

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ASSA ABLOY AB, ASSA ABLOY INC.,  
ASSA ABLOY RESIDENTIAL GROUP, INC., AUGUST HOME, INC.,  
HID GLOBAL CORPORATION, and  
ASSA ABLOY GLOBAL SOLUTIONS, INC.,  
Petitioner,

v.

CPC PATENT TECHNOLOGIES PTY, LTD.,  
Patent Owner.

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IPR2022-01006  
Patent 9,665,705 B2

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Before SCOTT A. DANIELS, BARRY L. GROSSMAN, and  
AMBER L. HAGY, *Administrative Patent Judges*.

GROSSMAN, *Administrative Patent Judge*.

JUDGMENT  
Final Written Decision  
Determining No Challenged Claims Unpatentable  
*35 U.S.C. § 318(a)*

## I. INTRODUCTION

### A. *Background and Summary*

ASSA ABLOY AB, ASSA ABLOY Inc., ASSA ABLOY Residential Group, Inc., August Home, Inc., HID Global Corporation, and ASSA ABLOY Global Solutions, Inc. (collectively “Petitioner”<sup>1</sup>) filed a Petition requesting *inter partes* review of claims 1–17 (the “challenged claims”) of U.S. Patent No. 9,665,705 B2 (Ex. 1001, “the ’705 patent”). Paper 2 (“Pet.”), 1, 4. CPC Patent Technologies Pty Ltd. (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 9 (Prelim. Resp.”). With our authorization to address Patent Owner’s arguments that the Petition is time-barred under 35 U.S.C. § 315(b) (*see* Paper 16), Petitioner filed a Preliminary Reply (Paper 18 (“Prelim. Reply”)); and Patent Owner filed a Preliminary Sur-Reply (Paper 20 (“Prelim. Sur-Reply”)).

We entered a Decision granting institution of an *inter partes* review of claims 1–17 based on all grounds asserted in the Petition. Paper 23 (the “initial Decision to Institute”). Our initial Decision to Institute addressed the issue of whether the Petition was time-barred, and determined on the record at that time that there was no time bar. Paper 23 at 11–35. We also addressed the issue of patentability asserted in the Petition.

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<sup>1</sup> *See Cradlepoint, Inc. et al v. 3G Licensing S.A.*, IPR2021-00639, Paper 12, 2 (PTAB May 13, 2021) (“[F]or each ‘petition’ there is but a single party filing the petition, no matter how many companies are listed as petitioner or petitioners and how many companies are identified as real parties-in-interest. . . . Even though the separate sub-entities regard and identify themselves as ‘Petitioners,’ before the Board they constitute and stand in the shoes of a single ‘Petitioner’ . . . they must speak with a single voice, in both written and oral representation.”).

The parties filed a Joint Request for Rehearing of the initial Decision to Institute asserting two errors in the Decision to Institute. Paper 25. The two errors noted by the parties in the Joint Request for Rehearing involved confusion between two different “Mathiassen” references, each labelled as “Ex. 1004,” in two different, but related IPR proceedings. *See id.* at 1–2. We denied the Joint Request for Rehearing because correction of the identified errors did not change our decision to institute this IPR proceeding. Paper 26 (“Because the corrections to our Decision to Institute involve inadvertent and harmless error, which does not change the outcome of our Decision, we deny the Request for Rehearing. We simultaneously issued a Corrected Decision to Institute, correcting the errors noted by the parties.”). The Corrected Decision is Paper 27 (“Corrected Decision to Institute” or “Corr. Dec. Inst.”). The Corrected Decision to Institute contained the same Section 315(b) analysis as was in the Initial Decision to Institute. Paper 27 at 11–35.

Patent Owner submitted a Response to the Corrected Decision to Institute. Paper 31 (“Patent Owner Response” or “PO Resp.”).

Petitioner submitted a Reply. Paper 35 (“Reply”).

Patent Owner submitted a Sur-reply. Paper 41 (“Sur-reply”).

Petitioner submitted twenty-nine exhibits. *See* Exs. 1001–1015, 1017–1030<sup>2</sup> (there is no exhibit numbered 1016); *see also* Paper 44

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<sup>2</sup> Exhibit 1030 is a demonstrative exhibit used at the final hearing. It is not an evidentiary exhibit. *See* PTAB Consolidated Trial Practice Guide, 84 (Nov. 2019 (“CTPG”)) (“Demonstrative exhibits used at the final hearing are aids to oral argument and not evidence.”).

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(Petitioner’s Updated Exhibit List). Petitioner relies on the Declaration testimony of Andrew Sears, Ph.D. *See* Exs. 1005, 1029.

Patent Owner submitted thirty-seven exhibits. *See* Exs. 2001–2018, 2023–2041<sup>3</sup> (there are no exhibits numbered 2019–2022; Exhibit 2005 includes Parts 1, 2, and 3); *see also* Paper 44 (Patent Owner’s Updated Exhibit List). Patent Owner relies on the Declaration testimony of Samuel Russ, Ph.D. *See* Exs. 2031, 2032.

A hearing was held September 28, 2023. *See* Paper 46 (“Transcript” or “Tr.”).

We have jurisdiction under 35 U.S.C. § 6. We enter this Final Written Decision pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73.

Petitioner has the burden of proving unpatentability of a claim by a preponderance of the evidence. 35 U.S.C. § 316(e).

Based on the findings and conclusions below, we determine that Petitioner has not established by a preponderance of the evidence that claims 1–17 are unpatentable. We also determine that the Petition is not barred by 35 U.S.C. § 315(b).

#### *B. Real Parties-in-Interest*

Petitioner identifies “ASSA ABLOY AB, ASSA ABLOY Inc. and its wholly owned subsidiaries ASSA ABLOY Residential Group, Inc., August Home, Inc., HID Global Corporation, and ASSA ABLOY Global Solutions, Inc.” as the real parties-in-interest. Pet. 1. Petitioner also states “ASSA ABLOY AB is the ultimate parent of all parties-in-interest.” *Id.*

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<sup>3</sup> Exhibit 2041 is a demonstrative exhibit used at the final hearing. It is not an evidentiary exhibit. *See id.*

Patent Owner identifies itself as the sole real party-in-interest.  
Paper 5, 2.

We note here that Patent Owner asserts that the Petition is time-barred under 35 U.S.C. § 315(b) because Apple, Inc. (“Apple”) is a real party-in-interest (“RPI”) and/or privy of one or more of the individual companies that collectively comprise the Petitioner, and because Patent Owner served a complaint on Apple alleging infringement of the ’705 Patent more than 1 year before this Petition was filed. *See, e.g.*, PO Resp. 4, 47–64 (asserting that the Petition is time-barred under 35 U.S.C. § 315(b)). This argument would impact the underlying proceeding if we were to determine that Apple is a real party-in-interest or privy with Petitioner. *See Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413, Paper 76, 5 (PTAB May 22, 2023) (Decision granting Director review and (1) vacating the Board’s real party-in-interest determination in the Final Written Decision, and (2) vacating the Board’s Order Identifying the asserted real party-in-interest). As stated in *Unified v. MemoryWeb*,

[t]he Board can and should make a determination of the real parties in-interest or privy in any proceeding in which that determination may impact the underlying proceeding, for example, but not limited to, a time bar under 35 U.S.C. § 315(b) or an estoppel under 35 U.S.C. § 315(e) that might apply.

*Id.* That is the situation here. Patent Owner asserts there is a time bar. *See, e.g.*, PO Resp. 47–64. Thus, following the guidance in *Unified v. MemoryWeb*, we consider in Section II whether Apple is a real party-in-interest, or privy, in this proceeding.

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