

PUBLIC VERSION

**UNITED STATES INTERNATIONAL TRADE COMMISSION
WASHINGTON, D.C.**

**Before The Honorable Monica Bhattacharyya
Administrative Law Judge**

In the Matter of

**CERTAIN OUTDOOR AND SEMI-
OUTDOOR ELECTRONIC
DISPLAYS, PRODUCTS
CONTAINING SAME, AND
COMPONENTS THEREOF**

Inv. No. 337-TA-1331

RESPONDENTS' REPLY POST-HEARING BRIEF

B. Respondents Do Not Infringe the '322 Patent

1. The Mid-Sized Products Do Not Infringe the '322 Patent

a.

The Mid-Sized Products do not infringe claim 9 of the '322 patent at least because MRI failed to prove that any Mid-Sized Product includes “an electronic display comprising . . . a posterior surface where no electronics are mounted” as required by limitation 9[a]. As discussed in more detail below, nearly every argument in MRI’s Post-Hearing Brief regarding infringement of the '322 patent appears nowhere in MRI’s Pre-Hearing Brief. Nor did MRI present any evidence to support these arguments at the evidentiary hearing.⁵ Nevertheless, even if considered, MRI’s new arguments do not establish that that the Mid-Sized Products infringe claim 9.

[REDACTED] is “mounted” to the posterior surface of the Mid-Sized Products. According to MRI, [REDACTED], a POSITA would not consider it to be “mounted to the posterior surface.” *See, e.g.*, Compl. Br., 52. This argument fails for at least three reasons.

First, the '322 patent specification acknowledges that two components are mounted to each other even if mounting is accomplished with a bracket.⁶ Specifically, that “the constricted

⁵ For example, MRI characterizes the question of whether the Mid-Sized Products infringe as being a “claim construction dispute” (Compl. Br., 52) even though no party ever sought construction of the term. The issue presented here is a factual question relating to the test for infringement and not a legal inquiry into the appropriate meaning of the phrase “mounted to.” *See Lazare Kaplan Int’l*, 628 F.3d at 1376 (holding that the phrase “positional accuracy” does not require construction to determine infringement); *see also Union Carbide Chems. & Plastics Tech. Corp. v. Shell Oil Co.*, 425 F.3d 1366, 1377 (Fed. Cir. 2005) (holding that because the asserted claim did require a specific type of testing to satisfy the claim, evaluating infringement did not require claim construction), *overruled on other grounds by Cardiac Pacemakers, Inc. v. St. Jude Med., Inc.*, 576 F.3d 1348 (Fed. Cir. 2009).

⁶ MRI accuses Respondents of “attempt[ing] to narrow the claims” by arguing that two components do *not* need to be touching to be considered mounted to each other. Compl. Br., 53. This incredible statement is the *opposite* of the truth. It is MRI who seeks to limit the claim scope.

convection plate **30** may be attached to the display posterior **22** by the mounting brackets **20**.” JX-0002, 5:25-27 (discussing Figure 4); *see also id.*, 8:59-62 (describing that “front glass 108 [is] mounted in front of the display 10 . . . by spacers”). MRI dismisses statements like this by arguing, for the first time, that the bracket merely “attach[es]” or “secure[s]” components without “mount[ing]” them. *See* Compl. Br., 53. Of course, this argument ignores that the specification exclusively refers to element **20** as “mounting brackets.” *See, e.g.*, JX-0002, 4:39-49; 5:25-27; 5:35-37. Moreover, there is no expert testimony or other evidence that supports parsing the language in the way MRI now suggests for the first time. Indeed, Mr. Credelle reached the *opposite* conclusion:

