

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

KINGSTON TECHNOLOGY COMPANY INC.,  
Petitioner,

v.

POLARIS INNOVATIONS LTD.,  
Patent Owner.

---

Case IPR2017-00238  
Patent 6,157,589

---

**PATENT OWNER POLARIS INNOVATIONS LTD.'S  
PRELIMINARY RESPONSE TO PETITION FOR  
*INTER PARTES* REVIEW OF UNITED STATES PATENT NO. 6,157,589  
PURSUANT TO 35 U.S.C. § 313, 37 C.F.R. § 42.107**

**TABLE OF CONTENTS**

I. INTRODUCTION .....1

II. THE PETITION’S “CLAIM CONSTRUCTIONS” UNLAWFULLY REST ON PRELIMINARY INFRINGEMENT CONTENTIONS. ....6

    A. Petitioner Fails To Construe The Claims Or Even To Substantiate Its Positions Regarding What They Must Implicitly Cover “In Light Of The Specification,” As Is Its Burden. ....13

    B. The Petition Should Be Rejected Because Petitioner Provides No Explanation For Why The “Claim Construction” Positions It Disagrees With In Litigation Are *Necessarily* Correct Under BRI. ....16

    C. Patent Owner’s Preliminary Infringement Contentions Are Not A Lawful Foundation For Claim Construction. ....19

    D. Even If It Were Appropriate To Rely On The Preliminary Infringement Contentions, Petitioner Misconstrues Them. ....26

    E. The Petition Fails To Identify A Corresponding Structure For Two Limitations It Maintains Are Means-Plus-Function. ....32

III. THE PETITION FAILS TO DEMONSTRATE A REASONABLE LIKELIHOOD OF PREVAILING ON THE MERITS. ....33

    A. Petitioner Fails To Meet Its Burden To Show That The Claims Are Obvious In View Of Merritt Alone (Ground 1). ....36

        1. Petitioner Fails To Show “An Initialization Circuit” In Merritt.....36

        2. Petitioner Fails To Show A “Supply Voltage Stable Signal” Supplied “Via The Initialization Circuit” “Once A Supply Voltage Has Been Stabilized” In Merritt.....40

        3. Petitioner Fails To Show An “Enable Circuit” In Merritt.....44

        4. Merritt Teaches Away From The ’589 Patent. ....48

B.	Petitioner Fails To Show That The Claims Are Rendered Obvious In View Of Nagai Alone (Ground 3). .....	50
1.	Petitioner Fails To Show An “Initialization Circuit” In Nagai. ....	51
2.	Petitioner Fails To Show An “Initialization Circuit” Receiving “Further Command Signals” In Nagai. ....	52
3.	Petitioner Fails To Show An “Enable Circuit,” Much Less An “Enable Circuit” In The “Initialization Circuit,” In Nagai.....	55
4.	Nagai Teaches Away from the ’589 Patent. ....	57
C.	Petitioner Fails To Show That The Claims Are Obvious In View Of The Combination Of Merritt And Nagai (Ground 2). ....	59
D.	Petitioner Wholly Fails To Comply With 37 C.F.R. § 42.104(b)(4). ...	63
IV.	PETITIONER PROPOSES REDUNDANT GROUNDS FOR REVIEW AND DOES NOT ARGUE OTHERWISE. ....	65
V.	CONCLUSION .....	68

**TABLE OF AUTHORITIES**

**COURT DECISIONS**

*DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*,  
567 F.3d 1314 (Fed. Cir. 2009) .....48

*Harmonic Inc. v. Avid Tech., Inc.*,  
815 F.3d 1356 (Fed. Cir. 2016) .....16

*In re Cortright*,  
165 F.3d 1353 (Fed. Cir. 1999) .....16

*In re Donaldson Co.*,  
16 F.3d 1189 (Fed. Cir. 1994) .....32

*In re Kahn*,  
441 F.3d 977 (Fed. Cir. 2006) .....48

*In re Magnum Oil Tools Int’l, Ltd.*,  
829 F.3d 1364 (Fed. Cir. 2016) .....16

*In re Nuvasive, Inc.*,  
842 F.3d 1376 (Fed. Cir. 2016) .....44, 61

*In re Robertson*,  
169 F.3d 743 (Fed. Cir. 1999) .....39

*Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*,  
821 F.3d 1359 (Fed. Cir. 2016) .....17

*KSR Int’l Co. v. Teleflex Inc.*,  
550 U.S. 398 (2007) .....61

*Microsoft Corp. v. Proxyconn, Inc.*,  
789 F.3d 1292 (Fed. Cir. 2015) .....15

*Neomagic Corp. v. Trident Microsystems Inc.*,  
287 F.3d 1065 (Fed. Cir. 2002) .....3, 25

<i>Par Pharmaceutical, Inc. v. TWI Pharmaceuticals, Inc.</i> , 773 F.3d 1186 (Fed. Cir. 2014) .....	60
<i>PPC Broadband, Inc. v. Corning Optical Communs. RF, LLC</i> , 815 F.3d 747 (Fed. Cir. 2016) .....	15, 16
<i>Ricoh Co., Ltd. v. Quanta Computer Inc.</i> , 550 F.3d 1325 (Fed. Cir. 2008) .....	48
<i>Samsung SDI Co. v. Matsushita Elec. Indus. Co.</i> , 2006 U.S. Dist. LEXIS 97060 (C.D. Cal Jul. 10, 2006).....	22
<i>SIBIA Neurosciences, Inc. v. Cadus Pharmaceutical Corp.</i> , 225 F.3d 1349 (Fed. Cir. 2000) .....	39
<b>ADMINISTRATIVE DECISIONS</b>	
<i>Apex Medical Corp. v. Resmed Ltd.</i> , IPR2013-00516 Paper 8 (PTAB Feb. 20, 2014) .....	26
<i>Apple, Inc. v. ContentGuard Holdings, Inc.</i> , IPR2015-00358, Paper 9 (PTAB Jul. 2, 2015) .....	64
<i>Apple, Inc. v. Personal Web Technologies, LLC</i> , IPR2013-00596, Paper 9 (PTAB Mar. 26, 2014).....	67
<i>Baxter Healthcare Corp. v. Millenium Biologix, LLC</i> , IPR2013-00590, Paper 9 (PTAB Mar. 21, 2014).....	66
<i>Canon Inc. v. Intellectual Ventures I, LLC</i> , IPR2014-00535 to -00537, Paper 9 (PTAB Sept. 24, 2014) .....	67
<i>Canon Inc. v. Intellectual Ventures II LLC</i> , IPR2014-00631, Paper 9 (PTAB Sept. 9, 2014) .....	20
<i>CareFusion Corp., v. Baxter Int’l, Inc.</i> , IPR2016-01456, Paper 9 (PTAB Feb. 6, 2017) .....	18, 19
<i>Dish Network L.L.C. v. TQ Beta, LLC</i> , IPR2015-01756, Paper 12 (PTAB Feb. 19, 2016) .....	21

# 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.