UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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SANTA'S BEST,
Petitioner,

v.

VARIABLE LIGHTING LLC,
Patent Owner.

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Case IPR2016-01066
Patent 6,285,140 B1

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Before THOMAS L. GIANNETTI, PATRICK M. BOUCHER, and
MELISSA A. HAAPALA, *Administrative Patent Judges*.

HAAPALA, *Administrative Patent Judge*.

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

Santa's Best ("Petitioner") filed a Petition pursuant to 35 U.S.C.

§§ 311–319 to institute an *inter partes* review of claims 1–13 of U.S. Patent

No. 6,285,140 B1 ("the '140 patent").[1] Paper 3 ("Pet."). Variable Lighting LLC ("Patent Owner") did not file a Preliminary Response. 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 Petitioner's request and institute an *inter partes* review of all challenged claims.

I. BACKGROUND

A. *The '140 Patent (Ex. 1001)*

The '140 patent describes a variable-effect lighting system that comprises a lamp assembly and a programmable lamp controller. Ex. 1001, 2:14–19. Exemplary applications of the lighting system include Christmas tree light strings, temperature-sensitive lights, night lights, and jewelry. *Id.* at 2:60–62.

Figure 2a of the '140 patent is reproduced below.

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[1] We terminated the proceeding with respect to Polygroup Limited (MCO) ("Polygroup"). Paper 9.
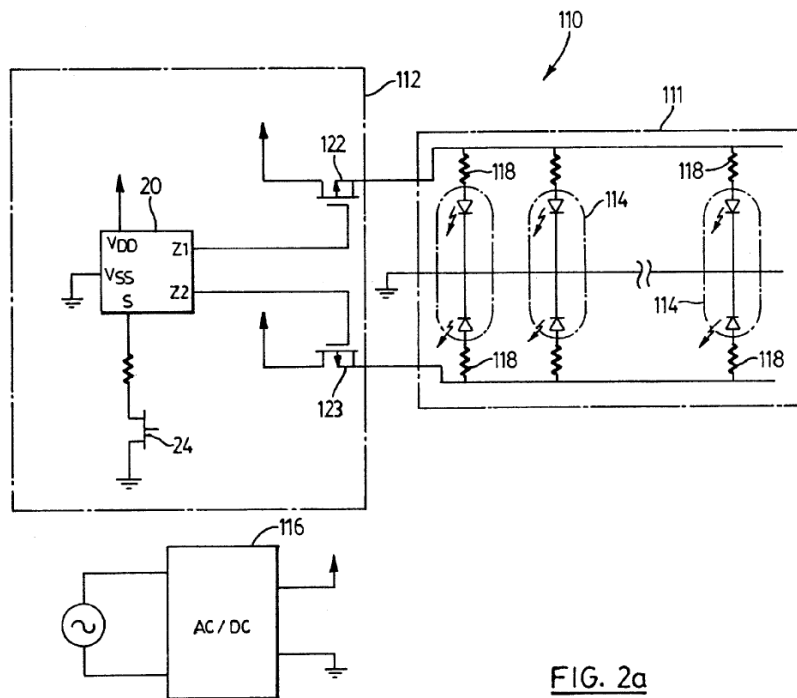
FIG. 2a

Figure 2a is a schematic circuit diagram of a variable-effect lighting system. *Id.* at 3:10–14. Variable-effect lighting system 110 comprises lamp assembly 111 and programmable lamp controller 112 for setting the color of light produced by lamp assembly 111. *Id.* at 13:22–27. The lamp assembly comprises a string of multi-colored lamps 114 connected in parallel with AC/DC converter 116. *Id.* at 13:29–32. Each lamp 114 comprises a bicolored LED having a first illuminating element for producing a first color of light, and a second illuminating element for producing a second color of light different from the first color. *Id.* at 13:33–37. Programmable controller 112 includes microcontroller 20, which is programmed with several conduction angle sequences for setting the firing angle of semiconductor switches 122, 123 to control the color display generated by the lamps 114. *Id.* at 14:12–19.

B. Illustrative Claim

Claims 1, 6, and 10 are independent claims. Claim 1 is illustrative of the claims at issue:

> 1. A variable-effect lighting system comprising:
>
> a lamp assembly comprising a plurality of multi-coloured lamps in parallel with a DC voltage source, each said multi-coloured lamp comprising a first illuminating element for producing a first colour of light, and a second illuminating element for producing a second colour of light different from the first colour; and
>
> a programmable lamp controller coupled to the lamp assembly for selling a conduction angle of each said illuminating element according to at least one predetermined pattern, each said predetermined pattern being stored in a memory of the controller, the lamp controller including a first electronic switch coupled to the first illuminating element and a second electronic switch coupled to the second illuminating element.

D. References

Petitioner relies on the following references:

Kazar	US 5,008,595	Apr. 16, 1991	Ex. 1004
Smith	US 4,675,575	June 23, 1987	Ex. 1005
Gomoluch	WO 91/19411	Dec. 12, 1991	Ex. 1006
Minato	JP H11-16683	Jan. 22, 1999	Ex. 1007[2]
Sato	US 5,751,111	May 26, 1998	Ex. 1008
Lys	US 6,528,954 B1	Mar. 4, 2003	Ex. 1009

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[2] Exhibit 1007 is the certified English translation of the Japanese patent application and the Japanese language original application. Pet. ix.

E. Grounds Asserted

Petitioner challenges the patentability of the claims of the '140 patent under 35 U.S.C. § 103(a) over the following combinations of references:

References	Claim(s)
Kazar and Gomoluch	1, 2, 4, 5
Kazar, Gomoluch, and Minato	3
Kazar, Sato, and Gomoluch	6–9
Kazar, Lys, and Gomoluch	10–13
Smith and Gomoluch	1, 2, 4, 5
Smith, Gomoluch, and Minato	3
Smith, Sato, and Gomoluch	6–9
Smith, Lys, and Gomoluch	10–13

F. Related Proceedings

Petitioner and Patent Owner identify the following litigation involving the '140 Patent: (1) *Variable Lighting LLC v. Kmart Corp.*, Case No. 1:15-cv-00426-RGA (D. Del.); and (2) *Variable Lighting LLC v. Polygroup Services N.A., Inc.*, Case No. 1:16-cv-00183-RGA (D. Del.). Pet. 71; Paper 6, 2. Petitioner also identifies the following additional proceeding: *Variable Lighting LLC v. Polygroup Ltd.*, Case No. 1:16-cv-00162 (D. Del.). Pet. 71.

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, claims of an unexpired patent are interpreted using the broadest reasonable construction in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b);

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