

Case IPR2015-00506

Patent 7,434,973

Filed on behalf of Delaware Display Group LLC.

By: Justin B. Kimble (jkimble@bcpc-law.com)

Bragalone Conroy P.C.

2200 Ross Ave.

Suite 4500 – West

Dallas, TX 75201

Tel: 214.785.6670

Fax: 214.786.6680

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG DISPLAY CO., LTD.

Petitioner

v.

DELAWARE DISPLAY GROUP LLC

Patent Owner

Case IPR2015-00506

U.S. Patent No. 7,434,973

**PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR
INTER PARTES REVIEW OF U.S. PATENT NO. 7,434,973**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
P.O. Box 1450

I. INTRODUCTION

Patent Owner Delaware Display Group LLC (“DDG” or “Patent Owner”) hereby files this preliminary response (“Preliminary Response”) to the Petition for Inter Partes Review (the “Petition”) of U.S. Patent No. 7,434,973 (the “’973 patent”) in IPR2015-00506 filed by LG Display Co., LTD (“LGD” or “Petitioner”).

The PTAB should deny the Petition’s request to institute an inter partes review (“IPR”) of the ’973 patent because the grounds in the Petition do not demonstrate a reasonable likelihood of any claims being invalid. Furthermore, the PTAB should deny the Petition because it fails to comply with 35 U.S.C. 312(a)(2) requiring petitioner to identify all real parties-in-interest.

This 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 January 22, 2014, date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response (Paper No. 5). Patent Owner has limited 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.

Patent Owner notifies the Board that the district court in *Innovative Display Technologies v. Acer, Inc. et al.*, No. 2:13-cv-522 (E.D. Tex. 2013) (Dkt. No. 101) (“Claim Construction Order”) (Ex. 2001) has ruled on constructions of terms that appear in this patent (but the ruling was only on related patents, not the patent-at-

Case IPR2015-00506

Patent 7,434,973

issue), including entering an agreed construction of “deformities,” which Petitioner adopts in its Petition. This Preliminary Response does not take a position on any remaining claim construction issues at this point. Patent Owner reserves the right to propose its own construction of any and all claim terms for which an issue arises in the event the PTAB institutes this IPR.

A. Grounds in Petition

The Petition includes five grounds of alleged invalidity – one for 102(e) anticipation and for four 103(a) obviousness combinations – all against claims 1-5 of the '973 patent. For the following reasons, which are discussed in more detail below, none of the grounds demonstrate a reasonable likelihood of Petitioner prevailing against any claims:

- Ground 1: Unpatentable Under 35 U.S.C. § 103(a) As Being Obvious Over The '389 Patent In View Of Pelka (claims 1-5)
- Ground 2: Unpatentable Under 35 U.S.C. § 102(e) As Being Anticipated By Shinohara (Claims 1-5)
- Ground 3: Unpatentable Under 35 U.S.C. § 103(a) As Being Obvious Over Shinohara In View Of Yoshikawa (Claims 1-5)
- Ground 4: Unpatentable Under 35 U.S.C. § 103(a) As Being Obvious Over Pelka In View Of Funamoto (claims 1-5)

- Ground 5: Unpatentable Under 35 U.S.C. § 103(a) As Being Obvious Over Hooker In View Of Mizobe (claims 1-5)

B. Claim Construction

The arguments in this Preliminary Response stand despite Petitioner's proposed construction and despite the broadest reasonable construction of the terms. This Preliminary Response does not take a position on claim construction at this point. Patent Owner reserves the right to propose its own construction of any and all claim terms for which an issue arises in the event the PTAB institutes this IPR.

Patent Owner notifies the Board that the district court in *Innovative Display Technologies v. Acer, Inc. et al.*, No. 2:13-cv-522 (E.D. Tex. 2013) (Dkt. No. 101) ("Claim Construction Order") (Ex. 2001) has ruled on constructions of terms in this patent, including entering an agreed construction of "deformities" that Petitioner adopts in its Petition. Pet. at 8; Ex. 2001 at 58.

II. PRIORITY DATE OF THE '973 PATENT

A. The Petition Fails to Establish That the '973 Patent Should Receive a Later Priority Date

In arguing that the '973 Patent is not entitled to its June 27, 1995, priority date, Petitioner fails to consider the whole disclosure in the '973 Patent and in its priority applications. However, as detailed below, Petitioner shows that the '973 Patent is entitled to its original priority date.

1. Patent Owner Is Entitled to a Priority Date of June 27, 1995

The limitations of Claims 1-5 of the '973 Patent are described in the disclosure of the originally-filed application for U.S. Patent No. 5,613,751, to which the '973 Patent claims priority.

Petitioner alleges that the following limitation of Claim 1 lacks support prior to either November 28, 2007, or February 23, 1999: “the density, size, depth and/or height of the deformities in close proximity to the input edge is greatest at approximate midpoints between adjacent pairs of light sources.” Petition at 7-14. Specifically, Petitioner states “[T]he only possible support for this limitation is new figure 39B.” *Id.* at 11. However, the application filed on June 27, 1995, includes at least the following supporting disclosure for this limitation:

By varying the density, opaqueness or translucence, shape, depth, color, area, index of refraction, or type of deformities or disruptions may be used to control the percent of light emitted from any area of the panels. For example, less and/or smaller size deformities 21 may be placed on panel areas where less light output is wanted. Conversely, a greater percentage of and/or larger deformities may be placed on areas of the panels where greater light output is desired.

Varying the percentages and/or size of deformities in different areas of the panel is necessary in order to provide a uniform light output distribution. For example, the amount of light traveling through the panels will ordinarily be greater in areas closer to the light source than in other areas further removed from the light source. A pattern of light

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.