

The Reply Maintains that Kimura [0658] Supports its Position

“provided that it is a location at which electric current supplied to the EL device can be cut off at an arbitrary timing” simply means that the only restriction on the placement at “any location” of the “erasure transistor” is that it cannot be placed at a location where it would *prevent* the cutting-off of the flow of current to the emitter (via the actions of the other parts the circuitry). This actually makes sense – since

[0666] A TFT 3612 is therefore added as shown in FIG. 36A. Electric current flowing in the TFT 3609 during input of the image signal flows through the TFT 3612 and to an electric power source line 3617. An electric current path to the EL device 3615 is cut off by a TFT 3611, and therefore the EL device 3615 does not emit light. Light emission by the EL device during unnecessary periods can thus be prevented by using this type of structure.

PO is Wrong that “Erasure” and “Initialization” Do Not Overlap

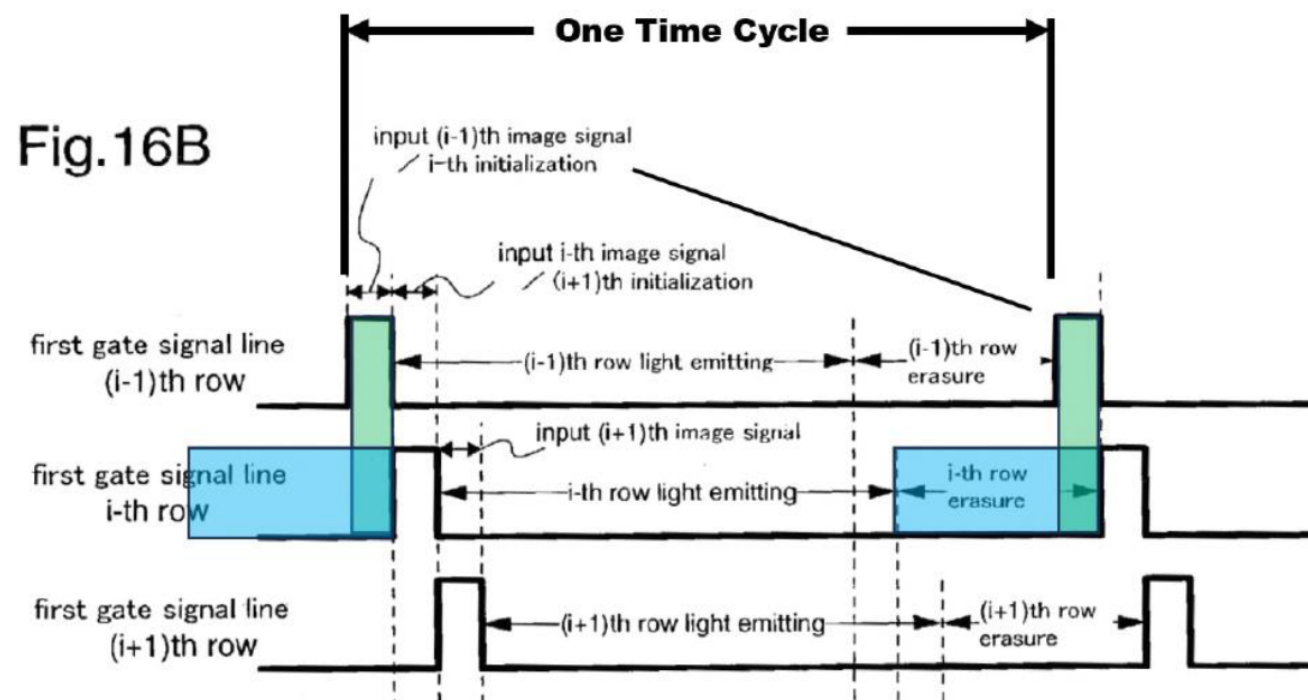


Table Of Contents

Background / Intro

All-PMOS

Shared Light Signal

Initialization/Reset TFT

Secondary Considerations

POSITA Issues

CITE

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-91

Patent Owner's Alleged Evidence Lacks Nexus to the '599 Patent



“For objective evidence of secondary considerations to be relevant, there must be a nexus between the merits of the claimed invention and the objective evidence.”

