

Patent No. 7,128,988
Petition For *Inter Partes* Review

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TDK Corporation,
Petitioner,

v.

Lambeth Magnetic Structures, LLC,
Patent Owner

Patent No. 7,128,988
Issue Date: October 31, 2006
Title: MAGNETIC MATERIAL STRUCTURES,
DEVICES AND METHODS

Inter Partes Review No. _____

PETITION FOR *INTER PARTES* REVIEW

UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *et seq.*

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EXHIBIT LIST FOR INTER PARTES REVIEW OF**U.S. PATENT NO. 7,128,988**

Exhibit Description	Exhibit #
<i>U.S. Patent No. 7,128,988 (“the ’988 patent”)</i>	<i>1001</i>
<i>U.S. Application No. 10/415,757 (“the ’757 application”)</i>	<i>1002</i>
<i>U.S. Patent No. 6,248,416 (“Lambeth ’416”)</i>	<i>1003</i>
<i>Amendment dated March 17, 2006</i>	<i>1004</i>
<i>Notice of Allowance dated July 28, 2006</i>	<i>1005</i>
<i>Declaration of Dr. Robert Sinclair</i>	<i>1006</i>
<i>X. Wang and A.M. Taratorin (1999), Magnetic Information Storage Technology: A Volume in the ELECTROMAGNETISM Series 1st Edition. London: Academic Press. (“Wang”)</i>	<i>1007</i>
<i>S.Y. Chu, A. Cramb, M. De Graef, D. Laughlin, and M.E. McHenry, “The effect of field cooling and field orientation on the martensitic phase transformation in a Ni₂MnGa single crystal,” J. Appl. Phys. 87(9) (2000) 5777-5779. (“Chu”)</i>	<i>1008</i>
<i>U.S. Patent No. 6,023,395 (“Dill”)</i>	<i>1009</i>
<i>E. Bauer, “Growth of Thin Films,” J. Phys.: Condens. Matter 11 (1999) 9365–9385. (“Bauer”)</i>	<i>1010</i>
<i>J. Shen, M. Klaua, P. Ohresser, H. Jenniches, J. Barthel, Ch. V. Mohan, J. Kirschner, “Structural and magnetic phase transitions of Fe on stepped Cu (111),” Phys. Rev. B 56, 17, 134-143 (1997) (“Shen”)</i>	<i>1011</i>
<i>U.S. Patent No. 5,465,185 (“Heim”)</i>	<i>1012</i>
<i>D.N. Lambeth, W. Yang, H. Gong, D. E. Laughlin, B. Lu, L.L. Lee, J. Zou, P.S. Harllee, “Magnetic Media Performance: Control Methods for Crystalline Texture and Orientation,” Mat. Res. Soc. Symp. Proc. Vol. 517, 181-192 (1998) (“Lambeth I”)</i>	<i>1013</i>
<i>U.S. Patent No. 5,862,022 (“Noguchi”)</i>	<i>1014</i>

TDK Corporation (“Petitioner” or “TDK”) petitions for *inter partes* review in accordance with 35 U.S.C. §§ 311-319 and 37 C.F.R. § 42.100 *et seq.* of claims 1-3, 6-19, 21-31, 34, 38, and 39 of U.S. Patent No. 7,128,988 (“the ’988 patent” (Ex. 1001)). The ’988 patent issued on October 31, 2006, and is assigned to Lambeth Magnetic Structures, LLC (“Patent Owner” or “Lambeth”).

I. NOTICES AND STATEMENTS

A. Real Party-In-Interest Under 37 C.F.R. § 42.8(b)(1)

Toshiba Corporation, Toshiba America Information Systems, Inc., Toshiba America Electronic Components, Inc., and Toshiba of Canada, Ltd. (collectively “Toshiba”), Headway Technologies, Inc., SAE Magnetics (H.K.) Ltd., TDK Philippines Corporation, and Petitioner TDK are the real parties-in-interest.

B. Related Matters Under 37 C.F.R. § 42.8(b)(2)

Lambeth is currently alleging infringement by Toshiba of claims 1, 3, 6, 8, 11, 12, 17, 19, 23, 27, 28, and 29 of the ’988 patent in the U.S. District Court for the Western District of Pennsylvania. *See Lambeth Magnetic Structures, LLC v. Toshiba Corp.*, Civil Action No. 2:14-cv-01526-CB (W.D. Pa.). To date, the ’988 patent has not been the subject of any *inter partes* review or reexamination proceeding. The ’988 patent issued from US Application Serial No. 10/415,757, which was a national stage application of International Application

No. PCT/US02/27327 filed on August 29, 2002. PCT/US02/27327 claims priority to US Provisional Application Serial No. 60/315,920 filed on August 29, 2001.

C. Lead and Back-up Counsel Under 37 C.F.R. § 42.8(b)(3)

Pursuant to 37 C.F.R. § 42.8(b)(3), Petitioner identifies the following counsel (and a power of attorney accompanies this Petition):

Lead Counsel	Back-up Counsel
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D. Service Information Under 37 C.F.R. § 42.8(b)(4)

Service information for lead and back-up counsel is provided above.

Petitioner accepts service at: 35704-988-IPR@mofo.com.

II. GROUNDS FOR STANDING UNDER 37 C.F.R. § 42.104(A)

Pursuant to 37 C.F.R. § 42.104(a), Petitioner certifies that the '988 patent is available for *inter partes* review and that Petitioner is not barred or estopped from requesting an *inter partes* review challenging the patent claims on the grounds identified in this Petition.

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