

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TOSHIBA CORPORATION, FUNAI ELECTRIC CO., LTD., and  
SAMSUNG DISPLAY CO., LTD.,  
Petitioner,

v.

GOLD CHARM LIMITED,  
Patent Owner.

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Case IPR2015-01479  
Patent 6,417,833 B1

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Before MICHAEL R. ZECHER, BRYAN F. MOORE, and  
CHARLES J. BOUDREAU, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

DECISION  
Denying Petitioner's Request for Rehearing  
*37 C.F.R. § 42.71(d)*

## I. INTRODUCTION

Toshiba Corporation, Funai Electric Co., Ltd., and Samsung Display Co., Ltd. (collectively, “Petitioner”) filed a Request for Rehearing (Paper 12, “Req. Reh’g”), requesting rehearing of our determination not to institute an *inter partes* review of claims 1–8 and 16 of U.S. Patent No. 6,417,833 B1 (Ex. 1001, “the ’833 patent”) as obvious over U.S. Patent No. 5,325,024 (Ex. 1003, “GTE”). For the reasons set forth below, Petitioner’s Request for Rehearing is denied.

## II. BACKGROUND

In its Petition (Paper 1, “Pet.”), Petitioner challenged the patentability of claims 1–8 and 16 of the ’833 patent on the following grounds:

| Reference           | Basis           | Claims Challenged    |
|---------------------|-----------------|----------------------|
| GTE                 | 35 U.S.C. § 102 | 1–8 and 16           |
| GTE                 | 35 U.S.C. § 103 | 1–8 and 16           |
| Tanaka <sup>1</sup> | 35 U.S.C. § 102 | 2 and 6              |
| Zhang <sup>2</sup>  | 35 U.S.C. § 102 | 1, 3–5, 7, 8, and 16 |
| FPD <sup>3</sup>    | 35 U.S.C. § 102 | 1–8 and 16           |

Pet. 4–5. In our Decision Denying Institution of *Inter Partes* Review (Paper 11, “Dec.”), we concluded that Petitioner did not establish a reasonable likelihood that it would prevail at trial based on any grounds presented in the Petition, and we, accordingly, denied the Petition as to all challenged claims. Dec. 33. With respect specifically to Petitioner’s

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<sup>1</sup> Japanese Laid-Open Patent Application No. H11-003039 A (Ex. 1004).

<sup>2</sup> U.S. Patent No. 5,387,921 (Ex. 1005).

<sup>3</sup> Patent Cooperation Treaty Application No. WO 98/12470 (Ex. 1006).

challenge of claims 1–8 and 16 as obvious over GTE, we found that Petitioner had not presented sufficient evidence to support a finding that GTE teaches or suggests “a first backlight” and “a second backlight,” as recited in both of challenged independent claims 1 and 16. Dec. 18–20.

### III. DISCUSSION

When considering a request for rehearing, we review the Decision for an abuse of discretion. 37 C.F.R. § 42.71(c). The party requesting rehearing bears the burden of showing that the Decision should be modified, and “[t]he request must specifically identify all matters the party believes [we] misapprehended or overlooked.” 37 C.F.R. § 42.71(d).

In the Request for Rehearing, Petitioner contends that we misapprehended or overlooked evidence demonstrating that GTE’s illumination unit was suitable for use as a liquid crystal display (“LCD”) backlight, namely, U.S. Patent No. 6,094,015 (Ex. 1016, “Philips”), and the Petition’s discussion of the same. Req. Reh’g 1. According to Petitioner, “the Philips Patent is evidence that persons of ordinary skill in the art recognized that GTE’s illumination unit was suitable for use as an LCD backlight,” and “the Petition, including the analysis of the Philips Patent, establishes a *prima facie* case of obviousness and a reasonable likelihood that Petitioners will prevail on the merits.” *Id.* at 1–2.

Contrary to Petitioner’s assertions (*id.* at 2–4), we did not misapprehend or overlook any evidence supporting Petitioner’s position. We considered thoroughly the evidence of record and arguments presented in the Petition concerning GTE, including not only Philips and the discussion thereof in the Petition (Pet. 39–42), but also, *inter alia*, the OSRAM Article (Ex. 1014), authored by GTE’s named inventors and

referenced by Philips (Ex. 1016, 1:21–33); the '833 patent's citation to Japanese Patent Laid-Open Publication No. 4-241320 (Ex. 1001, 1:19–20); U.S. Patent No. 5,333,073 (Ex. 1015, “the '073 patent”), cited in the Petition as evidence that “**multiple** fluorescent lamp configurations were commonly used as backlights for LCDs” (Pet. 37); the Petition's discussion of each of those references (*id.* at 36–39); and the Declaration of Aris Silzars, Ph.D. (Ex. 1002). However, we found the proffered evidence and arguments insufficiently persuasive to establish a reasonable likelihood that Petitioner would prevail in challenging any of claims 1–8 and 16 as obvious over GTE.

