

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. IPR2024-01095
Patent No. 11,823,425 B2



PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW

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I. INTRODUCTION

Patent Owner Pictiva Displays International Ltd. respectfully requests Director Review of the Board's Final Written Decision (Paper 54, "FWD") finding claim 2, among others, of U.S. Patent No. 11,828,425 (EX1001, "the '425 Patent") unpatentable. The Board's FWD does not even acknowledge an *inconsistent prior jury verdict or inconsistent claim constructions advanced by Samsung in the district court*. Director Review is necessary to discourage gamesmanship in parallel proceedings and ensure consistency with prior decision-making in Article III courts.

Specifically, in November 2025, more than two months before the Board issued its FWD, the Board was notified of a jury verdict finding that Petitioner's real parties in interest (collectively, "Samsung") willfully infringed and failed to prove invalid claim 2 of the '425 Patent. EX3007; EX2033-2 (jury verdict). The Board refused to terminate the proceeding. *See* EX3007. The Board authorized limited briefing on the import of the jury trial and was made aware of a critical inconsistency between Petitioner's arguments in this IPR and the voluntary testimony of its own engineer in support of Samsung's non-infringement theory at the jury trial. *See* Papers 48, 50. The Board then issued an initial FWD (Paper 53) on January 22, 2026, and a corrected FWD on February 9, 2026 (Paper 54). The FWDs *completely failed to address* the jury verdict or Petitioner's inconsistent positions.

These omissions alone warrant the Director's intervention. *See, e.g.,*

Memorandum, “PTAB Consideration of Prior Findings of Fact and Conclusions of Law” (Sept. 16, 2025) (providing that “when patent claims being challenged before the Board ... have already been adjudicated ... in district court,” and the Board reaches a different conclusion, “the Board shall explain in the ... final written decision why a different outcome is warranted”); *Tesla, Inc. v. Intellectual Ventures II LLC*, IPR2025-00340, Paper 18 at 3 (Director Nov. 5, 2025) (informative) (rejecting the “assertion that a petitioner should be permitted to raise inconsistent invalidity challenges in the two forums”).

The jury verdict and Petitioner’s inconsistent claim construction positions present important issues of law and policy related to deterring gamesmanship in co-pending litigation and preserving the integrity of the patent system. Director Review would provide an opportunity to curb the use of PTAB proceedings to nullify infringement and validity determinations in Article III courts. Director Review would also provide an opportunity to clarify that concerns regarding inconsistent claim construction arguments extend beyond formal claim construction proposals.

II. BACKGROUND

The ’425 Patent resulted from a collaboration between OSRAM engineers and industrial designers. It relates to relates to organic light-emitting diode (OLED) technology at the heart of modern smartphones, televisions, wearables, computers and other devices. “One object of the invention is to provide organic light-emitting

diodes which can be used particularly diversely.” EX1001 at 1:26-27. In particular, the ’425 Patent is directed to novel and non-obvious devices with a phosphorescent “iridium-containing compound.” *Id.* at 88:7-9. Independent claim 1, for example, describes an OLED device that includes, among other things, “an organic layer sequence, a radiation exit area, and an encapsulation ... wherein the organic layer sequence comprises an electron transport layer that is n-doped.” *Id.* at 87:61-88:9. Dependent claim 2, which is also at issue in the related district court proceedings, further provides that the electron transport layer (“ETL”) “comprises 8-hydroxy-quinolinolato-lithium [Liq].” *Id.* at 88:10-12; *see also id.* at 89:8-10 (claim 17, reciting “wherein the electron transport layer comprises at least [Liq]”).

Petitioner Samsung Display Co., Ltd. submitted a Petition on July 3, 2024, for IPR of claims 1-19 of the ’425 Patent on multiple grounds. Paper 1 (“Pet.”) at 3-4. Patent Owner disclaimed several claims, leaving claims 2, 4, 9-12, and 17 at issue. *See* FWD 2; EX2001. The Petition challenged claims 2 and 17 under two obviousness theories. Ground II relied on Diekmann (EX1004) and Ma (EX1010), and Ground VII relied on Suzuki (EX1006) and Ma. Petitioner asserted that both Diekmann and Suzuki disclosed or suggested n-doped ETLs, but relied on Ma for disclosing the use of Liq as the n-dopant in the ETL. *See* Pet. 36-38, 69-70.

Before the jury, Samsung argued that claim 2 was invalid based on: (1) the combination of a product called Clix2 with a reference called Wei (EX2035) that is

substantively the same as Ma, or (2) a published patent application called Kondakova (EX2036) that could have been asserted in this IPR. Because of page limit, this Request discusses only how the first theory overlaps significantly with Grounds II and VII in this IPR. *See* Section III.C, *infra*. Moreover, Samsung's expert admitted that the Clix2 product failed to achieve an n-doped ETL despite including ■■■ in the ■■■. *See* EX2034 at 917:1-13. That failure undermines Petitioner's argument that a skilled artisan would have a reasonable expectation of success in obtaining an n-doped ETL by replacing a known n-dopant with Liq in the ETL.

