

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG DISPLAY CO., LTD.,
Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,
Patent Owner.

Case IPR2014-01362
Patent No. 7,384,177

Before THOMAS L. GIANNETTI, NEIL T. POWELL, and
BEVERLY M. BUNTING, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

LG Display Co., Ltd. (“Petitioner”) filed a Petition pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–3, 5–7, 9, 10, 13–15, 19, 21, and 23–27 of U.S. Patent No. 7,384,177 (“the ’177 patent”). Paper 2 (“Pet.”). Innovative Display Technologies LLC (“Patent Owner”) filed a Preliminary Response. Paper 8 (“Prelim. Resp.”). Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we grant the Petition and institute an *inter partes* review of all challenged claims.

I. BACKGROUND

A. *The ’177 patent (Ex. 1001)*

The ’177 patent is entitled “Light Emitting Panel Assemblies.” The Abstract describes the subject matter as follows:

Light emitting assemblies include a tray that forms a cavity or recess containing one or more light sources. A sheet, film or substrate is positioned over the cavity or recess for controlling the light emitted from the assembly. The tray acts as a back, side or edge reflector, and has one or more secondary reflective or refractive surfaces.

Ex. 1001, Abstract.

B. *Illustrative Claim*

Claim 1 is illustrative of the claims at issue:

1. A light emitting assembly comprising
a tray having a back wall and continuous side walls that form a hollow cavity or recess completely surrounded by the side walls, at least one light source located, mounted or positioned in the cavity or recess, and

at least one sheet, film or substrate overlying the assembly for controlling the light emitted from the assembly to fit a particular application,

wherein the tray acts as at least one of a back, side edge, and end edge reflector and has one or more secondary flat, angled, faceted or curved reflective or refractive surfaces to redirect at least a portion of the light emitted by the light source in a predetermined manner within the cavity or recess.

C. Related Proceedings

Patent Owner states that it has asserted infringement by Petitioner of the '177 patent in the following proceeding: Delaware Display Group LLC et al. v. LG Electronics, Inc. et al., No. 1:13-cv-02109 (D. Del., filed Dec. 31, 2013). Paper 5.

Patent Owner identifies numerous other proceedings in which it has alleged infringement of the '177 patent. *See* Paper 5 for a listing.

In addition, there are three pending *inter partes* reviews for patents related to the '177 patent. Those are as follows:

1. IPR2014-01096 (U.S. Patent No. 7,537,370);
2. IPR2014-01097 (U.S. Patent No. 7,300,194); and
3. IPR2014-01357 (U.S. Patent No. 6,755,547).

D. Claim Construction

The Board interprets claims of an unexpired patent using the broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,766 (Aug. 14, 2012).

The only claim term for which Petitioner proposes a construction is the term “deformities,” appearing in challenged claims 14 and 23–27.

Petitioner asserts that the '177 patent “expressly defines” the term to mean “any change in the shape or geometry of the panel surface and/or coating or surface treatment that causes a portion of light to be emitted.” Pet. 9 (citing '177 patent, Ex. 1001, col. 4, ll. 44–48). Patent Owner’s Preliminary Response does not take a position on claim construction. Prelim. Resp. 4.

We have considered Petitioner’s construction of “deformities” and based on the present record, determine that at this stage it should be adopted here.

We have further determined that, except as may be indicated in the discussion below, the remaining terms should be given their plain and ordinary meaning.

E. References

Petitioner relies on the following references¹:

| | | | |
|----------|--------------|---------------|----------|
| Melby | US 5,054,885 | Oct. 8, 1991 | Ex. 1006 |
| Nakamura | US 5,453,885 | Dec. 9, 1993 | Ex. 1007 |
| Baur | US 4,142,783 | Mar. 6, 1979 | Ex. 1008 |
| Sasuga | US 5,432,626 | Mar. 11, 1993 | Ex. 1009 |
| Pristash | US 5,005,108 | Apr. 2, 1991 | Ex. 1010 |
| Farchmin | US 5,567,042 | May 27, 1994 | Ex. 1011 |

Petitioner also states that it is relying on Admitted Prior Art (“APA”) from the '177 patent specification. Pet. 10; Ex. 1001, col. 2, l. 64–col. 3, l. 4. Petitioner also relies on a Declaration of Michael J. Escuti, Ph.D. (“Escuti Decl.”). Ex. 1004.

¹ The references are ordered by exhibit number with effective dates asserted by Petitioner.

F. Grounds Asserted

Petitioner challenges claims 1–3, 5–7, 9, 10, 13–15, 19, 21, and 23–27 of the '177 patent on the following grounds:

| References | Basis | Claims Challenged |
|--------------------------------|----------|---|
| Melby | § 103(a) | 1–3, 5–7, 9, 10, 13–15, 19, 21, 23–25, and 27 |
| Nakamura | § 102(e) | 1, 2, 6, 7, 9, 10, 13–15, 19, 21, 23, –24, and 26 |
| Baur | § 103(a) | 1, 2, 13, and 14 |
| Baur and Nakamura | § 103(a) | 6, 9, 10, 15, 19, 21, and 23 |
| Sasuga and Farchmin | § 103(a) | 1, 2, 6, 7, 9, 10, 13, 15, and 21 |
| Sasuga, Farchmin, and Nakamura | §103(a) | 14 and 19 |
| Sasuga, Farchmin, and Pristash | § 103(a) | 23, 25, and 26 |

II. ANALYSIS

A. Real Party-in-Interest

We first address Patent Owner’s contention that the Petition should be denied because Petitioner has failed to name two real parties-in-interest. Prelim. Resp. 26. They are LG Electronics Inc. and LG Electronics U.S.A. Inc. *Id.*

Patent Owner’s preliminary response fails to provide convincing evidence that LG Electronics Inc. is a real party-in-interest. According to Patent Owner, “[w]e know LG Electronics Inc. is a real party in interest because it owns 37.9% of Petitioner and because it has admitted to being a related party to Petitioner.” *Id.* (citing Ex. 2004). We are not persuaded by this argument. As the Office Trial Practice Guide, 77 Fed. Reg. 48,756,

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