

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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IPR2022-01045 and IPR2022-01089  
Patent 9,269,208 B2

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

GROSSMAN, *Administrative Patent Judge*.

JUDGMENT<sup>1</sup>  
Determining No Challenged Claims Unpatentable  
*35 U.S.C. § 318(a)*

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<sup>1</sup> This Judgment addresses the two proceedings listed above, which raise the same issues for different claims of the same patent. We issue this one Judgment, which will be filed in each proceeding. Unless specifically authorized by the Board, the parties are not authorized to use this style of filing.

## 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>2</sup>) filed two Petitions, collectively requesting *inter partes* review of claims 1–13 (the “challenged claims”) of U.S. Patent No. 9,269,208 B2 (Ex. 1007 in each proceeding, “the ’208 patent”). Paper 3, 3<sup>3</sup> (“Pet.”). CPC Patent Technologies Pty Ltd. (“Patent Owner”) filed a Preliminary Response to each Petition. Paper 8 (“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 10), Petitioner filed a Reply (Paper 14 (“Prelim. Reply”)); and Patent Owner filed a Sur-Reply (Paper 18 (“Sur-Reply”)).

We entered a consolidated Decision allowing Petitioner to proceed with the two distinct Petitions and granting institution of an *inter partes* review of claims 1–13 based on all grounds asserted in the two Petitions.

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<sup>2</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.”).

<sup>3</sup> We cite to the record in IPR2022-01045, unless a specific citation to each Petition is required for clarity. Similar documents, generally having the identical exhibit number, were filed in each of the two proceedings to which this Decision applies.

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Paper 21 (the “Decision to Institute”). Our 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 21 at 13–37. We also addressed the issue of patentability asserted in the Petition.

Patent Owner submitted a Response to the Decision to Institute. Paper 26 (“Patent Owner Response” or “PO Resp.”).

Petitioner submitted a Reply. Paper 30 (“Reply”).

Patent Owner submitted a Sur-reply. Paper 36 (“Sur-reply”).

Petitioner submitted twenty-nine exhibits. *See* Exs. 1001–1015, 1017–1030<sup>4</sup> (there is no exhibit numbered 1016); *see also* Paper 39 (Petitioner’s Updated Exhibit List). Petitioner relies on the Declaration testimony of Stuart Lipoff. *See* Exs. 1005, 1029.

Patent Owner submitted thirty-eight exhibits. *See* Exs. 2001–2018, 2023–2029, and 2031–2041<sup>5</sup> (there are no exhibits numbered 2019–2022 or 2030; Exhibit 2005 includes Parts 1, 2, and 3); *see also* Paper 40 (Patent Owner’s Updated Exhibit List)<sup>6</sup>. Patent Owner relies on the Declaration testimony of Samuel Russ, Ph.D. *See* Exs. 2031, 2032.

A joint hearing was held September 28, 2023. *See* Paper 41 (“Transcript” or “Tr.”).

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<sup>4</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.”)).

<sup>5</sup> Exhibit 2041 is a demonstrative exhibit used at the final hearing. It is not an evidentiary exhibit. *See id.*

<sup>6</sup> Exhibits 2029 and 2030 on Patent Owner’s Exhibit list are inconsistent with the document filings at the Board. *See* Ex. 3009.

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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 1–13 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.*

Patent Owner identifies itself as the sole real party-in-interest. Paper 6, 2.

We note here that Patent Owner asserts that the Petition is time-barred under 35 U.S.C. § 315(b) because, as asserted by Patent Owner, 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 ’208 patent more than 1 year before this Petition was filed.

*See, e.g.*, PO Resp. 4, 46–64 (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*,

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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 privity 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. 46–64. Thus, following the guidance in *Unified v. MemoryWeb*, we consider in Section II whether Apple is a real party-in-interest, or privity, in this proceeding.

### C. *Related Matters*

Petitioner identifies the following matters as being related to this proceeding:

- 1) *ASSA ABLOY AB, et al. v. CPC Patent Technologies Pty Ltd., et al.*, No. 3-22-cv-00694 (D. Conn.);
- 2) *CPC Patent Technologies Pty Ltd v. HMD Global Oy*,<sup>7</sup> WDTX-6-21-cv-00166-ADA (W.D. Tex.);
- 3) *CPC Patent Technologies Pty Ltd v. Apple Inc.*, No. 5:22-cv-02553-NC (N.D. Cal); and

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<sup>7</sup> Petitioner states HID Global, one of the named Petitioners in this IPR proceeding, and HMD Global, the named defendant in the cited litigation, “have no relation to one another.” Pet. 2, n.2.

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