

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

COREPHOTONICS, LTD.,
Patent Owner.

IPR2020-00896
Patent 10,317,647

Before BRYAN F. MOORE, MONICA S. ULLAGADDI, and
BRENT M. DOUGAL, *Administrative Patent Judges*.

ULLAGADDI, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314, 37 C.F.R. § 42.4

I. INTRODUCTION

Apple Inc. (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–12 (“the challenged claims”) of U.S. Patent No. 10,317,647 (Ex. 1001, “the ’647 patent”). Paper 2 (“Pet.”). Corephotonics, Ltd. (“Patent Owner”) did not file a Preliminary Response.

We have authority under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted unless the information presented in the Petition shows “there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a) (2018); *see* 37 C.F.R. § 42.4(a). Based on the information presented in the Petition and the supporting evidence, we determine that there is a reasonable likelihood Petitioner would prevail with respect to at least one of the challenged claims. Accordingly, we institute an *inter partes* review of claims 1–12 on all grounds set forth in the Petition.

Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far. This is not a final decision as to patentability of the challenged claims.

II. BACKGROUND

A. *Related Proceedings*

Petitioner and Patent Owner identify the following corresponding district court proceeding: *Corephotonics, Ltd. v. Apple Inc.*, No. 5:19-cv-04809 (N.D. Cal.) (’4809 case). Pet. 1; Paper 5, 1.¹

¹ Patent Owner cites *Corephotonics, Ltd. v. Apple Inc.*, No. 3:19-cv-04809-LHK (N.D. Cal.) (Paper 5, 1), but this case number appears to reflect a typographical error. A PACER search of Case No. 5:19-cv-04809 reveals that Patent Owner’s complaint in that case was erroneously identified as “Civil Action No. 3:19-cv-4809” on its cover page.

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From the IPR2020-00897 proceeding, we are aware of a pending civil action, *Corephotonics, Ltd. v. Apple Inc.*, No. 5-18-cv-02555 (N.D. Cal.) ('2555 case) that concerns a parent of the '647 patent. The '2555 and '4809 cases were found related to a previously filed case in the Northern District of California between the same parties, No. 17-cv-06457 (N.D. Cal.). *See* '2555 case, Dkt. 14; '4809 case, Dkt. 16. The parties are reminded that they *must* keep the Board apprised of the status of related litigations and identify all related administrative matters.

We identify the following related administrative matters, including every application and patent claiming the benefit of the priority of the filing date of patents in the priority chain of the '647 patent. *See* Office Consolidated Trial Practice Guide² at 18; *see also* 84 Fed. Reg. 64,280 (Nov. 21, 2019).

The '647 patent, along with Application No. 15/976,391 (now U.S. Patent No. 10,330,897, “the '897 patent”) claims priority to:

Application No. 15/817,235 (now U.S. Patent No. 10,324,277, “the '277 patent”), which claims priority to

Application No. 15/418,925 (now U.S. Patent No. 9,857,568, “the '568 patent”), which claims priority to

Application No. 15/170,472 (now U.S. Patent No. 9,568,712, “the '712 patent”), which claims priority to

Application No. 14/932,319 (now U.S. Patent No. 9,402,032, “the '032 patent”), which claims priority to

² Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

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Application No. 14/367,924 (abandoned), which claims priority to PCT/IB2014/062465, which claims priority to Prov. No. 61/842,987.

Application No. 16/296,272 (now U.S. Patent No. 10,488,630), which, along with Application No. 16/296,275 (now U.S. Patent No. 10,437,020) claim priority to the '647 patent.

The following AIA trial proceedings challenge patents in the chain of priority for the '647 patent:

IPR2020-00878 (challenges the '878 patent);
IPR2020-00897 (challenges the '277 patent);
IPR2019-00030 (challenges the '568 patent);
IPR2018-01146 (challenged the '712 patent); and
IPR2018-01140 (challenged the '032 patent).

B. The '647 Patent

The '647 patent issued on June 11, 2019, and is based on an application filed on May 10, 2018, which claimed priority back to a provisional application filed July 4, 2013. Ex. 1001, codes (22), (45), (60). The '647 patent discloses an optical lens assembly with five lens elements. *Id.* at code (57). Figure 1A of the '647 patent is reproduced below.

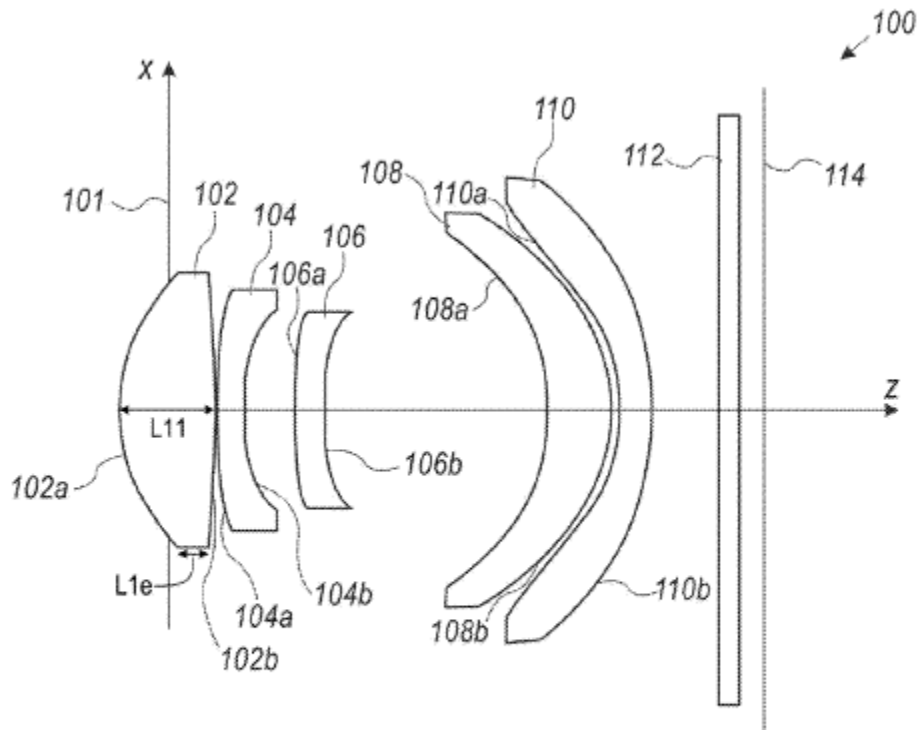


FIG. 1A

Figure 1A of the '647 patent illustrates a first embodiment of an optical lens system.

The embodiments disclosed refer to an optical lens assembly comprising, in order from an object side to an image side: optional stop 101; first plastic lens element 102 with positive refractive power having a convex, object-side surface 102a; second plastic lens element 104 with negative refractive power having a meniscus, convex, object-side surface 104a; third plastic lens element 106 with negative refractive power having a concave, object-side surface 106a; fourth plastic lens element 108 with positive refractive power having a positive meniscus with a concave, object-side surface marked 108a; fifth plastic lens element 110 with negative refractive

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