

Case IPR2015-00756

Patent 7,384,177

Filed on behalf of Innovative Display Technologies LLC

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

Jeffrey R. Bragalone (jbragalone@bcpc-law.com)

Bragalone Conroy PC

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

SONY CORPORATION,

Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,

Patent Owner.

Case IPR2015-00756

U.S. Patent No. 7,384,177

**PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR  
*INTER PARTES* REVIEW OF U.S. PATENT NO. 7,384,177**

Mail Stop PATENT BOARD

Patent Trial and Appeal Board

U.S. Patent & Trademark Office

P.O. Box 1450

## **I. INTRODUCTION**

Patent Owner Innovative Display Technologies LLC (“IDT” or “Patent Owner”) hereby files this preliminary response (“Response”) to the Petition for *Inter Partes* Review of U.S. Patent No. 7,384,177 (the “Petition”) in IPR2015-00756 filed by Sony Corporation (“Sony” or “Petitioner”).

The PTAB should deny the Petition’s request to institute an *inter partes* review (“IPR”) of U.S. Patent No. 7,384,177 (the “177 patent”) because the grounds in the Petition do not demonstrate a reasonable likelihood of any claims being invalid.

The PTAB should deny this Petition because it is duplicative of IPR2014-01362 filed by LD Display Co. Ltd., IPR2015-00359 filed by Mercedes-Benz USA, LLC and Mercedes-Benz U.S. International, Inc., and IPR2015-00489 filed by LG Electronics, Inc.

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 February 27, 2015, date of the Notice of Filing Date Accorded to Petition and Time for Filing Patent Owner Preliminary Response. (Paper No. 4.).

Patent Owner does not intend to waive any arguments by not addressing them in this Preliminary Response, and Patent Owner intends to raise additional arguments in the event this IPR is instituted.

To introduce its discussion of why the grounds in the Petition are insufficient, the Preliminary Response first provides an outline of the (1) the Grounds themselves; and (2) the claim construction issues.

***A. Grounds in Petition***

The Petition includes seven grounds of alleged invalidity – all 103(a) obviousness combinations with the exception of one 102(e) ground – for claims 1-3, 5-7, 9-10, 13-15, 19, 21, and 23-27 of the '177 patent. Grounds 3-7 were determined to not have a reasonable likelihood of prevailing in IPR2014-01362, the remaining grounds 1-2 were granted institution. IPR2014-01362 Paper 12 at 20.

*Ground 1: 103(a) - Melby (Claims 1-3, 5-7, 9, 10, 13- 15, 19, 21, 23-25)*

*Ground 2: 102(e) - Nakamura (Claims 1, 2, 6, 7, 9, 10, 13-15, 19, 21, 23, 24, 26-27)*

*Ground 3: 103(a) - Baur (Claims 1, 2, 13, 14)*

*Ground 4: 103(a) - Baur and Nakamura (Claims 6, 9, 10, 15, 19, 21, 23)*

*Ground 5: 103(a) - Sasuga and Farchmin (Claims 1, 2, 6, 7, 9, 10, 13, 15, 21)*

*Ground 6: 103(a) Sasuga, Farchmin, and Nakamura (Claims 14 and 19)*

*Ground 7: 103(a) Sasuga, Farchmin, and Pristash Claims 23, 25, and 26)*

For the reasons discussed below, none of the grounds demonstrate a reasonable likelihood of any claims being invalid.

***B. Claim Construction***

The arguments in this 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) ("First Claim Construction Order") (Ex. 2001) and *Innovative Display Technologies v. Hyundai Motor Co., et al.*, No. 2:14-cv-00201 (E.D. Tex. 2014) (Dkt. No. 244) ("Second Claim Construction Order") (Ex. 2002) has ruled on constructions of terms in this patent, including entering an agreed construction of "deformities" that Petitioner adopts in its Petition. (Petition at 8) (Ex. 2001 at 58) (Ex. 2002 at 9).

**II. GROUND 1 - 103(a) - Melby (Claims 1-3, 5-7, 9, 10, 13- 15, 19, 21, 23-25)**

***A. Claim 1, limitation [1.a] – "a tray having a back wall and continuous side walls that form a hollow cavity or recess completely surrounded by the side walls"***

The Petition alleges that Melby discloses "a housing 30 with continuous side walls 32, 34, 36, and 38 defin[ing] and an optical cavity having an optical window' as well as rear wall." Petition at 11-12; *see also id.* at 13, 15 (claim chart identifying the same elements). The Petition argues that Melby's wall 38 is the claimed "back

wall” and that walls 32, 34, and 36 are the claimed “continuous side walls.” *Id.* at 13. But these three side walls do not completely surround the cavity as expressly required in the claim. Indeed, none of the figures or text in Melby show a tray having a back wall and **continuous side walls that form a hollow cavity or recess completely surrounded by the side walls.**

Although **not argued in the Petition**, Petitioner’s expert makes two assumptions about Melby to try to match up the claim requirements with what is not shown in Melby. First, Mr. Flasck assumes that all of the figures in Melby are cross-sectional views, and second, that “housing 30 of Fig. 3 includes a fourth side wall adjoining walls 32 and 36 to form the optical cavity with the transparent cover 40.” Flasck Decl. at 32 ¶ 86.

However, there is no support in Melby that supports either of these assumptions. None of the figures have cross-section markings. None of the descriptions of the figures suggest that they are cross-sections, and nothing in the specification describes a missing fourth wall. In short, Mr. Flasck imagines that there is a “fourth side wall adjoining walls 32 and 36 to form the optical cavity.”

# 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.