

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

XU PEICHENG (HONG KONG) OPTOELECTRONIC
TECHNOLOGY CO., LIMITED,
Petitioner,

v.

SEMISILICON TECHNOLOGY CORP.,
Patent Owner.

IPR2024-00156
Patent 8,884,546 B2

Before CHARLES J. BOUDREAU, SHEILA F. McSHANE, and
RUSSELL E. CASS, *Administrative Patent Judges*.

McSHANE, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5; 37 C.F.R. § 42.20(d)

On May 20, 2024, we instituted *inter partes* review with respect to all challenged claims in the instant proceeding. Paper 11 (Institution Decision). Under the particular circumstances of this case, we exercise our discretion under 37 C.F.R. § 42.20(d) to authorize post-hearing supplemental briefing as described below.

In the Institution Decision, we invited additional briefing on the term “synchronous signal.” *Id.* at 45. In the Patent Owner Response, Petitioner Reply, and Patent Owner Sur-reply, the parties provided briefing on this issue. *See* Paper 14 (PO Resp.), 9–11 (citing Ex. 2001 ¶¶ 55–58); Paper 17 (Pet. Reply), 1–2; Paper 20 (PO Sur-reply), 2–4. At oral argument, Patent Owner newly presented the argument that the ’546 patent discloses that the light strings may be driven “rhythmically.”¹ This late-raised reference to the ’546 patent specification appears to be relevant to the issue of the construction “synchronous signal.” We note that the ’546 patent discloses that light-emitting diode light strings are capable of being driven in “rhythm.” *See* Ex. 1001, 3:30–32. This disclosure is, in our view, an important consideration in the construction of the claim term “synchronous signal,” so we are disinclined to find that Patent Owner’s late argument is impermissible.

The panel has determined that in order to mitigate any possible prejudice, as well as to benefit the evidence of record, post-hearing briefing will be permitted on the construction of “synchronous signals.” Specifically, the post-hearing briefing should address the ’546 patent’s disclosure identified above, which appears to provide intrinsic support for Patent

¹ Entry of the oral hearing transcript in the case docket is pending.

Owner's proposed construction. The briefing may also include discussion of whether the prior art of record would teach, or would not teach, the relevant claim limitation under the opposing party's proposed claim construction. In the briefing, the parties may not vary their proposed claim construction of the term. Further, in the post-hearing briefing the parties may point to evidence already in the record, but may not introduce new evidence.

Additionally, Patent Owner has alleged that Petitioner raised a new claim interpretation in its Reply that "a light string" may consist of only one LED. PO Sur-reply 12. Patent Owner further alleged that Petitioner also late-argued that a single LED of a single light string may be a "curtain lamp." *See id.* These issues were further discussed at oral hearing. Our preliminary view is that Petitioner's arguments that a light string may consist of only one LED were permissibly included in the Reply because Petitioner was properly responding to arguments made by Patent Owner in its Response concerning light strings. *See* PO Resp. 15–17; Pet. Reply 2–5; 37 C.F.R. § 42.23(b). Petitioner's argument that a single LED may be a "curtain lamp" does not, however, appear to be as directly related to issues presented in Patent Owner's Response, but, perhaps, could be considered to be a corollary to Petitioner's arguments on light strings. *See* PO Resp. 15–17; Pet. Reply 2–5.

Nevertheless, the panel has determined that to benefit the evidence of record, post-hearing briefing will be permitted on the issue of whether a "curtain lamp" may consist of just one LED and whether such argument was timely presented. In the briefing, the parties may point to evidence already in the record, but may not introduce new evidence.

The post-hearing briefing on the “curtain lamp” issue will be combined with the post-hearing briefing for the construction of “synchronized signals.” That is, a single brief per party will be permitted for the supplemental brief and responsive brief, respectively, that addresses both issues discussed above.

It is therefore:

ORDERED that the parties may file opening post-hearing supplemental briefs, no longer than eight pages, that address the above-identified issues, no later than seven business days after the date of this order;

FURTHER ORDERED that the parties may file responsive briefs, limited to addressing issues discussed in the opening post-hearing supplemental briefs, no longer than five pages, and no later than five business days after the date of the respective post-hearing supplemental briefs; and

FURTHER ORDERED that no new evidence, including declaratory testimony, is authorized to be filed.

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