

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NVIDIA CORP.,
Petitioner,

v.

SAMSUNG ELECTRONICS CO., LTD.,
Patent Owner.

Case IPR2015-01316
Patent 6,804,724 B2

Before JAMESON LEE, PATRICK R. SCANLON, and JUSTIN BUSCH,
Administrative Patent Judges.

SCANLON, *Administrative Patent Judge.*

DECISION
Denying Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner, NVIDIA Corp., filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 6–10 of U.S. Patent No. 6,804,724 B2 (Ex. 1001, “the ’724 patent”) pursuant to 35 U.S.C. §§ 311–319. Patent Owner, Samsung Electronics Co., Ltd., filed a Preliminary Response (Paper 7, “Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314, which provides that *inter partes* review may not be instituted unless “the information presented in the petition . . . and any [preliminary] response . . . 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.” 35 U.S.C. § 314(a).

Upon consideration of the arguments and evidence presented by Petitioner and Patent Owner, we are not persuaded that Petitioner has demonstrated, under 35 U.S.C. § 314(a), a reasonable likelihood that it would prevail in showing the unpatentability of any of claims 6–10 of the ’724 patent. Accordingly, we do not institute an *inter partes* review of any claim.

II. BACKGROUND

A. *Related Matters*

The parties identify the district court proceeding *Samsung Elecs. Co. v. NVIDIA Corp.*, Case No. 3:14-cv-00757-REP (E.D. Va.) as a related matter. Pet. 2; Paper 6, 2.

B. Evidence

Petitioner relies on the following prior art:

1. VIDEO ELECTRONICS STANDARDS ASSOCIATION, PLUG AND DISPLAY STANDARD (June 11, 1997) (“VESA P&D”) (Ex. 1005); and
2. VIDEO ELECTRONICS STANDARDS ASSOCIATION, FLAT PANEL DISPLAY INTERFACE -2 STANDARD (Feb. 14, 1998) (“VESA Flat Panel”) (Ex. 1006).

Petitioner also relies upon the Declaration of Joseph Lamm, dated June 1, 2015 (“the Lamm Declaration”) (Ex. 1003).

C. The Asserted Ground

Petitioner challenges claims 6–10 of the ’724 patent on the following ground:

References	Basis	Claims Challenged
VESA P&D and VESA Flat Panel	§ 103	6–10

III. ANALYSIS

A. Claim Construction

In an *inter partes* review, the Board interprets claims using the “broadest reasonable construction in light of the specification of the patent in which [they] appear[.]” 37 C.F.R. § 42.100(b); *In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1277–79 (Fed. Cir. 2015). Under the broadest reasonable interpretation standard, claim terms are given their ordinary and customary meaning in view of the specification, as would be understood by one of ordinary skill in the art at the time of the invention. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). “In determining the meaning of the disputed claim limitation, we look principally to the intrinsic

evidence of record, examining the claim language itself, the written description, and the prosecution history, if in evidence.” *DePuy Spine, Inc. v. Medtronic Sofamor Danek, Inc.*, 469 F.3d 1005, 1014 (Fed. Cir. 2006) (citing *Phillips v. AWH Corp.*, 415 F.3d 1303, 1312–17 (Fed. Cir. 2005) (en banc)).

We construe only those claim terms in controversy, and we do so only to the extent necessary to resolve the controversy. *See Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999). On the present record, no claim term requires an express construction.

*B. Determination of Whether the Asserted
References Are Printed Publications*

The dispositive issue in this proceeding is whether Petitioner has made a sufficient showing with regard to whether VESA P&D and VESA Flat Panel, on which Petitioner’s single asserted ground of unpatentability relies, are printed publications within the meaning of 35 U.S.C. § 102(b).

We look to the underlying facts and circumstances surrounding the disclosure of a document to members of the public in order to make a legal determination as to whether a document is a printed publication. *Suffolk Techs., LLC v. AOL Inc.*, 752 F.3d 1358, 1364 (Fed. Cir. 2014); *SRI Int’l, Inc. v. Internet Sec. Sys., Inc.*, 511 F.3d 1186, 1192 (Fed. Cir. 2008); *In re Klopfenstein*, 380 F.3d 1345, 1350 (Fed. Cir. 2004). Public accessibility is a key question in determining whether a document is a printed publication and is determined on a case-by-case basis. *Suffolk Techs.*, 752 F.3d at 1364. To qualify as a printed publication, a document “must have been sufficiently accessible to the public interested in the art.” *In re Lister*, 583 F.3d 1307, 1311 (Fed. Cir. 2009).