Volvo Penta of the Ams., LLC v. Brunswick Corp., 81 F.4th 1202, 1210 (Fed. Cir. 2023)

- Patent Owner does not argue presumption of nexus. POR (Paper 33) at 62-63.
- Patent Owner's alleged feature-based nexus fails to bridge the gap. *Id.*, 63-64.
- No evidence of nexus related to “the invention as a whole” and commensurate with claim scope. *Id.*, 62-65.

CITE

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-92

Dr. Wolfe Admits Vth Compensation was Known



9 Q Did the '599 patent invent a diode
10 connected transistor configuration, or was that
11 configuration known in the prior art?

12 **A It was known in the prior art.**

- Patent Owner does not dispute that Kimura's pixel circuit self-compensates threshold-voltage deviations and thus outputs uniform brightness. *See generally* POR, EX2008 (Wolfe Dec.).

Display Uniformity Lacks Nexus to the '599 Patent



“[C]ase law makes clear that ‘objective evidence of nonobviousness lacks a nexus if it exclusively relates to a feature that was “known in the prior art”’—not necessarily well-known.”

Yita LLC v. MacNeil IP LLC, 69 F.4th 1356, 1364 (Fed. Cir. 2023)

CITE

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-94

Aperture Ratio Lacks Nexus to the '599 Patent

- Aperture ratio is not a benefit recognized by the '599 patent. Reply (Paper 41), 31.
- Kimura discloses **shared scan signal**. Kimura Fig. 34B, ¶¶ [0429], [0421-0422].
- Patent Owner argued that unrelated patents on **pixel layout** enable the improvement in aperture ratio. IPR2023-00987, Paper 19 at 72-74; IPR2023-00988, Paper 18 at 68-71; IPR2023-00988, Paper 18 at 68- 71.
- Patent Owner's publication attributed aperture ratio to “design rule in **LTPS TFT fabrication process**” rather than the pixel circuit that Patent Owner asserts to embody the alleged invention. Ex. 2015 at 3; POR at 52-53.

No Evidence of Nexus Related to “the Invention as a Whole”

- Evidence does not even mention pixel circuit. *See* EX2009, 2016, 2017, 2023
- Evidence does not mention existing solution to long-felt need. *See* EX2010
- Recognition of inventors is based on lifetime achievements. *See* EX2021-23
- Alleged copying is not based on reliable testimony. *See* Reply (Paper 41), 34-35; EX1029 (Foty Dec.) ¶¶110-111
- Kimura discloses both (1) Vth compensation; and (2) shared control signals for improved aperture ratio *See* Reply (Paper 41), 30-32 (citing Kimura (EX1002), Fig. 33/36 (Vth compensation), Fig. 34B (shared control signal))

Evidence Does Not Support Alleged Wide-Spread Copying



10 Q Is MobileSentrix a display manufacturer?

11 A **My understanding is that they sell the**
12 **display. I don't know if they manufacture it**
13 **themselves. I would doubt it.**

14 Q Do you know if MobileSentrix designs
15 their own pixel circuit?

16 A **I don't.**

17 Q Do you know if Mengtor manufactures
18 display?

19 A **I don't know.**

20 Q Do you know if Mengtor designs displays?

21 A **I don't know. I assume, again, you're**
22 **asking about pixel circuits. I don't know.**

1 Q Does Phone LCD Parts manufacture
2 displays?

3 A **From scratch, I don't know.**

4 Q Does Phone LCD Parts design their own
5 displays.

6 A **I don't know.**

7 Q Does Mobile Defenders manufacture its own
8 displays?

9 A **I don't know.**

10 Q Does Mobile Defenders design its own
11 displays?

12 A **I don't know.**

13 Q Does Injured Gadgets manufacture its own
14 displays?

15 A **I don't know.**

16 Q Does Injured Gadgets -- oh, forget it.
17 I've already asked. I'll just move on.

18 Does Gadgetfix manufacture its only
19 displays?

20 A **I don't know.**

21 Q Does Gadgetfix design its own displays?

22 A **I don't know.**

1 Q Does Group Vertical manufacture its own
2 displays?

3 A **I don't know.**

4 Q Does Group Vertical design its own
5 displays?

6 A **I don't know.**

7 Q Would your answers be the same for the
8 rest of the entities listed in Paragraph 161 of your
9 report?

10 A **Yes.**

Evidence Does Not Support Alleged Wide-Spread Copying



7 Q But none of the -- we just went through
8 the litany of companies, and you didn't know if any
9 of those were display manufacturers, correct?