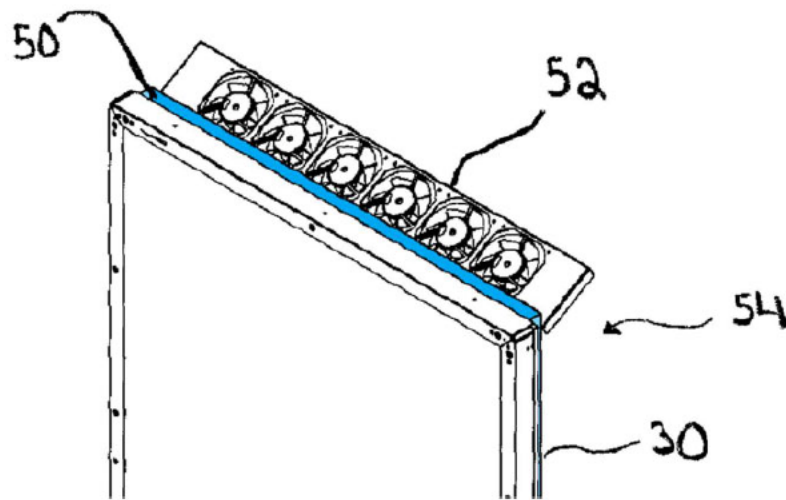
Q. So the specification of the '322 patent discloses that the constricted convection plate can be mounted to the posterior display surface using mounting brackets, right?

A. That’s what it says.

Tr. 419:16-20 (Credelle).

MRI next argues that its interpretation is supported by Figure 5A because “angled side panel portions [of the constricted convection plate] are directly attached to the display posterior” as supposedly shown in the image below.⁷ Compl. Br., 52-53.

⁷ MRI never made this argument in its Pre-Hearing Brief or at the hearing.



Compl. Br., 53 (citing JX-0002, Fig. 5A (annotated)). There is no evidence, however, to support MRI's claim that its annotation shows that the constricted convection plate is "directly attached" by "angled side portions." According to the specification, element 50 is a "constricted convection cooling channel," not an angled side panel. *See, e.g.,* JX-0002, 5:37-39. Moreover, the specification states that the "mounting brackets . . . secure the constricted convection plate." *Id.*, 5:35-37.

Second, as both Mr. Credelle and Mr. Dunn acknowledged, the plain meaning of the phrase "mounted to" includes components that are indirectly mounted to the display surface using components like a bracket. *See* Tr. 415:20-25 (Credelle); *see also* Tr. 79:22-24, 113:4-8 (Dunn discussing mounting brackets). And courts have reached the same conclusion. *See, e.g., Volterra Semiconductor Corp. v. Primarion, Inc.*, No. C-08-05129 JCS, 2010 WL 653452, at *29 (N.D. Cal. Feb. 22, 2010) (finding dictionary definitions support "that the term 'mounted on' does not require direct contact"); *Delta T LLC v. MacroAir Techs., Inc.*, No. EDCV 20-728-GW-JPRX, 2021 WL 3721455, at *20 (C.D. Cal. Mar. 29, 2021) ("'mounted' includes both direct and indirect attachment"); *see also* Resp. Br., 39.

[REDACTED]

Third, Respondents' reading is also consistent with the alleged purpose of the claim. According to Mr. Credelle, the benefit achieved by the system described by claim 9 is that heat generated by the electronics is not passed to the display. Tr. 338:11-22 (Credelle). [REDACTED]

[REDACTED] (Compl. Br., 52), [REDACTED]

[REDACTED]

[REDACTED]:

[REDACTED]

[REDACTED]

[REDACTED]. Thus, the alleged benefits achieved by the invention are not achieved in the Mid-Sized Products under MRI's interpretation.

Next, MRI resorts to cherry-picked prior art references (Kim, Kimura, Kochiyama) to support its narrow infringement theory. *See* Compl. Br., 53-56. While MRI alleges that these references are part of the "intrinsic record" (*Id.*, 53), this is not true. None of these references is listed on the face of the patent or is referenced in the prosecution history.⁸ In any event, there is no dispute that Kim discloses a system where electronics *are* mounted to the rear surface of the display.

⁸ Mr. Credelle likewise conceded that at least the Kim reference was not cited by the applicant or Examiner during prosecution. Tr. 418:3-19 (Credelle).

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CERTIFICATE OF COMPLIANCE

I certify that this responsive post-hearing brief complies with the ALJ's word count allowance of 27,000 words for responsive post-hearing briefs. Order No. 35 (EDIS Doc. ID 799923) ("responsive post-hearing briefs shall not exceed 27,000 words"). This responsive brief contains 26,644 words, according to the parties' agreement that the word count shall include all words from the introduction to the end of any conclusion.

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Dated: July 31, 2023

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