

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD., and  
SAMSUNG ELECTRONICS AMERICA, INC.,  
Petitioner

v.

POLARIS POWERLED TECHNOLOGIES, LTD.,  
Patent Owner

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Case IPR2023-00484  
U.S. Patent No. 8,217,887

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**PATENT OWNER'S SUR-REPLY TO PETITIONER'S REPLY TO  
PATENT OWNER'S PRELIMINARY RESPONSE**

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Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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Petitioner's Reply fails to rehabilitate Dr. Hatalis's conclusory testimony.

**I. DR. HATALIS'S OPINIONS ON KEY ISSUES ARE CONCLUSORY.**

Petitioner's assertion that Patent Owner misapplied the Board's decision in *Xerox* mischaracterizes Patent Owner's arguments and misses the point. Reply, 4-5. It's the conclusory nature of Petitioner's and Dr. Hatalis's obviousness analysis that doom the Petition, not merely that one repeats the other. As the POPR explains, neither a petitioner's conclusory statements nor an expert's conclusory testimony is adequate to support an obviousness analysis. POPR, 7 (citing *In re Magnum Oil Tools Int'l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016) and *TQ Delta, LLC v. Cisco Systems, Inc.*, 942 F.3d 1352, 1359 (Fed. Cir. 2019)). That Dr. Hatalis's declaration repeats the Petition on key issues, or *vice versa*, is merely the symptom of the underlying ailment: fundamentally flawed and conclusory arguments.

For each Ground, Patent Owner identified conclusory arguments and testimony that doom the Petition. Regarding the claimed "plurality of strings" of LEDs, for example, Patent Owner explained that Petitioner's Seo-based combinations fail to teach or suggest elements 1[A], 13[Ci], and 17[A], and identified conclusory arguments and testimony that form the basis of Petitioner's challenges. POPR, 8-27.

In Ground 1, Petitioner alleged that Seo teaches or suggests the claimed "plurality of strings" of LEDs. Pet., 23-24. The basis of Petitioner's argument that Seo teaches the claimed "strings" is that Figure 1 of Seo purportedly shows that

“Seo’s multi-LED light sources in each zone (L0 through L3) are coupled to a power supply on one end (controlled by signals p0 to p3) and *to ground on the other end*,” which Dr. Hatalis repeats verbatim in ¶82. Pet., 23 (emphasis added); EX1002, ¶82. But, as Patent Owner explained, Figure 1 of Seo does not show LEDs connected to ground, and Dr. Hatalis does not provide any additional facts or explanation to support this conclusory (and incorrect) position. POPR, 12.

Similarly, the basis for Petitioner’s argument that Seo suggests the claimed “strings” is that “having a string of series LED’s [sic] was” allegedly “the common way to implement multiple LEDs in display panels at the time,” Pet., 23-24, which Dr. Hatalis repeats *verbatim*, EX1002, ¶82. But, again, Dr. Hatalis does not provide any additional facts or explanation to support this position, other than an unexplained citation to Figure 4 of EX1014, which shows a “[m]ultioutput flyback converter with an active-clamp circuit.” EX1002, ¶82. Dr. Hatalis’s only additional testimony at the end of ¶82 (which is not in the Petition) is directed to using more than two LEDs in a string, which is not relevant based on the claim language. *See* EX2005, 62-65 (redline between Petition and Hatalis ¶82).

In its Reply, Petitioner does not rebut Patent Owner’s arguments that Dr. Hatalis’s testimony in ¶82 is conclusory. *See* Reply, 5.

In Grounds 2-4, Petitioner alleged that it would have been obvious to combine Seo with Fung to achieve the claimed “strings.” Pet., 24-25, 50-51. Patent

Owner countered that Seo and Fung disclose fundamentally different types of backlights, and that the motivation to combine that Petitioner and Dr. Hatalis proffered is generic and fails to account for the references' fundamentally different backlight structures. POPR, 15-21. In particular, Petitioner and Dr. Hatalis advanced the same, generic motivation-to-combine argument: that a POSITA would have combined Fung to Seo "to 'provide greater control, longer life, and uniformity of light output'<sup>[1]</sup> and 'greater control over LED brightness.'" Pet., 17-18; EX1002, ¶74. Again, Dr. Hatalis did not provide any additional facts or explanation to support his position, such as the contemplated workings of the proposed combination, which is a fatal defect given the fundamental differences between the structures that he proposed combining. *See* EX1002, ¶74; POPR, 19-21.

