

UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD.  
Petitioner,

v.

IRON OAK TECHNOLOGIES, LLC,  
Patent Owner.

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IPR2018-01553  
U.S. Patent No. 5,699,275

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**PATENT OWNER PRELIMINARY RESPONSE**

**PURSUANT TO 37 C.F.R. §42.107(a)**

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## I. INTRODUCTION

For the reasons presented below, Iron Oak Technologies, LLC (Patent Owner) respectfully requests that the Board exercise its discretion to deny the Petition for *Inter Partes* Review filed by Samsung Electronics, Co., (Petitioner) concerning U.S. Patent No. 5,699,275 ('275 patent).

35 U.S.C. § 314(a) sets forth the standard by which an IPR may be instituted:

The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Thus, it is *not* the Board's burden or duty to sift through the art relied upon by Petitioner to see if a reasonable likelihood of unpatentability *could have been shown* for Claim 1. Rather, it is the Board's duty to determine whether the arguments and evidence *actually presented* in the Petition demonstrate such likelihood in the first instance. The Petition fails to meet this standard.

Each ground advanced in the Petition fails because the Petition does not establish the content of each reference as would have been understood by a person of ordinary skill in the art (hereafter, POSITA). *Graham v. John Deere Co.*, 383 U.S. 1, 17 (1966) ("Under §103, the scope and content of the prior art are to be

determined; ...”). The properly understood content of the cited art demonstrates that they do not render obvious the subject matter of Claim 1 of the ’275 Patent.

For at least these reasons, the Petition should be denied in its entirety.

## **II. RELATED *INTER PARTES* REVIEW CASES**

The subject Petition was filed by Petitioner Samsung on August 16, 2018, along with a second Petition against the ’275 Patent. Since those filings by Petitioner Samsung, three other petitions for *inter partes* review have been filed against the ’275 Patent by defendants in the underlying litigations. These additional petitions are not unique, and are substantially, if not completely redundant of this Petition. The currently pending Petitions are listed below.

### **A. Petitions Based Primarily on Sugita and Ballard**

A petition for *inter partes* review has been filed by Petitioner (i.e., Samsung Electronics Co., Ltd.) (IPR2018-01552) contending that claim 1 of the ’275 patent is anticipated by Sugita; or rendered obvious over Sugita and Wortham; or rendered obvious over Ballard and Shimizu.

A petition for *inter partes* review has been filed by Google LLC (IPR2019-0110) contending that claim 1 of the ’275 patent is anticipated by Sugita; or rendered obvious over Sugita and Wortham; or rendered obvious over Ballard and Shimizu.

It should be noted that this Google petition is substantially identical, if not absolutely identical, to IPR2018-01552 filed by Samsung.

A petition for *inter partes* review has been filed by Microsoft Corporation (IPR2019-0106) contending that claim 1 of the '275 patent is anticipated by Sugita; or obvious over Sugita; or obvious over Sugita and Burson; or obvious over Sugita and Kirouac (with or without Burson); or obvious over Sugita and Ballard (with or without Burson or Kirouac). It should be noted that at least the first two grounds of this Microsoft petition are substantially identical, if not absolutely identical, to IPR2018-01552 filed by Samsung, and IPR2019-0110 filed by Google.

#### **B. Petitions Based Primarily on Hapka**

A petition for *inter partes* review has been filed by Google LLC (IPR2019-0111) contending that claim 1 of the '275 patent is obvious over Hapka and Parillo; or obvious over Hapka, Parillo and Wortham. It should be noted that this petition is substantially identical, if not absolutely identical, to the subject Petition.

This Preliminary Response addresses only the subject Petition. The redundancy of the other related Petitions will be addressed in those IPRs.

### **III. PATENT OWNER'S RESERVATION OF RIGHTS**

In this Preliminary Response, Patent Owner has chosen to point out only certain errors in the Petition, and to present only certain arguments why trial should

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