10 A Well, they manufacture -- well, it
11 probably would have been more accurate to say display
12 distributors. It is possible that these are all
13 sourced from a small number or even a single
14 manufacturer, but they are all distinct designs or
15 many of them are distinct designs.

Evidence Does Not Support Alleged Copying by BOE



12 Q Who prepared the Mianyang BOE AMOLED
13 image that you relied on?

14 A **I don't know. It was represented to me**
15 **that it was from the prior case, and it was an**
16 **accurate image of the product, and based on that**
17 **assumption, I analyzed it.**

18 Q Who did you rely on for that
19 representation?

20 A **Was that one of the ones from**
21 **Mr. Silzars? I don't recall. It could have been in**
22 **a prior complaint.**

1 Q And I'll represent to you that Exhibit
2 2047 that you cite is a District Court complaint. Do
3 you know who prepared the District Court complaint
4 that you relied on?

5 A **It's signed by a couple of attorneys,**
6 **but, no, I don't know who prepared it.**

Table Of Contents

Background / Intro

All-PMOS

Shared Light Signal

Initialization/Reset TFT

Secondary Considerations

POSITA Issues

CITE

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-100

The POSITA Issues

- **The Parties briefing discusses the *definition* of a POSITA**
 - But the POR did not challenge Dr. Foty's *qualifications* as a POSITA
- **Petitioner's Motion to Strike (Paper 46, 47, 50)**
 - Seeks to strike new sur-reply argument that Dr. Foty is not a POSITA
- **PO's Motion to Exclude (Paper 58, 60)**
 - Seeks to exclude all Dr. Foty's testimony
- **Both motions are moot if the Board adopts Petitioner's definition**
 - PO does not dispute Dr. Foty's qualifications under Petitioner's definition

Petitioner's Level of Skill in the Art

D. Level of Ordinary Skill in the Art

A person of ordinary skill in the art (“POSITA”) in the technology field of the ’599 patent would have had a Bachelor’s degree in electrical engineering or similar discipline, along with 2-3 years of circuit design/analysis experience. *See* EX1003, ¶31. Lack of work experience can be remedied by additional education, and vice versa. *Id.*

Petitioner's Level of Skill in the Art (Dr. Foty)

31. The challenged patent pertains generally to the field of OLED displays, and more particularly to the circuitry used to drive and control the pixels that comprise the light-generating elements of the display – though, as will be discussed below (in Section XII.1), circuitry of this type could be used in other applications to provide the same cited benefits. A person of ordinary skill in the art (“POSITA”) in the technology field of the ’599 patent at the time of the alleged invention would have had a Bachelor’s degree in electrical engineering or a similar discipline, along with 2-3 years of circuit design/analysis experience. A Master’s or Ph.D. degree in a relevant field may substitute for some work experience and vice versa. I was at

Petitioner's Level of Skill in the Art

Dr. Foty expressly stated the '599 patent “pertains generally to the field of OLED displays, and more particularly to the circuitry used to drive and control the pixels that comprise the light-generating elements of the display,” and a POSITA would thus have “2-3 years of circuit design/analysis experience.” EX1003, ¶31.

Plainly, this refers to circuit design/analysis experience relevant to the type of circuitry (*e.g.*, mixed-signal analog/digital circuits) used in OLED displays.

Petitioner's Level of Skill in the Art (Dr. Foty)

11. In my Original Declaration, I proposed a qualification for a POSITA based on the '599 patent. EX1003, ¶31. The '599 patent describes a pixel circuit based on field effect transistors (FETs) that drives a light emitting element (with a drive transistor operating as an analog component and the other transistors operating as digital switches). A POSITA should be familiar with the functionalities of FETs, the design and analysis of analog and digital circuits comprised of FETs, and the operational behavior of light emitting devices (such as LEDs) in the context of pixel circuits of a display. Accordingly, I proposed a qualification of “a Bachelor’s degree in electrical engineering or a similar discipline, along with 2-3 years of circuit design/analysis experience. A Master’s or Ph.D. degree in a relevant field may substitute for some work experience and vice versa.” *Id.*

No Dispute at the POPR Stage

For purposes of this Preliminary Response, however, Patent Owner does not believe it necessary to dispute the level of ordinary skill in the art.

