

Filed on behalf of Innovative Display Technologies LLC
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,
Patent Owner,

Case IPR2015-01867
U.S. Patent No. 7,537,370

PATENT OWNER'S RESPONSE

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Patent Owner Innovative Display Technologies LLC (“IDT”) hereby files this response (“Response”) to the Petition (Paper 2) (the “Petition”) for *Inter Partes* Review of U.S. Patent No. 7,537,370 (the “’370 patent”) in IPR2015-01867 filed by KJ Pretech Co., Ltd. (“KJ” or “Petitioner”).

I. INTRODUCTION

The Board should patentability of claims 29 and 47, as Petitioner has failed to carry its burden to demonstrate that those claims are obvious. Further, Patent Owner renews its argument that Petitioner was time-barred in filing the Petition because it is in privity with LG, the real party in interest who is also time-barred. LG’s conduct in the litigation following institution provides further evidence that Petitioner is acting at LG’s behest.

As to the instituted grounds, first, Petitioner has failed to demonstrate that claim 29 is obvious in view of JP H03-189679 (“Suzuki”). Suzuki does not disclose an embodiment in which a light emitting panel has patterns of light extracting deformities on both sides that each vary in a different way or manner than the other. Furthermore, a person of ordinary skill would not be motivated to modify Suzuki’s teachings to create such a panel without impermissibly using the invention of claim 29 as a roadmap to do so.

Second, Petitioner has not met its burden to establish that claim 47 is obvious in view of Suzuki combined with U.S. Patent 5,005,108 (“Pristash”). Among other

things, Claim 47 requires “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.” Neither Suzuki nor Pristash has such a transition region. Furthermore, a person of skill in the art would not attempt to use Pristash’s “transition device” in Suzuki’s device, because Pristash’s device does not itself satisfy the claim limitation, Suzuki does not need such a device, and it would not fit within Suzuki’s device.

II. ARGUMENT

Both of Petitioner’s remaining obviousness arguments require impermissible cherry-picking of elements within the references and hind-sight logic. In neither case would a person of ordinary skill be motivated to modify or combine the references based on the references themselves, but only by using the claimed inventions of the ’370 patent as a guide. *See Abbott Labs. v. Sandoz, Inc.*, 544 F.3d 1341, 1348 (Fed. Cir. 2008) (“in addressing the question of obviousness a judge must not pick and choose isolated elements from the prior art and combine them so as to yield the invention in question if such a combination would not have been obvious at the time of the invention.”) (citing *Dennison Mfg. Co. v. Panduit Corp.*, 475 U.S. 809, 810 (1986)); *see Otsuka Pharmaceutical Co., Ltd. v. Sandoz, Inc.*, 678 F.3d 1280, 1296 (Fed. Cir. 2012) (“The inventor’s own path itself never leads to a conclusion of

obviousness; that is hindsight.”). Thus, the Board should reject Petitioner’s arguments that claims 29 and 47 are obvious.

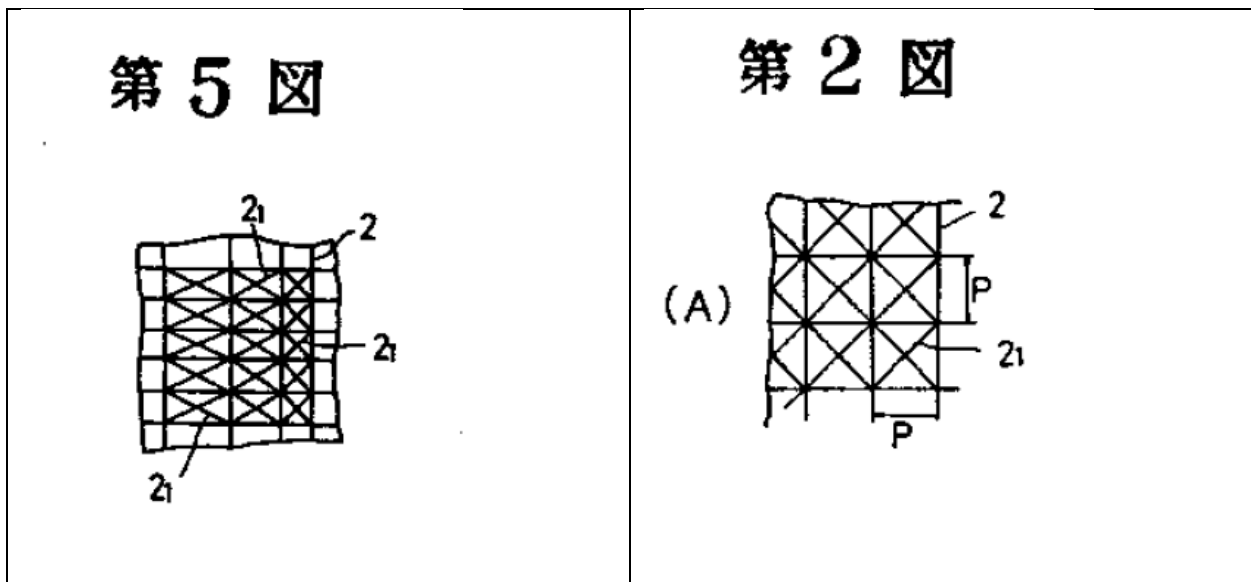
A. Claim 29 is not Obvious in View of Suzuki

Suzuki does not describe element [29.e], which requires that both sides of the panel member have a pattern of light extracting deformities and that “at least some of the light extracting deformities on or in one of the sides vary in a different way or manner than the light extracting deformities on or in the other side.” Ex. 1001, ’370 patent at 11:15-19. Petitioners concede that there is not one embodiment of Suzuki having that requirement, and thus attempt to combine different teachings of Suzuki. *See* Petition at 41-42. However, a person of ordinary skill in the art would not combine the different teachings of Suzuki, and Suzuki does not have sufficient teaching of how to do so. *See* Ex. 2006, Declaration of Kenneth Werner (“Werner Dec.”) at ¶¶50-62.

The ’370 patent describes that “[b]y varying the density, opaqueness or translucence, shape, depth, color, area, index of refraction, or type of deformities 21 on an area or areas of the panels, the light output of the panels can be controlled.” Ex. 1001, ’370 patent at 4:62-65. The ’370 patent also describes that “a greater percentage of and/or larger deformities may be placed on areas of the panels where greater light output is desired.” *Id.* at 5:2-4. Suzuki does not describe varying deformities on both sides in different ways in view of this disclosure.

In particular, Patent Owner does not agree with the Board’s understanding that the ’370 patent’s references to “density” or “percentages” “express a difference in pitch.” Institution Decision, Paper 15, at 15-16. First, it is not disputed that the ’370 patent does not discuss the “pitch” of deformities.” Ex. 2007, Deposition of Thomas Credelle (“Credelle Dep.”) at 171:20-172:17.

Second, Suzuki uses the word “pitch” to describe the one dimensional spacing of the grid in which the elements are placed. *See* Werner Dec. at ¶53. Where Suzuki describes that the pitch in Fig. 5 is gradually changed, the grids are only changed in one dimension (horizontally, relative to the page). As shown in Fig. 2A, the pitch is identified as “P,” which is the same in both the horizontal and vertical directions.



This is consistent with what Petitioner’s expert, Mr. Credelle, testified was the meaning of pitch in the field of LCD backlighting: “the distance from the center to center of a feature on the backlight.” Credelle Dep. at 169:15-23. Mr. Credelle

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