

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

US CONEC LTD.,
Petitioner

v.

SENKO ADVANCED COMPONENTS, INC.,
Patent Owner

Case IPR2024-00119
U.S. Patent No. 11,415,760

**PETITIONER’S REPLY TO PATENT OWNER’S PRELIMINARY
RESPONSE**

Mail Stop “PATENT BOARD”
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 UPDATED EXHIBIT LIST

Exhibit No.	Description
1001	U.S. Patent No. 11,415,760 to Takano et al. (“’760 patent”)
1002	Prosecution History of U.S. Patent No. 11,415,760 (U.S. Application No. 17/494,291)
1003	International Publication No. WO 2014/057264 to Raven et al. (“Raven”)
1004	U.S. Patent No. 8,636,424 to Kuffel et al. (“Kuffel”)
1005	U.S. Patent No. 9,599,778 to Wong et al. (“Wong”)
1006	U.S. Patent No. 8,465,317 to Gniadek et al. (“Gniadek”)
1007	Declaration of James F. Brennan III, Ph.D.
1008	<i>Curriculum Vitae</i> of James Brennan III, Ph.D.
1009	Google Data Centers Gallery, accessed at https://www.google.com/about/datacenters/gallery/
1010	“19-Inch Rack,” <i>Lite-On</i> , accessed at https://liteon-cips.com/products/racks/19-inch-rack/
1011	“Rack Unit,” <i>Wikipedia</i> , accessed at https://en.wikipedia.org/wiki/Rack_unit
1012	“18 Port Rack Mount Fiber Enclosure,” <i>Computer Cable Store</i> , accessed at https://www.computercablestore.com/18-port-rack-mount-fiber-enclosure
1013	“What Is Optical Fiber Technology, and How Does It Work?,” <i>NAI</i> , accessed at https://www.nai-group.com/optical-fiber-technology-how-it-works/
1014	“Fiber Optic Adapter/Coupler Tutorial,” <i>FS Community</i> , accessed at https://community.fs.com/blog/fiber-optic-adaptercoupler-tutorial.html
1015	“MT Ferrules Overview,” Furukawa Electric, accessed at https://www.furukawa.co.jp/telecom/en/product/connector/product/mt.html .
1016	U.S. Patent No. 9,411,111 to Banal, Jr. et al.

Exhibit No.	Description
1017	U.S. Patent No. 8,556,646 to Kappla et al.
1018	U.S. Patent No. 6,796,715 to Chiu et al.
1019	“MPO Connector Kit – Product Specifications (Rev. 8),” <i>Nissin Kasei USA Corp.</i> , accessed at https://www.alternetivo.cz/img.asp?attid=798283
1020	Kant, K., “Data Center Evolution: A Tutorial on State of the Art, Issues, and Challenges,” <i>Computer Networks</i> , 53:2939-65 (2009)
1021	“Fiber Optic Rack Mount Enclosure, 3-Panel 1 RMS,” <i>Computer Cable Store</i> , accessed at https://www.computercablestore.com/fiber-optic-rack-mount-enclosure-3-panel-1-rms
1022	Wenke, I.G., “Report on Fiber Optic Cables,” <i>HSB Technical Report</i> (2015)
1023	Curran, M. & Shirk, B., “Basics of Fiber Optics”, accessed at https://www.fibersystems.com/pdf/whitepapers/Basics-of-Fiber-Optics.pdf (May 2016)
1024	“Fiber Optic Connector Tutorial,” <i>Fibermart</i> , accessed at https://www.fiber-mart.com/news/fiber-optic-connector-tutorial-a-848.html
1025	Satake, T., “The History of the MT and its Variations,” <i>IEEE Xplore</i> (2017)
1026	U.S. Patent No. 5,615,293 to Sayegh
1027	Childers, D., et al., “Multi-Fiber, MT Ferrule Endface Fiber Tip Displacement Model for Physical Contact Interconnects,” White Paper (2006)
1028	Board E-mail Authorizing Preliminary Reply, May 1, 2024
1029	E-mail Correspondence Between Parties Memorializing Meet-and-Confer, April 30, 2024
1030	New Patent Assignment, Reel No. 062557, Frame No. 0588

I. INTRODUCTION

The Board authorized Petitioner's Reply to the POPR to show that, plain and simple, (1) the Petition showed Wong is prior art and (2) the unforeseeable POPR arguments failed to rebut the Petition and/or disprove Wong is prior art¹. EX1028; *see also* EX1029 (email chain memorializing meet and confer).

