

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG DISPLAY CO., LTD.,
Petitioner,

v.

PICTIVA DISPLAYS INTERNATIONAL LTD.,
Patent Owner.

Case No. IPR2024-00855

Patent No. 8,314,547

**PETITIONER'S RESPONSE TO PATENT OWNER'S
PRE-INSTITUTION SUPPLEMENTAL BRIEFING**

In its original email, Patent Owner represented to the Board that claim constructions proposed in co-pending litigation by Samsung Electronics¹ were “inconsistent with the position Samsung [Display] took in its pre-institution reply.” Ex. 3002 at 2. Yet Patent Owner’s Supplemental Brief never discusses Petitioner’s Reply, much less identifies any inconsistency. The only citation to the Reply is buried in a footnote. Paper 10 at 2, n.1. Instead, Patent Owner improperly rehashes the arguments made in its Preliminary Response.

Patent Owner’s renewed arguments fail for the reasons already provided in Petitioner’s Reply. *See* Paper 8. *First*, Patent Owner’s claim that Igarashi and Shiotani’s OLEDs emit light in the “cyan, yellow-green, yellow, and orange regions” (Paper 10 at 2, quoting Ex. 2010) ignores those references’ explicit teachings. Igarashi claims a display device “wherein blue light is emitted from the organic EL element.” Ex. 1004, claim 18. It further teaches that “a wavelength range of 450 to 470 nm is emitted” by the OLED. *Id.*, ¶[0088]. Contrary to Patent Owner’s suggestion, Shiotani’s teaching that the OLED “generates blue light” is not merely Petitioner’s “assert[ion].” *See* Paper 10 at 1. It is a direct quotation. Ex. 1005, ¶ [0022] (“Here, the organic EL light-emitting layer 19 is formed of an organic EL material that *generates blue light . . .*.”) (emphasis added).

¹ Petitioner Samsung Display Co., Ltd. is not a party to that litigation.

Second, Patent Owner improperly attempts to limit Igarashi and Shiotani to exemplary embodiments. Patent Owner's arguments are based on alleged properties of BCzVBi and DPVBi, but neither Igarashi nor Shiotani requires the use of those materials. *See* Paper 8. It is undisputed that, prior to the filing of the '547 patent's application, "there were known OLED systems whose emission spectra do not have significant emission at wavelengths above 500 nm." Ex. 2010 at ¶ 43.

Third, Patent Owner misrepresents Petitioner's arguments. Although Patent Owner asserts that Petitioner's "apparent position" is that the claimed "first wavelength spectrum" "can mean just a portion of the entire emission spectrum," Paper 10 at 1, Petitioner has never made any such claim. Patent Owner devotes its Supplemental Brief to attacking a strawman of its own making.

Patent Owner's Supplemental Brief does not raise any new issues or identify any alleged "inconsistencies" in Petitioner's Reply. Instead, Patent Owner has attempted to use the *Markman* process in the litigation as an excuse to reargue points that were already briefed in Patent Owner's Preliminary Response.

Patent Owner's attempt to inject issues from the district court litigation into this proceeding is also disingenuous. Although Patent Owner sought to submit Samsung Electronics' proposed constructions as an allegedly "mandatory notice," it did not seek leave to submit its own proposed constructions. Patent Owner has proposed constructions that differ from those of Samsung Electronics, suggesting

that it disagrees with Samsung Electronics’ constructions. Yet, Patent Owner’s Supplemental Brief does not discuss its own constructions or explain why it disagrees with Samsung Electronics’ constructions. Rather, it appears to be undisputed that, whatever disputes might arise in the litigation, no claim constructions are required for purposes of the Board’s institution decision.

Moreover, Patent Owner repeatedly confuses Petitioner Samsung Display with Samsung Electronics, a separate company. Patent Owner complains, for example, that “Samsung” has “refused to answer” Patent Owner’s questions, citing correspondence in the district court case between Patent Owner and Samsung Electronics. Paper 10 at 3. But Petitioner is not part of that case, and Patent Owner did not include Petitioner or Petitioner’s counsel on any of that correspondence, further demonstrating that there is no genuine claim construction issue for the Board to resolve between the parties in this proceeding.

Finally, Petitioner notes that Patent Owner’s filing is not in compliance with the Board’s instructions. The Board stated that “Patent Owner may file the two exhibits appended to counsel’s email in support in [its] supplemental brief, but no other new evidence is permitted.” Ex. 3002 at 1. The document that Patent Owner filed as Exhibit 2054 is not the same document that Patent Owner appended to its previous email, and the Board has not granted leave to file the new Exhibit.

Date: November 13, 2024

Respectfully submitted,

By /David A. Garr/

David A. Garr

Registration No.: 74,932

COVINGTON & BURLING LLP

One CityCenter, 850 Tenth Street, NW

Washington, DC 20001

Scott C. Weidenfeller

Registration No.: Reg. No. 54,531

COVINGTON & BURLING LLP

One CityCenter, 850 Tenth Street, NW

Washington, DC 20001

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, I hereby certify that the foregoing Petitioner's Response to Patent Owner's Pre-Institution Supplemental Brief was served by electronic mail on the following counsel of record for patent owner:

Hong Annita Zhong (hzhong@irell.com)
Jie Gao (jgao@irell.com)
Rebecca Carson (rcarson@irell.com)
Philip Warrick (pwarrick@irell.com)
Jason Sheasby (jsheasby@irell.com)
PictivaIPR@irell.com

Date: November 13, 2024

/David A. Garr/
David A. Garr (Reg. No. 74,932)