Institution Decision

At this preliminary stage and on this record, we adopt Petitioner's statement of the level of ordinary skill in the art. It is supported by the testimony of Dr. Foty and not disputed by Patent Owner. Further, it appears consistent with what is reflected by the content of the applied prior art references. *Cf. Okajima v. Bourdeau*, 261 F.3d 1350, 1354–55 (Fed. Cir. 2001) (the applied prior art may reflect an appropriate level of skill).

PO's Level of Skill in the Art

III. Level of Ordinary Skill in the Art

Patent Owner proposes that a POSITA with regard to the '599 Patent would have had a relevant technical degree in Electrical Engineering, Computer Engineering, Materials Science, Physics, or the like, and experience in active matrix display design and electroluminescence. *See* Ex. 2008, ¶¶45–49.

Petitioner's Level of Skill in the Art (Mr. Credelle)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MIANYANG BOE OPTOELECTRONICS TECHNOLOGY CO., LTD.; WUHAN
CHINA STAR OPTOELECTRONICS SEMICONDUCTOR DISPLAY
TECHNOLOGY CO., LTD.; TIANMA MICROELECTRONICS CO., LTD.; AND
VISIONOX TECHNOLOGY, INC.
Petitioner.

v.

SAMSUNG DISPLAY CO., LTD.
Patent Owner.

Case No. IPR2023-00941
U.S. Patent No. 7,414,599

DECLARATION OF MR. THOMAS L. CREDELLE

- Tom Credelle
- Extensive display experience
 - “[I]n charge of all active-matrix LCD research” at RCA (1970-1986)
 - “Manager of TFT LCD Research and Development at the GE Research and Development Center” (1986-1991)
 - “Manager of Display Engineering” at Apple (1991-1994)
 - “Director of Product Marketing for Motorola’s Flat Panel Display Division” (1996-1999)
 - “[H]eavily involved with the design of the active-matrix array and the LCD/OLED pixel circuit and driving circuitry” at Clairvoyante (2001-2007)

Petitioner's Level of Skill in the Art (Mr. Credelle)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MIANYANG BOE OPTOELECTRONICS TECHNOLOGY CO., LTD.; WUHAN
CHINA STAR OPTOELECTRONICS SEMICONDUCTOR DISPLAY
TECHNOLOGY CO., LTD.; TIANMA MICROELECTRONICS CO., LTD.; AND
VISIONOX TECHNOLOGY, INC.
Petitioner.

v.

SAMSUNG DISPLAY CO., LTD.
Patent Owner

Case No. IPR2023-00941
U.S. Patent No. 7,414,599

DECLARATION OF MR. THOMAS L. CREDELLE

32. Experience in active-matrix display design is not necessary to understanding the '599 patent. While set in the context of OLED displays, the '599 patent and the relevant prior art are directed to transistor circuits, which were quite simple and well known at the priority date of the '599 patent (which counsel has instructed me to assume is July 7, 2003).

Petitioner's Level of Skill in the Art (Mr. Credelle)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MIANYANG BOE OPTOELECTRONICS TECHNOLOGY CO., LTD.; WUHAN
CHINA STAR OPTOELECTRONICS SEMICONDUCTOR DISPLAY
TECHNOLOGY CO., LTD.; TIANMA MICROELECTRONICS CO., LTD.; AND
VISIONOX TECHNOLOGY, INC.
Petitioner.

v.

SAMSUNG DISPLAY CO., LTD.
Patent Owner

Case No. IPR2023-00941
U.S. Patent No. 7,414,599

DECLARATION OF MR. THOMAS L. CREDELLE

35. In my experience managing the R&D of various active-matrix displays,

I would assign the design of pixel circuits to good circuit designers, regardless of their experience with displays, rather than an engineer with experience in display technologies but little experience of transistor circuits. I would provide such circuit designers a short overview of the display architecture in, *e.g.*, a 1–2 hour meeting, so they understand the context of what they are designing, which was more than sufficient for them to do their work.