The Petition stated: "[t]he art presented is prior art under §§ 102(a)(1) and/or 102(a)(2)." Pet., 14. After Patent Owner acknowledges this statement included Wong, POPR, 13, Patent Owner then tries to disprove Wong is prior art using misleading and incomplete assignment records². Yet the filed and omitted records confirm Wong's prior art status for at least three reasons: (1) due to the '760 patent being filed after a CIP application, the great-grandparent's original assignment cannot assign rights to the '760 patent, (2) the great-grandparent assignment lacks any serial number and shows a different title than the '760 patent, and (3) the one

¹ Regardless of Wong's status, the Raven-based grounds provide independent basis for institution/final written decision confirming unpatentability of the challenged claims.

² Patent Owner chose to challenge Wong's prior art status rather than Wong's substance. POPR, 12–15. So if Patent Owner loses this argument, there are no factual disputes Wong teaches the claims.

proper assignment of the '760 patent is only signed by a single inventor and not field for the '760 patent itself. And even if these documents properly assign the '760 patent, Patent Owner's substantive arguments suggest that Wong is prior art under § 102(a)(1). Finally, while the Board also allowed Patent Owner to respond to this Reply, EX1028, Patent Owner cannot cure the POPR evidentiary deficiencies and cannot walk back its arguments raising support for Wong's qualification under § 102(a)(1).

II. THE ONLY ASSIGNMENT RECORDED AGAINST THE '760 PATENT IS FOR A PURPORTED GREAT-GRANDPARENT TO THE '760 PATENT, BUT PATENT OWNER IGNORES AN INTERVENING CONTINUATION-IN-PART, THE POPR'S OWN CLAIM CONSTRUCTION ARGUMENT, AND A NEW ASSIGNMENT FILED BY ONE INVENTOR IN RELATED CASES. WONG HAS SIMILAR ISSUES.

A. A pre-CIP assignment is insufficient to assign post-CIP subject matter.

The only assignment recorded against the '760 patent appears (according to Patent Owner) to be the assignment of a great-grandparent to the '760 patent. EX2007; POPR, 15; EX1029. But this ignores an intervening continuation-in-part that would require a new assignment. EX2007; *see also* EX1030. Assignments recorded against original applications give rights only to common subject matter in a later filed application notwithstanding any CIP language in the original assignment. Here, the POPR acknowledges that “slidably received” was *only ever present in the '760 patent itself* and is thus not supported by the great-grandparent,

to which EX2007 purportedly relates. *See* POPR, 5–6, 8, 10, 16 (citing the ’760 patent’s claims for its claim construction argument); *see also id.*, 9, (acknowledging that “‘slidably’ is not used within the [’760 patent’s] specification,” and instead citing unrelated portions). These arguments suggest Wong is prior art under § 102(a)(1) based on the ’760 patent’s October 5, 2021 *actual filing date*—four and a half years after Wong’s issuance as a patent.

B. Regardless of CIP status, the original assignment appears defective.

The POPR also ignores irregularities in EX2007 casting doubt as to whether it is effective for the great-grandparent, let alone sufficient to convey future rights in a continuation-in-part. For example, the assignment does not include the application number of the great-grandparent. EX2007. And, the assignment does not have the same title as the ’760 patent. EX2007.

C. A new assignment filed by a single inventor in related applications casts doubts on any right conveyed by the original assignment, and was omitted from the POPR evidence.

A newly recorded assignment filed only in related applications, which was *omitted* from the POPR, *does* reference the ’760 patent’s application number and title, and is executed by only one of its inventors *over a year after the ’760 patent’s filing date*. EX1030. Patent Owner acknowledged during the meet and confer that “the assignments were recorded and publically available,” EX1029, 1, but chose not to address the new assignment in its POPR.

Also, although during the meet and confer Patent Owner argues that “the issue of common ownership should have been easily foreseen,” *id.*, they did not foresee the need to file this contradictory new assignment with their POPR and bring up this issue with the Board. Only Petitioner did.

Additionally, while the new assignment was recorded in the priority chain of the ’760 patent against two of its related cases, it was not recorded against the ’760 patent itself. EX1030 (recorded at Reel: 062557, Frame: 0588). And the new assignment was executed by only one of the ’760 patent’s inventors, Jeffrey Gniadek on December 23, 2022—over a year and a half after the filing date of the ’760 patent. *Id.* There is no other assignment for the other named inventor of the ’760 patent.

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PATENT ASSIGNMENT COVER SHEET	
Electronic Version v1.1 Stylesheet Version v1.2	
EPAS ID: PAT7773010	
SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
JEFFREY GNIADEK	12/23/2022

Assignment by Inventor and Power of Attorney
THIS ASSIGNMENT and Power of Attorney, made by Jeffrey Gniadek (hereinafter referred to as Assignor); residing
P.O. Box 578, Oxford, ME 04270

EX1030 (excerpt, annotated).

