. 7,434,974);
 - b. IPR2014-01094 (U.S. Patent No. 7,404,660);
 - c. IPR2014-01095 (U.S. Patent No. 8,215,816);
 - d. IPR2014-01096 (U.S. Patent No. 7,537,370);
 - e. IPR2014-01097 (U.S. Patent No. 7,300,194);
 - f. IPR2014-01357 (U.S. Patent No. 6,755,547);
 - g. IPR2014-01362 (U.S. Patent No. 7,384,177);
 - h. IPR2015-00359 (U.S. Patent No. 7,384,177);
 - i. IPR2015-00360 (U.S. Patent No. 7,300,194);
 - j. IPR2015-00361 (U.S. Patent No. 6,755,547);
 - k. IPR2015-00363 (U.S. Patent No. 7,404,660);
 - l. IPR2014-00366 (U.S. Patent No. 8,215,816);
 - m. IPR2015-00368 (U.S. Patent No. 7,434,974);

- n. IPR2015-00487 (U.S. Patent No. 7,404,660);
- o. IPR2015-00489 (U.S. Patent No. 7,384,177);
- p. IPR2015-00490 (U.S. Patent No. 7,300,194);
- q. IPR2015-00493 (U.S. Patent No. 7,537,370);
- r. IPR2015-00495 (U.S. Patent No. 7,404,660);
- s. IPR2014-00496 (U.S. Patent No. 8,215,816); and
- t. IPR2015-00497 (U.S. Patent No. 7,434,974).

2. As seen above, many of those IPRs cover overlapping patents. In fact, the majority of those overlapping IPRs purport to advance identical grounds, the only difference being that different entities filed them. That is the case for the three IPRs concerning the patent-at-issue, U.S. Patent 7,300,194 (the “’194 patent”). Those three IPRs are IPR2014-01097; IPR2014-00360 (the instant IPR); and IPR2015-00490. Each of those three IPRs purports to advance identical grounds of invalidity. *See* Motion at 6 (“Petitioners’ arguments regarding the asserted references are identical to the arguments LG raised in the LG IPR”); *see also* IPR2015-00490, Paper 3 at 6 (stating the same).

3. LG Display Co., Ltd. filed IPR2014-01097 (the “first IPR”) against the ’194 patent on July 1, 2014.

4. Petitioners filed IPR2015-00360 (the instant IPR) against the ’194 patent on December 4, 2014, seeking to join the first IPR.

5. LG Electronics, Inc. filed IPR2015-00490 against the '194 patent on December 29, 2014, also seeking to join the first IPR.

6. On January 13, 2015, the Board instituted the first IPR on the following grounds:

- a. Obviousness of claims 1, 4–6, and 28 over Pristash;
- b. Anticipation of claims 1, 16, 22, 23, 27, and 31 by Funamoto;
- c. Obviousness of claims 4, 5, and 6 over Funamoto;
- d. Anticipation of claim 28 by Kobayashi; and
- e. Anticipation of claims 1, 4–6, and 28 by Nishio.

No other proposed grounds of unpatentability were authorized. IPR2014-01097, Paper 9 at 18.

7. On January 13, 2015, the Board also set a schedule for the first IPR, wherein Patent Owner's response is due on April 6, 2015 and oral argument is set for September 21, 2015. IPR2014-01097, Paper 10 at 5.

8. The schedule set for IPR2014-01097 was set concurrent and identical to the schedule of IPR2014-01096, which involves related patent 7,537,370. *Id.*

II. AUTHORITY

The Board has the discretion to join an *inter partes* review under 35 U.S.C. § 315. If joinder is ordered, the Board has discretion to adjust the time period for issuing a final determination in an *inter partes* review. 35 U.S.C. § 316(a)(11); 37

C.F.R. § 42.100(c). The Board determines whether to grant joinder on a case-by-case basis, taking into account the particular facts of each case, substantive and procedural issues, and other considerations. IPR2014-00702, Decision, July 24, 2014, Paper 12 at 3 (citing 157 CONG. REC. S1376 (daily ed. Mar. 8, 2011) (statement of Sen. Kyl)). When exercising its discretion to join IPR proceedings, the Board is mindful that patent trial regulations, including the rules for joinder, must be construed to secure the just, speedy, and inexpensive resolution of every proceeding. *Id.* (citing 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b)).

The moving party has the burden of proof to establish that it is entitled to the requested relief. 37 C.F.R. §§ 42.20(c), 42.122(b). To determine whether to grant a motion for joinder, the Board considers many factors, including, (1) time and cost considerations, including the impact joinder would have on the trial schedule; and (2) how briefing and discovery may be simplified. IPR2014-00702, Paper 12 at 3.

III. ARGUMENT

Petitioner's Motion states that, "[a] motion for joinder should: (1) set forth the reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing review; and (4) address specifically how briefing and discovery may be simplified." Motion at 5-6. The Motion does not adequately show

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