Petitioner's Level of Skill in the Art (Mr. Credelle)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MIANYANG BOE OPTOELECTRONICS TECHNOLOGY CO., LTD.; WUHAN
CHINA STAR OPTOELECTRONICS SEMICONDUCTOR DISPLAY
TECHNOLOGY CO., LTD.; TIANMA MICROELECTRONICS CO., LTD.; AND
VISIONOX TECHNOLOGY, INC.
Petitioner.

v.

SAMSUNG DISPLAY CO., LTD.
Patent Owner

Case No. IPR2023-00941
U.S. Patent No. 7,414,599

DECLARATION OF MR. THOMAS L. CREDELLE

36. By 2003, I had taken on various R&D activities and senior management positions, including Vice President of Engineering, working on flat panel displays.

I would have considered an electrical engineer with 2–3 years of circuit design/analysis experience to be qualified to work on the subject matters of the '599 patent and would have hired such a person to work on them. I would have preferred such an engineer over another who has active-matrix display experience but little understanding of or experience with transistor circuit design.

Dr. Wolfe Pivots at Deposition



3 Q Just to make sure that I understand that
4 in terms of the sort of work experience component.
5 Did I hear you correctly to say that a POSITA would
6 have two to three years of circuit design experience
7 in active matrix design and electroluminescence?

8 A No. It could be circuit design or
9 analysis, as Dr. Foty noted. It could be study.

Dr. Wolfe Pivots at Deposition



8 Q How much active matrix design experience
9 must a POSITA have?

10 A I don't know that they necessarily need
11 design experience, but they need a combination of
12 design/analysis experience.

13 So studying other people's designs,
14 analyzing circuits, studying circuits that have been
15 designed, I think that would be acceptable, as long
16 as that study and analysis was specific to the
17 technologies that are at issue in this patent and not
18 just to circuits in general.

Dr. Wolfe Pivots at Deposition



8 Q Is it your testimony that a POSITA has to
9 have two to three years of experience designing
10 Active Matrix Displays?

11 A No.

Dr. Wolfe Pivots at Deposition



19 Q How much active matrix design, slash,
20 analysis experience must a POSITA have?

21 A Two to three years, unless there's some
22 other combination of work experience or other
1 learning experience that is equivalent.

Dr. Wolfe Never Said Dr. Foty was Not a POSITA



5 Q Did you render any opinion in your report
6 about Dr. Foty's qualifications or expertise?

7 A No.

8 Q Did you render any opinion in your report
9 about the qualifications or expertise of Thomas
10 Credelle?

The Parties Largely Agree on the Level of Skill in the Art

Petitioner	Patent Owner	Dr. Wolfe
“Bachelor’s degree in electrical engineering or similar discipline” Pet. (Paper 1) 13	“relevant technical degree in Electrical Engineering, Computer Engineering, Materials Science, Physics, or the like” POP (Paper 9), 20-21	“Bachelor’s degree in Electrical Engineering, Computer Engineering, Material Science, Physics or the like” EX1028 (Wolfe Tr.), 19 (71:17-19)
“2-3 years of circuit design/analysis experience ... relevant to the type of circuitry (e.g., mixed-signal analog/digital circuits) used in OLED displays.” Reply (Paper 41), 2	“experience in active matrix display design and electroluminescence” <i>Id.</i>	“It could be circuit design or analysis, as Dr. Foty noted. It could be study.” <i>Id.</i> 70:3-9
“Lack of work experience can be remedied by additional education, and vice versa” Pet. (Paper 1) 13		“[S]ome other combination of work experience or other learning experience that is equivalent” <i>Id.</i> , 73:19-74:1 “I would be fine with the addition that the lack of work experience can be remedied by additional education and vice versa.” <i>Id.</i> , 69:22-70:2

CITE

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-118

The Parties Largely Agree on the Knowledge of a POSITA

14. I note that there are numerous POSITA topics on which Dr. Wolfe agrees with me. For example, Dr. Wolfe stated that a POSITA would understand the operation of the driving transistor, threshold-voltage compensation and its relationship to image quality, the impact of shared signal lines on aperture ratio, and the initialization, e.g., discharging a capacitor, of a pixel circuit. EX2008, ¶48; EX1028, 74:18-76:21. I agree that a POSITA would know all of these things.