As shown above, *on its face and as recorded and input* by Patent Owner’s counsel, EX1030 does *not* on its face purport to be confirmatory, but rather shows as a “New Assignment.” This “New Assignment” styling matches EX2007, as

relied upon by Patent Owner in its POPR. But again, EX1030 is the *only* recorded document at the Patent Office that includes an appendix that lists (1) the actual application number for the '760 patent and (2) the actual title of the '760 patent.

The '760 patent's assignment record is thus fraught with issues not addressed by Patent Owner and contradict its contentions of the proper ownership and timing of ownership of the '760 patent that is required for Patent Owner's argument that Wong should be excepted under § 102(b)(2)(C).

D. The POPR ignores similar deficiencies in Wong's assignment history.

Given all these deficiencies in the '760 patent assignment history ignored in the POPR, it is no surprise that Patent Owner also ignored additional irregularities/inconsistencies in Wong's assignment, EX2006, e.g., only one execution is notarized, that inventor's execution also includes a typed, but not handwritten, date, and the recording was six months after execution. This shows a pattern of both defective assignments and Patent Owner leaving out evidence or not addressing it, presumably because Patent Owner cannot.

III. PATENT OWNER CANNOT EXCUSE THESE OMISSIONS, AND ACKNOWLEDGED DURING THE MEET AND CONFER THAT IT "DO[ES] NOT HAVE A FULL EXPLANATION," FOR THE OMISSIONS AND THE DEFICIENCIES IN THE USPTO RECORDS.

During the meet and confer and email exchanges, Patent Owner tried to excuse these omissions in its PTO records and POPR, but acknowledged that it

“do[es] not have a full explanation” for omissions in its POPR and the USPTO records. EX1029, 2. Patent Owner also mentioned potential “agreements to assign” or potential employment agreements during the meet and confer—but none of those are presented in the POPR. *Id.*, 3. And they should not be allowed in now.

Patent Owner’s argument that the ’760 patent and Wong both show Patent Owner’s name on their face (EX1029) is *not* the end of the inquiry because recording of the assignment is merely a ministerial act; it is not an Office determination of the validity or effect of the assignment. MPEP § 301.V; *citing* 37 CFR 3.54, MPEP § 317.03, and *Realvirt, LLC v. Lee*, 195 F.Supp.3d 847, 862-3 (E.D. Va. 2016). Should Patent Owner choose to submit a sur-reply here, Petitioner opposes any “additional evidence” not allowed or not properly introduced under the relevant statutes, rules, CTPG, and FRE. *See, e.g.*, 37 CFR 42.23(b); EX1029.

Patent Owner had four and a half months from the Petitioner’s filing to investigate and gather any evidentiary arguments prior to filing its POPR. Instead, it chose to file a POPR that did *not* address these issues and ignored public records contravening its own arguments submitted to the Board.

Patent Owner now—for the first time—attempts to provide a justification for why the only assignment that recites the ’760 patent’s application number was executed and recorded a year and a half after the filing of the ’760 patent. And while Petitioner empathizes with Mr. Gniadek and his illness as Patent Owner

understands it (EX1029), Patent Owner still “do[es] not have a full explanation” for this omission in the record. *Id.*, 2.

Patent Owner alleges that that Mr. Gniadek’s assignment (EX1030) was actually a “catch all” assignment and that it “merely reiterates that the subject matter is assigned to Senko Advanced Components, Inc.” *Id.* But this contention is belied by the document itself—the title, text, and recordation purports to be a “New Assignment.” EX1030, 1. Indeed, Patent Owner’s proffered explanation for its “catch-all” assignment theory includes the rationale that it would be executed “in case any assignments had been inadvertently missed or might be found defective for some unforeseen reason.” EX1029, 2.

This appears to be exactly the case with the ’760 patent itself, and Patent Owner cannot now attempt to cure it *post hoc*. Indeed, there is no such corresponding assignment for the other named inventor of the ’760 patent, suggesting that even after the execution of the assignment attached as EX1030, that inventor appears—on the public record—to retain rights in the ’760 patent itself.

IV. CONCLUSION

For at least these reasons, Wong is—as stated in the Petition—prior art, and Patent Owner has submitted no reliable evidence to prove otherwise.

Respectfully submitted,

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Date: May 10, 2024

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing **PETITIONER'S
REPLY TO PATENT OWNER'S PRELIMINARY RESPONSE** and Exhibits
1028-1030 were served electronically via e-mail on May 10, 2024, in their
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