

Case IPR2015-00493

Patent 7,537,370

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

LG ELECTRONICS, INC.,

Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES, LLC,

Patent Owner.

Case IPR2015-00493

U.S. Patent No. 7,537,370

**PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR
INTER PARTES REVIEW OF U.S. PATENT NO. 7,537,370**

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I. INTRODUCTION

Patent Owner Innovative Display Technologies, LLC, (“IDT” or “Patent Owner”) hereby files this response (“Preliminary Response”) to the Petition (Paper 2) (the “Petition”) for *Inter Partes* Review of U.S. Patent No. 7,537,370 (the “’370 patent”) in IPR2015-00493 filed by LG Electronics, Inc. (“LGE” or “Petitioner”).

This Preliminary Response is timely under 35 U.S.C. § 313 and 37 C.F.R. § 42.107, as it is filed within three months of the February 5, 2015, date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response. Paper No. 6.

Petitioner’s IPR request is substantively identical to IPR2014-01096 (the “LGD Petition” or “Copied Petition”) filed on July 1, 2014, against the ’370 patent by LG Display Co. Ltd. (“LGD”). Petitioner’s Motion for Joinder, Paper No. 3 at 1 (“Indeed, the invalidity grounds raised in this IPR are identical to the invalidity grounds raised in the LGD IPR.”); *see also Id.* at 5 (“Petitioner’s arguments regarding the asserted references are identical to the arguments LGD raised in the LGD IPR.”). The PTAB refused to institute the Copied Petition on Grounds 2 and 3 in their entirety, and refused to institute Grounds 1 and 4 for claims 1, 4, 8, 13, 29, and 47. (*See* IPR2014-01096, Paper No. 11, Institution Decision at 17-18 (Ex. 2001). For the same reasons, the PTAB should not institute this IPR for those grounds and claims.

The PTAB instituted the Copied IPR on only two grounds of alleged invalidity and for limited claims, specifically, a 103(a) obviousness ground based solely on Pristash for claims 15 and 27, and a 103(a) obviousness ground based on the combination of Kobayashi and Pristash for the same claims. But those Grounds should be denied here because, as explained in the sections below, the prior art lacks several material claim limitations. Even if one of skill in the art would have combined the references as Petitioner suggests – the combination would not yield the claimed invention.

Additionally, as explained below, the PTAB should deny the Petition's request to institute IPR2015-00493 because it is cumulative of the Copied IPR.

Furthermore, the PTAB should also deny the Petition's request to institute IPR because the Petitioner has failed to comply with 35 U.S.C. 312(a)(2) by not identifying all Real Parties in Interest.

Patent Owner limits its identification of the deficiencies in Petitioner's argument in this Preliminary Response; Patent Owner does not intend to waive any arguments by not addressing them in this Preliminary Response.

A. Grounds Instituted in IPR2014-01096

Inter partes review was only instituted in IPR2014-01096 on two grounds of alleged invalidity– a 103(a) obviousness ground based solely on Pristash for claims 15 and 27, and a 103(a) obviousness ground based on the combination of Kobayashi

and Pristash. However, even if it were proper to combine Kobayashi and Pristash, neither reference, either separately or in combination arrive at the claimed invention as discussed below. Thus, these grounds do not demonstrate by a preponderance of the evidence that claims 15 or 27 of the '370 patent are invalid.

B. The '370 Patent

The '370 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. Ex. 1001 (“’370 patent”), Col. 1, ll. 19-29.

The '370 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. '370 patent, col. 1, ll. 19-29.

The Petition attempts to characterize the '370 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, Paper 2 at 6. The Petition alleges that the claimed light emitting panel assemblies would have been obvious under 35 U.S.C. § 103 over Pristash (U.S. Patent No. 5,005,108 (“Pristash”), Ex. 1006) and obvious under 35 U.S.C. § 103

over Kobayashi (U.S. Pat. No. 5,408,388 (“Kobayashi”), Ex. 1008) in view of Pristash. Petition, Paper 2 at 9.

However, the Petition fails to demonstrate (1) that the combination of these references would have been obvious to a person of ordinary skill in the art at the time of invention and (2) that the modifications and combinations suggested would result in the light emitting panel assemblies disclosed by the '370 patent. Moreover, the Petition improperly relies on impermissible hindsight in an effort to re-create the novel light emitting panel assemblies disclosed by the '370 patent.

Furthermore, the Petition relies on the Pristash reference that was both disclosed to the Examiner and that the Examiner expressly considered during the prosecution of the '370 patent. *See* List of References Cited by Applicant and Considered by Examiner 03-23-2009, '370 File History, Ex. 1002 at LGE_000094-LGE_000096. After having considered this reference, the Examiner chose to allow the claims of the '370 patent.

C. The Prior Art Alleged in the Petition

1. Pristash

Pristash describes a thin panel illuminator that includes a solid transparent panel member having one or more deformed output regions. Pristash, Ex. 1006, Abstract. The arrangement causes light entering the panel to be emitted along its length. *Id.*

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