The Only Dispute is a Merits Question, Not a POSITA Issue

The single example PO offers where the parties disagree relates to “erasure.” Mot., 7. But this is plainly a substantive dispute over the merits of the prior art, not a definitional POSITA issue. Neither PO nor its expert cite any evidence whatsoever (*e.g.*, not a single textbook, article, treatise, etc.) that “erasure” has the purportedly well-known meaning to a POSITA that they ascribe. *See, e.g.*, POR, 27; EX2008, ¶¶79-96. Rather, the dispute is entirely about the merits of Kimura (*see id.*), and Dr. Foty’s disagreement with Dr. Wolfe on substance does not make him not a POSITA.

The '599 Patent Confirms Petitioner's Level of Skill is Correct

FIG. 1
(PRIOR ART)

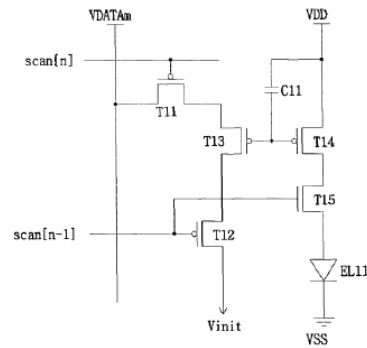


FIG. 2
(PRIOR ART)

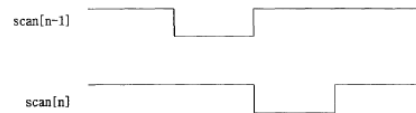


FIG. 3

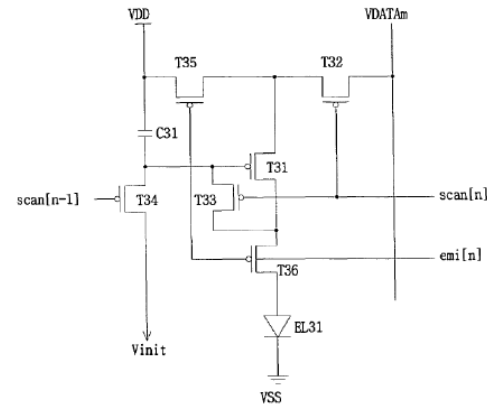


FIG. 4

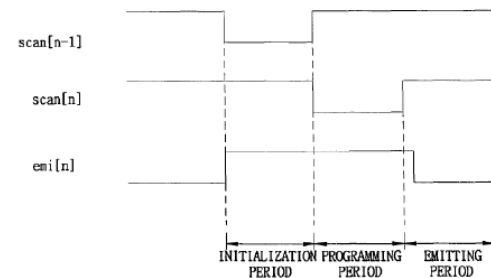


FIG. 5

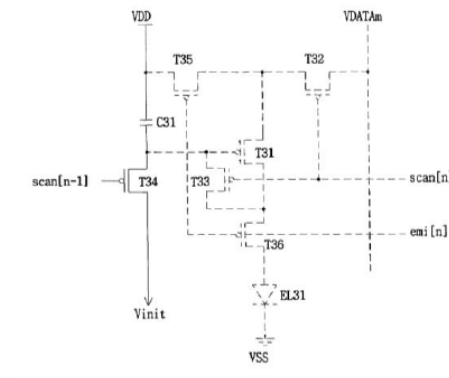


FIG. 6

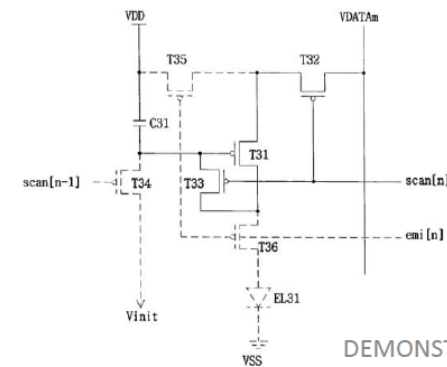
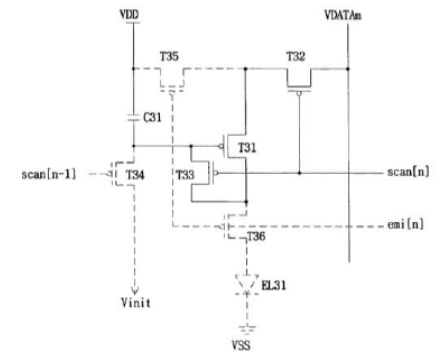


