

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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K.J. PRETECH CO., LTD,  
Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,  
Patent Owner.

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Case IPR2015-01867  
Patent 7,537,370

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Before THOMAS L. GIANNETTI, MIRIAM L. QUINN, and  
BEVERLY M. BUNTING, *Administrative Patent Judges*.

GIANNETTI, *Administrative Patent Judge*.

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

K.J. Pretech Co., Ltd. (“Petitioner”) filed a Petition pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1, 4, 5, 9, 13, 29, and 47 of U.S. Patent No. 7,537,370 (“the ’370 patent”). Paper 2 (“Pet.”). Innovative Display Technologies LLC (“Patent Owner”) filed a Preliminary Response. Paper 11 (“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 the institute an *inter partes* review of claims 29 and 47. We decline to institute a review as to the other claims challenged.

## I. BACKGROUND

### A. *The ’370 patent (Ex. 1001)*

The ’370 patent is titled “Light Emitting Panel Assemblies.” The Abstract describes the subject matter as follows:

Light emitting panel assemblies include an optical panel member having a pattern of light extracting deformities on or in one or both sides to cause light to be emitted in a predetermined output distribution. The pattern of light extracting deformities on or in one side may have two or more different types or shapes of deformities and at least one of the types or shapes may vary along the length or width of the panel member. Where the light extracting deformities are on or in both sides, at least some of the deformities on or in one side may be of a different type or shape or vary in a different way or manner than the deformities on or in the other side.

Ex. 1001, Abstract.

*B. Illustrative Claim(s)*

Claim 1 is illustrative of the claims at issue:

1. A light emitting panel assembly comprising at least one light source,  
an optical panel member having at least one input edge for receiving light from the at least one light source, the panel member having front and back sides and a greater cross sectional width than thickness,  
both the front and back sides having a pattern of light extracting deformities that are projections or depressions on or in the sides to cause light to be emitted from the panel member in a predetermined output distribution,  
where the pattern of light extracting deformities on or in at least one of the sides varies along at least one of the length and width of the panel member and  
at least some of the light extracting deformities on or in one of the sides are of a different type than the light extracting deformities on or in the other side of the panel member, and  
at least one film, sheet or substrate overlying at least a portion of one of the sides of the panel member to change the output distribution of the emitted light such that the light will pass through a liquid crystal display with low loss.

*C. Related Proceedings*

Patent Owner identifies numerous proceedings in which it has alleged infringement of the '370 patent. *See* Paper 5 for a listing. In addition, Patent Owner identifies several other petitions requesting *inter partes* review of the '370 patent and related patents. *Id.* In IPR2014-01096 ("IPR-1096"), one such petition was granted as to claims 15 and 27 of the '370 patent, and an *inter partes* review was instituted by the Board as to those claims on January 13, 2015. Ex. 1027. A second petition, in IPR2015-00493, relied on the same prior art as the petition in IPR-1096, and was granted by the Board. The Board also granted the petitioner's motion for joinder of that

proceeding with IPR2014-01096. A Final Written Decision determining that claims 15 and 27 are unpatentable was entered by the Board on December 18, 2015. IPR-1096, Paper 40.

#### *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).

As Petitioner points out, however, the '370 patent expired on June 27, 2015. Pet. 6. For expired patents, we apply the claim construction standard set forth in *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005). *Id.*

##### *1. “deformities”*

The first claim term for which Petitioner proposes a construction is the term “deformities,” appearing in all challenged claims. Petitioner asserts that the '370 patent “expressly defines” this term to mean “any change in the shape or geometry of a surface and/or coating or surface treatment that causes a portion of light to be emitted.” Pet. 7 (citing Ex, 1001, col. 4, ll. 36–40).<sup>1</sup> Patent Owner’s preliminary response takes no position on claim construction.

The same construction was used in IPR-1096. We have considered Petitioner’s construction of “deformities” and determined that at this stage it should be adopted here, also.

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<sup>1</sup> The supporting citation in the Petition (Ex. 1001, col. 6, ll. 6–10) is incorrect.

2. “*transition region*”

This term appears in challenged claims 13 and 47. Petitioner submits that the term “a transition region between the at least one input edge and the patterns of light extracting deformities to allow the light from the at least one light source to mix and spread” should at least include any “region configured to transmit light [between the at least one input edge and the patterns of light extracting deformities to allow the light from the at least one light source to mix and spread].” *Id.* at 8. We discuss this further in connection with our consideration of claim 47, *infra*.

*E. References*

Petitioner relies on the following references:<sup>2</sup>

Kobayashi	US 5,408,388	Apr. 18, 1995	Ex. 1006
Pristash	US 5,005,108	Apr. 2, 1991	Ex. 1007
Suzuki	JP H03-189679	Aug. 19, 1991	Ex. 1008 <sup>3</sup>
Murata	US 4,929,866	May 29, 1990	Ex. 1011

Petitioner also states that it is relying on Admitted Prior Art (“APA”) from the ’370 patent specification. Pet. 9 (citing Ex. 1001, col. 2, ll. 58–65). Petitioner also relies on a Declaration from Thomas L. Credelle (“Credelle Decl.”). Ex. 1004.

*F. Grounds Asserted*

Petitioner challenges claims 1, 4, 5, 9, 13, 29, and 47 of the ’370 patent under 35 U.S.C. § 103(a) on the following grounds

Reference(s)	Claims Challenged
Kobayashi	1, 4, and 29

<sup>2</sup> The references are ordered by exhibit number with effective dates asserted by Petitioner.

<sup>3</sup> Exhibit 1008 is the English translation of the Suzuki Japanese publication (Ex. 1009).

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