

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Hisense USA Corporation

Petitioner

v.

Brightplus Ventures LLC

Patent Owner

Case IPR2023-01168

U.S. Patent No. 9,605,835

PATENT OWNER'S SUR-REPLY TO INSTUTION DECISION

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Exhibit List

Exhibit	Description
2006	Declaration of William K. Bohannon (“Bohannon Decl.”)
2007	Curriculum vitae of William K. Bohannon
2008	Joint Claim Construction Statement
2009	Brightplus Ventures LLC’s Opening Claim Construction Brief
2010	Hisense’ Opening Claim Construction Brief

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USE OF EMPHASIS IN QUOTATIONS

All emphases in quotations and exhibit citations have been added, unless otherwise indicated.

APPLICABLE STATUTES

References to 35 U.S.C. §§ 102 and 103 are to the AIA versions applicable to the '835 Patent.

I. INTRODUCTION

The arguments raised in Petitioner's Reply should be rejected as they fail to address, or misstate, arguments made in Patent Owner's Reply. For example, Petitioner's arguments related to Ground 1 should be rejected as it fails to address the distinction between the terms "adjacent" and "on." Furthermore, it fails to properly consider the drawbacks to its proposed combinations of prior art references. Likewise, Petitioner's arguments related to Ground 2 should be rejected as discussed further below.

II. GROUND 1**A. The Distinction Between "Adjacent" and "On" in Mok**

First, Patent Owner does not concede that an air gap is an intervening layer. Second, Petitioner confuses the Board's interpretation when it stated that the '835 Patent's "teachings instead indicate that claim 1 encompasses, but is not limited to, embodiments where there are no air gaps between layer . . ." Paper 7 at 9. The Board said this in response to the definition of "intervening elements" that "intervening elements" may include an air gap. However, as there is no construction of the term "on," the plain and ordinary meaning of term "on" means that a BEF must be physically on the reflector, this is not taught by Mok. The fact that Mok teaches the "diffuser 16 is about 50 mm or less" does not equate to the diffuser being on the reflector. Any reasonable reading of Mok leads to this conclusion.

B. Petitioner Does Not Explain Why The Drawbacks Would Not Teach Away From the Combination of Mok and Holman

Petitioner criticizes Patent Owner's explanation of the drawbacks of combining Mok and Holman but fails to explain how the benefits of such a combination outweigh the drawbacks. In this case the spacing of Mok of 55 millimeters is significant. This is illustrated in the context of this document, 50 millimeters is approximately 2 inches, illustrated here: [-----50 millimeters-----]. For Petitioner to suggest this is not a significant separation is a gross misstatement, especially in the case of an LCD panel. This is an inordinate amount of distance in terms of panel thickness which typically have thin profiles. This is a significant drawback which would teach away from combining Mok and Holman.

C. The Same Drawbacks Teach Away From the Combination of Mok, Holman and Lamb

As discussed above, the same drawbacks of combining Mok and Holman would be presenting in the same combination with Lamb.

Petitioner's claim that Lamb explicitly describes direct-lit backlight systems is misleading at best. The single mention in Lamb of "direct-lit backlight **10**" is in explicit discussion of the "traditional backlight **10** includes an array of light bulbs **15**, typically CCFLs." All discussion of the backlight **10** in Lamb is with respect to CCFLs used and not direct LEDs as used in Mok and Holman. A POSITA

viewing the larger CCFL backlit structure of Lamb would not see a need to incorporate the elements designed for direct LEDs of Mok and Holman.

D. The Board Properly Criticized Petitioner's Combination of Mok and Lamb with Respect to Claim 4

The Board stated that that "Petitioner does not address why an ordinarily skilled artisan would have considered combining Mok and Lamb to provide an 'additional layer on the brightness enhancement film configured to diffuse, polarize, collimate and/or reflect light,' as required by claim 4." Paper 7 at 30-31. This is not addressed by Petitioner in its purported Reply. Reply at 14.

E. The Board Properly Determined that Mok's Diffuser Did Not Satisfy the Two Diffuser Sheets as claimed in Claim 8.

Petitioner fails to address this deficiency. Petitioner's only response is that "[n]othing in Mok suggests that its disclosures are limited to a single diffuser sheet." Reply at 14. This is flawed logic. By this argument, a disclosure for a bicycle would therefore render a tricycle obvious with no regards to the benefits of the additional structure not contemplated by the bicycle disclosure.

III. GROUND 2

A. Lamb is Directed to CCFLs and Edge Lighting

As discussed above, these drawbacks of combining Mok and Holman would also be present in the same combination with Lamb.

B. Epstein an “On” the Reflector

As discussed previously, the Institution Decision declined to construe the term “on,” it only suggested that “intervening layers” did not necessarily exclude air gaps. However, Patent Owner contends that the ordinary meaning of “on” would not be met by Epstein.

C. Loss of Uniformity when Combining Epstein with Holman and Lamb” the Reflector

Petitioner claims argues that there is no support for loss of uniformity. However, this was supported by an expert declaration. Petitioner could have rebutted this declaration in the deposition of Bohannon but either could not or chose not to do so. As such, there is evidence for the loss of uniformity.

