

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Hisense USA Corporation

Petitioner,

v.

Brightplus Ventures LLC,

Patent Owner

Case No. IPR2023-01311

U.S. Patent No. 8,177,382

**PATENT OWNER'S REPLY IN SUPPORT OF ITS REVISED MOTION TO
AMEND UNDER 37 C.F.R. § 42.121**

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I. INTRODUCTION

Pursuant to 35 U.S.C. § 326(d) and 37 C.F.R. § 42.121, Patent Owner Brightplus Ventures LLC (“Brightplus” or “Patent Owner”) respectfully submits this reply in support of its motion to amend the claims of U.S. Patent No. 8,177,382 (the “’382 Patent”), contingent on the outcome of this trial. In the event the Board finds any of the challenged claims unpatentable, Patent Owner requests that the Board grant its revised motion to amend and issue the proposed substitute claims.

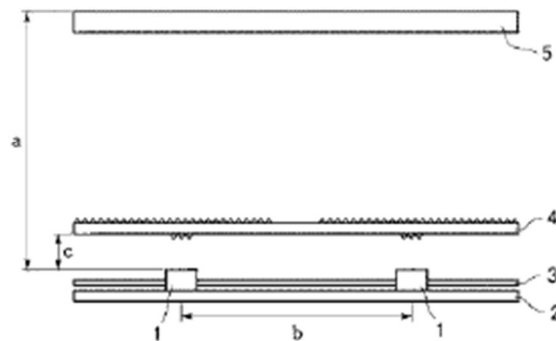
II. THE PROPOSED SUBSTITUTE CLAIMS ARE RESPONSIVE TO AND OVERCOME THE ASSERTED GROUNDS OF UNPATENTABILITY

Patent Owner’s proposed amended claims 21 and 22 are directly responsive to the grounds of unpatentability involved in the trial. The Board properly recognized that “Patent Owner responds to the grounds of unpatentability on which we instituted trial... we agree that proposed substitute claims 21 and 22 recite new limitations and new combinations of limitations, that directly respond to the grounds of unpatentability involved in the trial.” See Prelim. Guidance at 5. The proposed revised substitute claims narrow also recite new limitations and new combinations of limitations that directly respond to the grounds of unpatentability involved in this trial. In arguing that Patent Owner’s proposed revised substitute claims, Petitioner overlooks the differences between the original proposed substitute claims and the revised proposed substitute claims. The proposed revised substitute claims address the issues raised by the Board and are, therefore, patentable.

III. THE PROPOSED SUBSTITUTE CLAIMS 21 AND 22 ARE PATENTABLE

A. Claims 21 and 22 Compared to Kobayashi, Tabito, Kirita, Onishi, Epstein, Schiavoni and Lim

[FIG. 1]

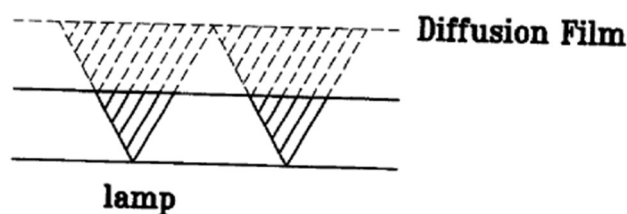


As shown in Fig. 1 above, Kobayashi discloses LEDs 1 placed on the base 2 at equal intervals, a “diffusing plate 4” placed on the side close to the LED 1, and a “diffuser plate 5” placed on the side far from the LED 1. EX 1006 at Abstract and ¶0018. Kobayashi only teaches that distance a is 10 mm or more, distance b is 10 to 100mm, and the ratio of distance a to distance b is 0.2 to 1.0. EX 1006 at ¶0020. Kobayashi explicitly states the if distance b is over 1.0, then “the distance from LED 1 to the diffusing plate is sufficient, and it is difficult to demonstrate the superiority of the units of the present invention.” *Id.* Further, as shown below in Fig. 1, Petitioner described the “a minus the thickness of the diffusion plate 5 is the second distance.” Petition at pg. 19. Petitioner’s expert asserted that “[w]hen [Kobayashi’s distances] a and b are 10 mm, then $a/b = 1$,” which means that “the third distance is almost exactly the same as the second distance ([distance] a minus the thickness of the diffusion plate