Philips generally relates to illumination units and to LCD devices comprising illumination units. Ex. 1016, 1:5–20. Although, as Petitioner points out (Pet. 41; Req. Reh'g 5–6), Philips cites GTE as “describ[ing] an illumination unit” and discusses certain advantages of the “high frequency supply” described by GTE (Ex. 1016, 1:60–2:4), we find that the cited disclosure in Philips amounts to insufficient evidence that a person of ordinary skill in the art would have understood GTE to describe an illumination unit *that would be suitable for use as a backlight for an LCD device*. As we explained in our Decision Denying Institution, GTE explicitly states that its lamp tubes are mounted side-by-side and parallel in a circular arrangement around a central axis, and we cannot discern how lamp tubes mounted in such an arrangement could be employed as an LCD backlight. Dec. 17–18. Philips' discussion of GTE does not provide any guidance in that regard, and Petitioner's contentions to the contrary in the Request for Rehearing are not persuasive. Req. Reh'g 9–11. We disagree, in particular, with Petitioner's assertion that “as a matter of common sense, the circular arrangements disclosed in GTE would provide illumination

around the entire circumference of the arrangement much like a single lamp tube would provide illumination around its entire circumference.” *Id.* at 10. Regardless whether Petitioner envisions GTE’s circular apparatus being mounted with its central axis parallel with, or perpendicular to, the plane of the LCD, Petitioner has not presented sufficient evidence to show how such an apparatus could, for example, provide the sort of “highly uniform light over the entire back surface of the liquid crystal panel” that Petitioner’s declarant Dr. Silzars states to be an objective of an LCD backlight unit. Ex. 1002 ¶ 24. In any event, it is not an abuse of discretion to have performed an analysis or reached a conclusion with which Petitioner disagrees, and mere disagreement with our analysis or conclusion is not a proper basis for rehearing.

Petitioner is correct that the Petition additionally pointed out that Philips also cites the OSRAM Article and states that illumination units such as those disclosed therein “are widely used as a backlight in liquid crystal display devices.” Req. Reh’g 5 (emphasis omitted) (citing Pet. 40 (quoting Ex. 1016, 1:32–33)). As we explained in our Decision Denying Institution, however, “[e]ven if the fluorescent lamps disclosed by GTE have the same dimensions, gas, gas pressure, and driving method as the [subminiature fluorescent lamps] addressed by the OSRAM Article, Petitioner does not explain adequately how GTE’s disclosed configuration of fluorescent tubes would be suitable for implementation in LCD backlights.” Dec. 19–20. Accordingly, Philips’ statement that the illumination units disclosed by the OSRAM Article are widely used as LCD backlights does not persuade us that it would have been obvious to implement the teachings of GTE in LCD backlights.

#### IV. CONCLUSION

For the reasons given, Petitioner has not shown that our determination not to institute an *inter partes* review of claims 1–8 and 16 of the '833 patent as obvious over GTE constituted an abuse of discretion.

#### V. ORDER

Accordingly, it is hereby ORDERED that Petitioner's Request for Rehearing is *denied*.

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For PETITIONER:

Clinton L. Conner  
Adam Floyd  
Paul T. Meiklejohn  
DORSEY & WHITNEY LLP  
conner.clint@dorsey.com  
floyd.adam@dorsey.com  
meiklejohn.paul@dorsey.com  
833ToshibaIPR@dorsey.com

Jay I. Alexander  
Andrea G. Reister  
COVINGTON & BURLING LLP  
jalexander@cov.com  
areister@cov.com

Marc R. Labgold  
Steven B. Kelber  
THE LAW OFFICES OF MARC R. LABGOLD, P.C.  
mlabgold@labgoldlaw.com  
skelber@labgoldlaw.com

For PATENT OWNER:

Aaron R. Ettelman  
Jeffrey W. Gluck  
John D. Simmons  
Frederick A Tecce  
Clark A. Jablon  
Dennis J. Butler  
Stephen E. Murray  
PANITCH SCHWARZE BELISARIO & NADEL LLP  
aettelman@panitchlaw.com  
jgluck@panitchlaw.com  
jsimmons@panitchlaw.com  
ftecce@panitchlaw.com  
cjablon@panitchlaw.com  
dbutler@panitchlaw.com  
smurray@panitchlaw.com