

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION, SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG DISPLAY CO., LTD.

Petitioners,

v.

SURPASS TECH INNOVATION LLC

Patent Owner.

Case IPR2015-00863
Patent No. 7,202,843 B2

**PETITIONERS' OBJECTIONS TO PATENT OWNER'S EVIDENCE
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

Pursuant to 37 C.F.R. § 42.64(b)(1), Petitioners submit the following objections to the evidence served by Patent Owner on November 24, 2015 with Patent Owner Surpass Tech Innovation LLC's Response Under 37 C.F.R. § 42.120 (Paper 21)(the "Patent Owner's Response").

Petitioners object to Exhibit 2007, Transcript for the Deposition of Richard Zech, Ph. D. dated November 13, 2015, in IPR2015-00885, under Fed. R. Evid. 802 as Dr. Zech's testimony is inadmissible hearsay. Dr. Zech did not testify on direct (through a declaration) at the current trial, i.e., IPR2015-00863, but instead testified at an unrelated trial, IPR2015-00885, and was cross examined at a deposition in that unrelated trial. Petitioners in this trial are not parties in IPR2015-0885, were not present at the deposition of Dr. Zech, and did not have the opportunity to question Dr. Zech. Dr. Zech's deposition testimony is being offered by Patent Owner to prove the truth of the matter asserted, at, for example, Patent Owner Surpass Tech Innovation LLC's Response Under 37 C.F.R. § 42.120 (Paper 21), page 5, footnote 2, pages 6-7, pages 15-16, and page 19.

Petitioners also object to Exhibit 2018, U.S. Patent Application Publication No. 2008/0106540 under Fed. R. Evid. 402 and 403. Exhibit 2018 was originally marked as Exhibit A and presented to Thomas Credelle during his deposition dated October 28, 2015. Petitioners' objected to Exhibit A both during Mr. Credelle's deposition, and also in Paper 20, Petitioners' Objection to Evidence, filed on November 4, 2015. As set forth in Petitioners' Objection to Evidence filed on November 4, 2015, the filing date of Exhibit 2018 is 2006, and, thus, the content of Exhibit 2018 would not have been available to a person of ordinary skill in the art as of the 2003 claimed priority date of the U.S. Patent No. 7,202,843 (the "'843 patent"), and, therefore, would not have been within the knowledge base of such a person so as to form part of

his or her level of skill as of 2003. Thus, Exhibit 2018 is irrelevant. Moreover, even assuming for the sake of argument that Exhibit 2018 might be considered relevant on some theory, whatever probative value it might have is substantially outweighed by a danger of unfair prejudice and confusion of the issues, since it did not exist until well after the claimed priority date of the '843 patent. Accordingly, Exhibit 2018 is inadmissible.

Petitioners also object to Exhibit 2019, U.S. Patent No. 5,642,133, and Exhibit 2020, U.S. Patent No. 5,280,280 under Fed. R. Evid. 402. The Patent Owner's Response relies on these exhibits purportedly to show that an overdriving technique can be applied to passive matrix LCD panels *in addition to active matrix LCD panels*. However, whether or not the overdriving technique can *also* be applied to passive matrix LCD panels is not relevant to the issue of whether or not it would be obvious to apply the overdriving technique to active matrix LCD panels. Moreover, neither Exhibit 2019 nor Exhibit 2020 relates to overdriving at all. Both relate to the improvement of grayscale on passive massive panels. Thus, these exhibits are not relevant to the proposition for which they are cited. For at least these reasons, Exhibits 2019 and 2020 are not relevant, and are thus inadmissible.

Petitioners also object to Exhibit 2021, U.S. Patent No. 6,606,248 under Fed. R. Evid. 402 and 403. The Patent Owner's Response relies on Exhibit 2021 purportedly to show that one indicator of passive matrix vs. active matrix is the substrate on which the driver electronics is arranged. However, the passage in Exhibit 2021 upon which the Patent Owner's Response relies describes use of either glass and plastic substrates for *both* passive matrix and active matrix LCD panels. Thus, Exhibit 2021 is not relevant for the proposition for which it is cited. The Patent Owner's Response also relies on Exhibit 2021 purportedly to show the attachment location of driver circuits in active and passive matrix LCD panels, but the attachment location of the driver

circuits is not relevant to any issue in this case. And, even assuming for the sake of argument that Exhibit 2021 might be considered relevant on some theory, whatever probative value it might have is substantially outweighed by a danger of unfair prejudice and confusion of the issues since it does not describe the subject matter that the Patent Owner's Response alleges, and is irrelevant. Thus, Exhibit 2021 is inadmissible.

Petitioners also object to Exhibit 2022, Declaration of William K. Bohannon In Response To Petition of Sony Corporation Et Al., under Fed. R. Evid. 702 and 703 as Surpass has not established that Mr. Bohannon is either an expert in the relevant field of the '843 patent, or even has credentials that at least satisfy the standard of a person of ordinary skill in the art (of the '843 patent), i.e., a bachelor's degree or equivalent in Electrical Engineering and approximately three to five years of experience in designing and developing LCD devices and LCD driving circuits. Because Surpass has not established that Mr. Bohannon is qualified as an expert by knowledge, skill, experience, training or education, his testimony will not help a trier of fact to understanding the evidence or to determine a fact in issue. Accordingly, the opinions expressed by Dr. Bohannon are not relevant. For the foregoing reasons, Petitioners also object to Exhibit 2022 under Fed. R. Evid. 402.

Petitioners also object to ¶ 39 of Exhibit 2022 under Fed. R. Evid. 802 as relying on inadmissible hearsay. At paragraph 39, Mr. Bohannon bases his belief regarding "hold drive" on the deposition testimony of Dr. Zech (Exhibit 2007), which, as set forth above, is inadmissible hearsay.

Dated: December 2, 2015

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on December 2, 2015, the foregoing Petitioners' Objections to Evidence Pursuant to 37 C.F.R. § 42.64(b)(1) is being served via electronic mail upon the following counsel of record for Patent Owner:

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