IV. PETITIONER’S ARGUMENT REGARDING EXPERT DECLARATION CONTRADICTS ITS OWN DECLARATIONS

For Petitioner to call into question the weight of an expert declaration because the expert’s statement is similar to the papers is laughable. Petitioner’s papers and expert declarations are littered with parroting the response.

Petition	Ex. 2003
At Page 13 A POSITA would be motivated to modify Mok to include Holman’s <i>specific BEF configuration, wherein</i>	At ¶ 132 132. Modifying Mok to include Holman’s <i>specific BEF configuration, wherein the BEF is positioned on a</i>

<i>the BEF is positioned on a reflector sheet without an intervening air gap. Such a positioning allows for a thinner panel while maintaining light uniformity. See, e.g., Holman p. 16; Ex. 1003, ¶132. (emphasis added) A POSITA would further be motivated to incorporate Holman's plastic diffuse reflector in Mok to provide uniform lighting quality at a lower cost and weight than traditional metal reflectors. See, e.g., Holman p. 8; Ex. 1003, ¶132 Further, a POSITA would be motivated to use Holman's lens array 62 of Fresnel-lenses to increase light diffusion, which improves light uniformity, hence quality for the viewer. Ex. 1003, ¶132 A POSITA would also be motivated to apply Holman's heatsink panel to Mok</i>	<i>reflector sheet without an intervening air gap would beneficially allow for a thinner panel while maintaining light uniformity. See, e.g., Holman p. 16. A person of ordinary skill in the art would thus be motivated to make this combination. A person of ordinary skill in the art would thus be motivated to make this combination. Similarly, incorporating Holman's plastic diffuse reflector in Mok would provide uniform lighting quality at a lower cost and weight than traditional metal reflectors, and thus a person of ordinary skill in the art would be motivated to make this combination. See, e.g., Holman p. 8. Further, a person of ordinary skill in the art would be motivated to use Holman's lens array 62 of Fresnel-lenses to increase light diffusion, which</i>
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to improve cooling and efficient operation of LEDs. <i>Id.</i>	improves light uniformity, hence quality for the viewer. In addition, applying Holman's heatsink panel to Mok to improve cooling and efficient operation of LEDs. A person of ordinary skill in the art would make this modification to maintain operating temperature of the LEDs and their control circuit and thereby enhance longevity
Pg 22 Mok discloses that the BEF preferentially emits light having a first orientation and preferentially reflects light having a second orientation, which is different from the first orientation. First, a POSITA would understand that BEFs are designed and configured to work in this manner. Ex. 1003, ¶68.	P68. The claims of the '835 Patent further require a Brightness Enhancing Film ("BEF"). Such films were known in the art, and the claims recite functionality performed by these BEFs. It was known that BEFs performed functionality like "preferentially emit[ing] light having a first orientation from the lighting panel and to preferentially reflect light having a second orientation,

	different from the first orientation, back into the lighting panel.”
Pg. 23 It would have been obvious to use the BEF disclosed in Lamb in Mok's lighting panel because it both increases on axis light, <i>a desirable feature recognized by Lamb and Mok, and increases efficiency by recycling light, another desirable feature of lighting panels.</i>	P 133 Further including Lamb's BEF would both increases on axis light, <i>a desirable feature recognized by Lamb and Mok, and increases efficiency by recycling light, another desirable feature of lighting panels.</i>
Pg 30. Thus, Lamb discloses bending, i.e. refracting, at least some light rays toward the direction normal to the principal plane of the lighting panel. Ex. 1003, ¶88; ¶139, Claim 9	P 88 A person of ordinary skill in the art would understand that this disclosure teaches bending at least some light rays toward the direction normal to the principal plane of the lighting panel.

Patent Owner understands that Petitioner concedes that Petitioner's argument is that own expert declaration should be given no weight in any instance where the declaration matches the argument on the Paper.

Likewise, taken this into account, many elements which Petitioner contends is obvious or where its expert merely invents a motivation to combine with conclusory arguments should be given no weight

V. CONCLUSION

The Patentability of the Challenged Claims should be affirmed.

Respectfully submitted,

/s/ Neal Massand
Neal Massand
Counsel for Petitioner

CERTIFICATE OF COMPLIANCE

Per 37 C.F.R. §42.24(a) and (d), the undersigned hereby certifies that the Petition complies with the type-volume limitation of 37 C.F.R. §42.24(a)(i) because, exclusive of exempted portions, it contains 1546 words as counted by the word-processing program used to prepare it.

Dated: September 3, 2024

Respectfully submitted,

/s/ Neal Massand

Hao Ni (Reg. No. 53,858)

hni@nilawfirm.com

Timothy Wang (Reg. No. 61,554)

twang@nilawfirm.com

Neal Massand (Reg. No. 54,296)

nmassand@nilawfirm.com

Ni, Wang & Massand, PLLC

8140 Walnut Hill Lane, Suite 500

Dallas, Texas 75231

(t) (972) 331-4600

(f) (972) 314-0900

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that the above-captioned Mandatory Notice was served on counsel of record for the Petitioner by filing this document through the Patent Review Processing System as well as by delivering a copy via electronic mail to:

MFerrario@kilpatricktownsend.com (Lead Counsel)
MMorlock@kilpatricktownsend.com (Back-Up Counsel)

Dated: September 3, 2024

/s/ Neal Massand
Neal Massand (Reg. No. 54,296)