UNITED STA	TES PATENT A	AND TRADEM	IARK OFFICI	L
				
BEFORE TH	E PATENT TR	IAL AND API	PEAL BOAR	D

ALERE INC. Petitioner

V.

REMBRANDT DIAGNOSTICS, LP Patent Owner U.S. Patent No. 8,623,291

Case No. IPR2016-___

PETITION FOR INTER PARTES REVIEW OF U.S. PATENT NO. 8,623,291 UNDER 35 U.S.C. § 312 AND 37 C.F.R. § 42.104



TABLE OF CONTENTS

			Page
TAB	LE OF	AUTHORITIES	iv
I.	MAN	IDATORY NOTICES	1
	A.	Real Party-in-Interest	1
	B.	Related Matters.	1
	C.	Counsel and Service Information	2
II.	CLA	IM LISTING	2
III.	GRO	UNDS FOR STANDING	4
IV.	OVE	RVIEW OF CHALLENGE AND RELIEF REQUESTED	4
	A.	Prior Art Patents and Printed Publications	4
	B.	Grounds for Challenge	5
V.	BACKGROUND		6
	A.	Overview of Technology	6
	B.	The '291 Patent And Its Prosecution History	10
VI.	PERS	SON OF ORDINARY SKILL IN THE ART	14
VII.	CLA	IM CONSTRUCTION	14
	A.	"Sample Addition Pad"	14
	B.	"Transparent Window"	15
	C.	"A First Transparent Window"	16
	D.	"A Second Transparent Window"	16
VIII.	SUMMARY OF SELECT PRIOR ART		17
	A.	DE	17
	B.	May	19
	C.	Charm	20
	D.	Cipkowski	23
	E.	Sun	25
IX.	STAT	ΓΕΜΕΝΤ OF NON-REDUNDANCY	25
X.	SPEC	CIFIC GROUNDS FOR PETITION	27



A.	Ground I: Claims 1, 2, and 9 Are Obvious Over DE In View of May		
	1.	Claim 1	27
	2.	Claim 2: "a second transparent window formed within the cover through which the test strips can be viewed."	36
	3.	Claim 9: "A method for detecting a multiplicity of analytes which comprises removing the cap from the device of claim 1 and inserting the protruding ends of the test strips into a sample to be analyzed and observing the effect of the sample on the test and control zones of the test strips contained in the device."	39
B.		und II: Claims 1 and 9 Are Obvious Over DE in View of rm and May '871	40
	1.	Claim 1	
	2.	Claim 9	
C.		Ground III: Claim 2 Is Obvious Over DE In View of May, Shuler, and Eisinger	
D.		und IV: Claims 1, 2 and 9 Are Obvious Over Cipkowski In w of May	48
	1.	Claim 1	48
	2.	Claim 2	56
	3.	Claim 9	58
E.		und V: Claims 1 and 9 Are Obvious Over Cipkowski in w of Charm and May '871	59
	1.	Claim 1	59
	2.	Claim 9	62
F.	Ground VI: Claim 2 Is Obvious Over Cipkowski in View of May, Shuler, and Eisinger		63
G.		und VII: Claims 1, 2, and 9 Are Obvious Over Sun in View May	64
	1.	Claim 1	64
	2.	Claim 2	71
	3.	Claim 9	72



	H.		und VIII: Claims 1 and 9 Are Obvious Over Sun in View of	
		Cha	rm and May '871	73
		1.	Claim 1	73
		2.	Claim 9	75
	I.	Gro	und IX: Claim 2 Is Obvious Over Sun in View of May,	
		Shul	ler, and Eisinger	75
XI.	CON	ICLUS	SION	76
۷DL	ENDI	11 1/1 - 1	I IST OF EXHIBITS	77



TABLE OF AUTHORITIES

	Page(s)
Cases	
Baldwin Graphic Sys., Inc. v. Siebert, Inc., 512 F.3d 1338 (Fed. Cir. 2008)	16
<i>In re Kuhle</i> , 526 F.2d 553 (C.C.P.A. 1975)	36, 42, 44, 55, 56, 60, 61, 68
KSR International Co. v. Teleflex Inc. ("KSR"), 550 U.S. 398, 417 (2007)	passim
Rexnord Indust., LLC v. Kappos, 705 F.3d 1347 (Fed. Cir. 2013)	36, 42, 44, 55, 56, 60, 61, 68
SanDisk Corp. v. Kingston Tech. Co., Inc., 695 F.3d 1348 (Fed. Cir. 2012)	16
Statutes	
35 U.S.C. § 102	4, 5
35 U.S.C. § 103	5, 12, 13
35 U.S.C. § 314(a)	6
35 U.S.C. § 315(b)	4
Other Authorities	
37 C.F.R. § 42.104(b)(4)-(5)	27
37 C.F.R. § 42.104(b)(1)-(2)	4
37 C.F.R. § 42.22(a)(1)	4
MPEP 8 2141(I)	nassim



DOCKET A L A R M

Explore Litigation Insights



Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time** alerts and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.