FIG. 7



EX1001 ('599 Patent), Figs. 1-7

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-121

PO's Reliance on Kyocera is Misplaced

Like a broken record, PO cites *Kyocera* over and over. Mot., *passim*. In doing so, PO ignores the more relevant, subsequent authorities that address *Kyocera*. For example, PO fails to cite *Certain Outdoor & Semi-Outdoor Elec. Displays*, Inv. No. 337-TA-1331, USITC Order No. 17, 2023 WL 4145878 (June 9, 2023). There (as in the related ITC action here), the complainant moved to preclude a technical expert from testifying because the expert allegedly did not meet the ALJ's *Markman* POSITA standard, which recited "experience in working with electronic displays including thermal management associated with electronic displays." *Id.* at *1- 2. The ALJ denied the motion and "clarifie[d]" the POSITA standard only required "experience with electronic displays including *an understanding of* thermal management associated with electronic displays." *Id.* at *3 (emphasis original).

Certain Outdoor & Semi-Outdoor Elec. Displays

*3 Moreover, the undersigned clarifies that the required experience is “2-4 years of experience with electronic displays including an understanding of thermal management associated with electronic displays.” This clarification is consistent with Complainant's “alternative” definition of one of ordinary skill in the art (*i.e.*, requiring 4-6 years of experience with “a similar understanding” of thermal management associated with electronic displays), which was also adopted by the undersigned, and is further consistent with Respondents' proposed definition (requiring “an understanding of product design issues and failure modes associated with electronic displays”).⁴ Thus, Dr. Neikirk's additional experience relevant to understanding thermal management associated with electronic displays provides further evidence that he qualifies as one of skill in the art. *See* Mot. Ex. 5 at 38:8-14 (discussing work with “light-emitting devices and thermal effects in those devices” that is “certainly relevant for displays”); *see also* n.3 *supra*.

Taken as a whole, the current evidence of record indicates that Dr. Neikirk's education and experience qualifies him as a person of skill in the art.

Certain Outdoor & Semi-Outdoor Elec. Displays, Inv. No. 337-TA-1331,
USITC Order No. 17, 2023 WL 4145878 (June 9, 2023)

Osseo Supports Petitioner's Position

Planmeca urges us to add a timing requirement to the minimum qualifications necessary to offer expert testimony from the perspective of a person of ordinary skill. Planmeca contends that a technical expert opining on infringement must possess the requisite ordinary skill in the art “*at the time of the alleged invention.*” Appellant’s Br. 16 (emphasis added). Planmeca relies on language in *Kyocera* and our court’s precedent on claim construction for support. Neither persuades us here.

Osseo Imaging, LLC v. Planmeca USA Inc., Case No. 2023-1267, 6 (Fed. Cir., Sept. 4, 2024)

GeigTech East Bay LLC v. Lutron Elecs. Co., Inc.

the Koppers Corporation. (*Id.* at 15:6-12). While [*96] GeigTech claims that Maslen does not qualify as a POSITA because he lacks the minimum level of experience in designing electro-mechanical consumer products or interior architecture, the invention of the asserted patent is a bracket — a bracket configured to obscure electrical wiring for a consumer A/V system, but a bracket, nonetheless. I am satisfied that, notwithstanding his lack of specific experience with roller blinds or electro-mechanical consumer products or interior architecture, there is a sufficient relationship between Maslen's significant relevant technical expertise and the technology of the claimed bracket for him to offer his opinions as a POSITA. *Mytee Prod., Inc. v. Harris Rsch., Inc.*, 439 F. App'x 882, 887 (Fed. Cir. 2011) (citing *SEB S.A. v. Montgomery Ward & Co.*, 594 F.3d 1360, 1373 (Fed. Cir. 2010)).