Petitioner argues that in ¶74 "Dr. Hatalis provided a half-page of additional explanation including a cite to another contemporaneous, supporting reference, Ex-1025 (2006 article)." Reply, 5. But the "additional explanation" is directed to using more than two LEDs in a string, not to why and how a POSITA would have combined Seo and Fung. *See* EX2005, 49. As Patent Owner argued, Dr. Hatalis's testimony repeats the *salient* points of Petitioner's motivation arguments. POPR, 21.

In Ground 5, Petitioner alleged that the combination of Seo and Honbo ren-

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<sup>1</sup> Fung attributes these benefits to LEDs in general, not to "strings." POPR, 20.

ders obvious the claimed “strings,” Pet., 62-64, 66-67, alleging that a “POSITA would have understood that Honbo’s LED block 1A-4D includes strings associated with backlight 16a in a LCD device.” Pet., 63. Dr. Hatalis repeats this conclusory argument verbatim without explaining why or how a POSITA would have formed this opinion about Honbo’s LED block. *See* POPR, 24-25 (discussing EX1002, ¶¶146-150). Petitioner does not address these shortcomings in its Reply.

Indeed, Petitioner’s Reply arguments only serve to highlight the conclusory nature of Dr. Hatalis’s opinions on key issues. Despite having the opportunity to rehabilitate its position, Petitioner’s Reply includes only a superficial discussion of this issue and does not address most of the paragraphs of Dr. Hatalis’s declaration that Patent Owner challenged in the POPR (as discussed above). Reply, 4-5. Specifically, Petitioner points to ¶¶74, 105, 112, and 203 as allegedly showing that Dr. Hatalis’s opinions are “supported by evidence and analysis.” *Id.* But, again, the key testimony in ¶74 that relates to the alleged motivation to combine Seo and Fung merely repeats the conclusory assertions in the Petition. And ¶¶105, 112, and 203 address elements and dependent claims that Patent Owner did not even raise in the POPR. EX1002, ¶¶105 (elements 1[Dii] and 13[A]), 112 (claim 5), 203 (claim 12).

In sum, Patent Owner did not argue that the Petition and Hatalis Declaration are exactly the same; but rather that the Petition and Dr. Hatalis’s opinions advance the same unsupported and conclusory arguments on key issues. Under prevailing

Federal Circuit and Board case law, such arguments are not sufficient to support an obviousness analysis, and thus the Board should not credit these arguments.

## **II. THE ERRORS IN THE PETITION AND DECLARATION UNDERMINE THE CREDIBILITY OF PETITIONER’S CHALLENGE.**

Petitioner mischaracterizes Patent Owner’s arguments about the level of skill in the art as “plac[ing] form over substance.” Reply, 1. Correctly resolving the level of skill in the art is a *Graham* factor, and Petitioner concedes it and Dr. Hatalis erred in their analysis. Reply, 1-2. Petitioner spends much of its Reply arguing that it was not required to even address this *Graham* factor. But the cases it cites does not support this position. For example, *Okajima v. Bourdeau* found “no harm” in “the Board’s failure” to expressly address the issue. 261 F.3d 1350, 1355 (Fed. Cir. 2001). But, here, the burden is squarely on Petitioner, not the Board.

In any event, Petitioner now conveniently adopts Patent Owner’s level of skill to allegedly “help resolve this dispute.” Reply, 4. But that is beside the point. Patent Owner did not argue that Petitioner’s challenge rises or falls based on Petitioner’s and Dr. Hatalis’s admittedly incorrect POSITA definition. Rather, the fact neither Dr. Hatalis nor Petitioner noticed that *both* documents copied the same, incorrect argument on such an important issue demonstrates the level of care and quality of Petitioner’s challenge. Paired with shared conclusory arguments and testimony discussed above and the shared errors discussed in the POPR, Petitioner’s challenge is inaccurate, not credible, and should be denied.

Respectfully submitted,

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Date: June 15, 2023

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the foregoing **PATENT OWNER'S  
SUR-REPLY TO PETITIONER'S REPLY TO PATENT OWNER'S  
PRELIMINARY RESPONSE** was served electronically via e-mail on June 15,  
2023, in its entirety on the following counsel of record for Petitioner:

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