5).” EX 1003 ¶ 70. This is not the same as the ’382 Patent, wherein the second distance is in a range between the third distance and 1.5 times the third distance. *Id.*

Further, Kobayashi does not disclose that the first diffusion and second diffusion planes are first and second distances from the bottom of the solid state light emitters. Patent Owner submits that Kobayashi, by teaching the third distance being exactly the same as the second distance and teaching away from the ratio of a/b being greater than 1.0, does not render obvious proposed substitute claim 21, which specifically recites those elements. Further, by not specifying that the first and second distances from the bottom of the solid state light emitters, Kobayashi fails to render proposed substitute claim 22 obvious.

FIG.4A



As shown in Fig. 4a above, Lim discloses a relationship between the diffusion film with respect to lamps. EX 1012 at ¶¶ 0057-0059. Lim, however, is silent about a second distance. Lim does not describe a relationship between a second distance and the distance between the light sources. For example, Petitioner acknowledges that Lim

does not disclose the second distance with respect to the third distance, “The Schiavoni-Lim combination does not expressly disclose the second distance comprises a distance in a range between the third distance and 1.5 times the third distance” Petition, pg. 65. This is the exact opposite of the invention of the ’382 Patent, wherein the second distance is in a range between the third distance and 1.5 times the third distance. *Id.* Patent Owner submits that Lim, by being wholly silent on a relationship between a second distance and the distance between the light sources, does not render obvious proposed substitute claim 21, which specifically recites those elements. Further, Lim does not disclose that the first diffusion and second diffusion planes are first and second distances from the bottom of the solid state light emitters. It, therefore, also fails to render proposed amended claim 22 obvious.

Also, Holman’s disclosure of a total thickness of a system is not a disclosure of what is claimed. Proposed amended Claim 22 requires:

a plurality of diffuser supports configured to support a first diffuser plane structure at a first distance from the bottom of the plurality of solid state light emitters and to support a second diffuser plane structure at a second distance from the bottom of the plurality of solid state light emitters, wherein the second distance is greater than the first distance

Holman’s disclosure of a total thickness of a system is not similar in any way to the claimed invention and it does not render the claimed invention obvious.

The prior art cited, alone or in combination, does not render proposed amended claims 21 or 22 obvious as none of the prior art discloses or suggests the proposed amendments.

B. There Is No Motivation To Combine The References

Because Lim's RGB lamps uses R-G-B separately, line by line in a field sequential type of LCD system which Kobayashi (and the '382 Patent) does not. There is no motivation to combine Kobayashi with Lim. Ex. 2003, ¶72.

Kobayashi teaches that lens 4 is preferably a Fresnel Lens with a light diffusivity of 0.5 to 30%. This does not disclose and its antithetical to “a diffuser plate that includes the first side of the multiplane light, the diffuser plate configured to define the first diffusion plane” as claimed. It is also antithetical to the standard diffusers of Holman. Ex. 1024 at 143. Therefore, a POSITA would not be motivated to combine Kobayashi with Holman.

IV. CONCLUSION

For the reasons set forth herein, Patent Owner submits that revised proposed substitute claims 21 and 22 satisfy all of the statutory requirements for a motion to amend set forth in paragraphs (1) and (3) of 35 U.S.C. § 316(d) and paragraphs (a)(1), (a)(2), (a)(3), (b)(1) and (b)(2) of 37 C.F.R. § 42.121 and respectfully requests the Motion be granted contingent upon a finding that the challenged claims 1 and 17 are unpatentable.

Respectfully Submitted,

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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 December 13, 2024

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