Petitioner argues that VESA P&D “was published on June 11, 1997” and is “prior art to the ’724 patent under 35 U.S.C. § 102(b) because [it] was published more than one year before the application that led to the ’724 patent was filed.” Pet. 13–14. Although the Petition does not cite to the Lamm Declaration regarding this point, we note that Mr. Lamm testifies that VESA P&D “was published on June 11, 1997” and is “prior art to the ’724 patent under 35 U.S.C. § 102(b).” Ex. 1003 ¶ 57.

In addition, Petitioner argues that VESA Flat Panel “was published on February 14, 1998” and is “prior art to the ’724 patent under 35 U.S.C. § 102(b) because [it] was published more than one year before the application that led to the ’724 patent was filed.” Pet. 21–22. Mr. Lamm testifies that VESA Flat Panel “was published on February 14, 1998” and is “prior art to the ’724 patent under 35 U.S.C. § 102(b)” (Ex. 1003 ¶ 74), although the Petition again fails to cite to the Lamm Declaration regarding this point.

Neither Mr. Lamm nor Petitioner explains the basis for concluding that the VESA documents were published on the respective asserted dates. We note, however, that the cover page of VESA P&D includes the following information:

Version 1
Revision 0
Revision Date : June 11th, 1997

Ex. 1005, 1. The cover page of VESA Flat Panel includes this information:

Version: 1
February 14, 1998

Ex. 1006, 1. Mr. Lamm apparently relies on this information as the basis for asserting that the VESA documents were published on the respective asserted dates. Because it appears to be based on this information only, we do not find Mr. Lamm's testimony sufficiently persuasive.

Patent Owner argues that Petitioner fails to show that VESA P&D and VESA Flat Panel are printed publications. Prelim. Resp. 2. In particular, Patent Owner argues that:

Petitioner merely alleges that VESA P&D (Ex. 1005) "published on June 11, 1997." (Pet. at 3, 13) Petitioner similarly alleges that VESA Flat Panel (Ex. 1006) "published on February 14, 1998." (Pet. at 3, 21) Petitioner's naked assertions are, however, insufficient to overcome *Petitioner's* burden of proving that the VESA references are printed publications.

Id. at 4.

Patent Owner further argues that "the Petition provides no explanation why the VESA references were 'sufficiently accessible to the public interested in the art' as of their alleged publication dates" and "[t]he date found on the first page of each VESA reference cannot and does not relieve Petitioner of its burden of explaining in the Petition why the VESA references were 'sufficiently accessible to the public interested in the art' as of those dates." *Id.* at 4–5. Patent Owner also asserts that Petitioner "has not provided any evidence as to (1) whether the VESA references were made available to members of the public; or (2) how members of the public would have known about the VESA references." *Id.* at 6.

We find Patent Owner's arguments persuasive. Petitioner does not explain adequately whether or how the VESA documents were made "sufficiently accessible to the public interested in the art." *Lister*, 583 F.3d

at 1311. Instead, Petitioner merely asserts that “VESA is a well-known standards setting organization that promulgates standards relating to video in electronics.” Pet. 14 (citing Ex. 1003 ¶ 58); *id.* at 22 (citing Ex. 1003 ¶ 75). As such, we determine that Petitioner has not made a sufficient showing that the VESA documents are printed publications under § 102(b). *See Lister*, 583 F.3d at 1317 (burden is on the proponent to show the purported reference was publicly available).

Therefore, based on the record before us, we conclude Petitioner has not made a sufficient showing that either VESA P&D or VESA Flat Panel may be relied upon as prior art with respect to claims 6–10 of the ’724 patent.

C. Conclusion

For the foregoing reasons, we determine that Petitioner has not demonstrated a reasonable likelihood that it would prevail with respect to at least one of the claims challenged in the Petition. We do not institute an *inter partes* review of any claim of the ’724 patent.

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is *denied*, and that we do not institute an *inter partes* review of any claim of the ’724 patent.

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