GeigTech East Bay LLC v. Lutron Elecs. Co., Inc., 2023 WL 6614486, (S.D.N.Y. Sept. 20, 2023)

Weight vs. Admissibility

At most, PO's arguments in its Motion go to the weight, not the admissibility, of Dr. Foty's testimony. That alone should be dispositive of PO's Motion since it seeks to *exclude Dr. Foty's testimony in its entirety*. Mot., 8 ("Patent Owner respectfully requests that the Board exclude Dr. Foty's validity opinion testimony, as set forth in Exhibits 1003 and 1029."); *see also* PTAB Consolidated Trial Practice Guide, 35 (Nov. 2019) ("The Board has broad discretion to assign weight to be accorded expert testimony.").

Weight vs. Admissibility

The Board's decision in *Forte* is instructive. *Forte Biosciences, Inc., v. Univ. of Mass.*, PGR2023-00014, Paper No. 45 at 37-39 (PTAB June 24, 2024). In *Forte*, the petitioner moved to exclude an expert declaration, contending that “[the declarant] was not a person of ordinary skill in the art at the critical time, so his testimony is irrelevant and unreliable.” *Id.*, 38. After considering PO's rebuttal as to why the declarant did qualify as a POSITA, the Board concluded that “Petitioner's position amounts to a disagreement with [the declarant's] reliability and goes to the weight that should be accorded his testimony and not the admissibility of that testimony.” *Id.*, 39. Accordingly, the Board denied the motion to exclude. *Id.*

Weight vs. Admissibility

We agree with Patent Owner that Petitioner’s position amounts to a disagreement with Dr. Damsky’s reliability and goes to the weight that should be accorded his testimony and not the admissibility of that testimony.

Regarding Petitioner’s other arguments, we note first that we do not require a perfect match between an expert’s experience and the relevant field. *See* Patent Trial & Appeal Board Consolidated Trial Practice Guide November 2019 at 34 (citing *SEB S.A. v. Montgomery Ward & Co.*, 594 F.3d 1360, 1373 (Fed. Cir. 2010)). Second, our reviewing court has held that a person need not be a person of ordinary skill in the art to testify as an expert under Federal Rule of Evidence 702, but rather must be “qualified in the pertinent art.” *See Sundance, Inc. v. DeMonte Fabricating Ltd.*, 550 F.3d 1356, 1363–64 (Fed. Cir. 2008).

The ALJ's Ruling is Irrelevant

- Not binding on the Board
 - *Noven Pharm., Inc., et al., v. Novartis AG et al.*, IPR2014-00550, Paper No. 69 at 4 (PTAB Sept. 28, 2015) (“Although [] the District Court considered the same prior art presented in this [IPR], the District Court’s opinion is not binding in this proceeding. We have independently analyzed the prior art in view of the record evidence as a whole, including the knowledge of a person of ordinary skill in the art.”).
- Made on a limited (and different) evidentiary record at *Markman*
 - *E.g.*, no declaration from Mr. Credelle
 - No admissions from Dr. Wolfe
 - *Novartis AG v. Noven Pharms., Inc.*, 853 F.3d 1289, 1293-94 (Fed. Cir. 2017)
- ITC bootstrapped to unrelated patent
- Unlike here, the ITC did NOT allow “equivalent” experience/education EX2054, 5
- The Board should exercise its independent judgment re POSITA definition/qualifications

Noven Pharm., Inc. et al. v. Novartis

2015) (“*Noven*”). Although in *Noven*, the District Court considered the same prior art presented in this *inter partes* review, the District Court’s opinion is not binding in this proceeding. We have independently analyzed the prior art in view of the record evidence as a whole, including the knowledge of a person of ordinary skill in the art. Our findings and conclusions differ from the District Court in that we have accorded persuasive weight to the testimony of Petitioner’s declarants. Moreover, the

Noven Pharm., Inc., et al., v. Novartis AG et al., IPR2014-00550, Paper No. 69, 4 (PTAB Sept. 28, 2015)

Summary

- The Board should adopt Petitioner's level of skill in the art
- PO manufactures an artificial distinction
 - The parties largely agree on the knowledge of a POSITA
 - The parties largely agree on the qualifications
- Dr. Foty qualifies as a POSITA and the Board should deny PO's motion
- The Board should decide the IPR on the merits of the prior art

Table Of Contents

Background / Intro

All-PMOS

Shared Light Signal

Initialization/Reset TFT

Secondary Considerations

POSITA Issues

CITE

DEMONSTRATIVE EXHIBIT – NOT EVIDENCE PDX-132