Additionally, one of Petitioner's own engineers, Dr. Jihyun Seo, voluntarily testified in support of Samsung's non-infringement theories. *See id.* at 838:20-25. According to Dr. Seo, the ability of Liq to n-dope an ETL depends on the relationship between the HOMO (Highest Occupied Molecular Orbital) value of Liq and the LUMO (Lowest Unoccupied Molecular Orbital) of the ETL material. Specifically, Dr. Seo testified that ***Liq n-dopes an ETL only if its HOMO is higher than the LUMO of the organic ETL material*** to which it is added. *See id.* at 848:16-22. Samsung's expert in the district court likewise testified that, because the LUMO level of the prior art Clix2's ETL was similar to that in the accused products, Clix2 had not been shown to be n-doped. *Id.* at 917:7-13. This new theory fundamentally conflicts with Grounds II and VII of the Petition because there is no dispute that the HOMO value for Liq is significantly ***lower than*** the LUMO values of the ETLs in

the relied on IPR references. *See* Paper 21 (“POR”) at 30; Section III.A, *infra*.

Following the jury verdict, Patent Owner promptly notified the Board pursuant to the General Order regarding Related Matter Updates (Paper 37). *See* EX3007. The Board subsequently authorized limited briefing, and Patent Owner provided additional details regarding Petitioner’s inconsistency and the cumulative nature of the proceedings. *See* Paper 48. Despite this briefing, the Board’s FWD includes *no mention* of the jury verdict, the Clix2 product, the HOMO/LUMO ratio theory presented at trial, or Petitioner’s inconsistent positions.

III. ARGUMENT

A. Petitioner Advanced Inconsistent Claim Construction Positions

Both Samsung and Petitioner’s engineer advanced what is effectively a claim construction argument to the jury that cannot be reconciled with Grounds II or VII of the Petition. Neither party formally requested a claim construction of “n-doped,” and Petitioner does not dispute the testimony that Liq is not always an n-dopant when added to an ETL material because “[i]t depends specifically on the interaction between the two materials.” EX2034 at 324:6-12. Petitioner’s engineer was asked about the ability of Liq to n-dope an ETL, and she described a bright-line test. Specifically, Dr. Seo testified that Liq will n-dope an ETL only if its HOMO value is higher than the LUMO value of the ETL material to which it is added:

Q. Okay. Now, what does this document tell us about whether or not

the [REDACTED] is an N-dopant?

A. This document shows us that [REDACTED] *cannot be an N-dopant* because when you look at *the HOMO values for [REDACTED]*, that is indicated to be *minus [REDACTED]* and when you *compare that to the LUMO values of the organic material, which is minus [REDACTED]*, it's *lower* than that. That's why.

EX2034 at 848:16-22 (emphases added).¹ While the question was directed to a document describing the accused products, the answer provides a specific test that cuts across different ETL materials. *Contra* Paper 50 at 1. Indeed, Samsung's expert used this same test to assess whether prior art disclosed n-doped ETLs. *See* EX2034 at 917:1-13 (testifying that Clix2 was not shown to have an n-doped ETL because the "LUMO value for [Clix2's ETL] ... is similar to what Dr. Seo testified yesterday for all of the allegedly infringing products").

Petitioner did not suggest this construction or test in this proceeding, even though it would be particularly relevant here, as the test allegedly concerns the condition for electron donation from a molecule (*see* EX2034 at 431:9-17), and the Petition argues that Liq is a molecule "suitable for emitting electrons" (Pet. 37). But this HOMO/LUMO test fundamentally conflicts with Grounds II and VII because the LUMO values of the ETLs in Diekmann and Suzuki—at about minus 3.0 eV—

¹ HOMO and LUMO energy levels are all negative values. Accordingly, minus [REDACTED] eV is higher than minus [REDACTED] eV.

are indisputably much **higher** than the HOMO value for Liq, which is about minus 5.58 eV (*see* EX2022). *See* POR 30; EX1010 at 813 (LUMO for Ma’s ETL, BPhen, is -3.0eV); EX1049 at L800 (LUMO for Alq₃ is -3.0eV); Papers 29 & 50 (not disputing the LUMO levels of ETLs). Grounds II and VII therefore cannot succeed under the claim construction and test Samsung advanced at trial:

Liq HOMO:	ETL LUMO in Accused Products:	ETL LUMO in Alleged Prior Art:
-5.8 eV	██████ eV	-3.0 eV (or higher)

Petitioner thus runs afoul of precedent. While “a petitioner is not necessarily precluded from arguing different claim construction positions before a district court and the Board, the petitioner should explain sufficiently why the different positions are warranted.” *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 20 at 5 (Director Nov. 3, 2025) (precedential). Numerous recent decisions reinforce these principles. *E.g.*, *Revvo Techs., Inc. v. Cerebrum Sensor Techs., Inc.*, IPR2025-00632, Paper 36 (Director Jan. 26, 2026); *Carbyne, Inc. v. Trittech Software Sys.*, IPR2025-00959, Paper 20 (Director Feb. 19, 2026); *Infineon Techs. Americas Corp. v. Mosaid Techs. Inc.*, IPR2025-01171, Paper 27 (Director Feb. 19, 2026). Here, Petitioner has not provided such an explanation. *See* Papers 48, 50.

Petitioner has argued that the jury must have rejected this construction by finding non-infringement. *See* Paper 50 at 1. However, Samsung continues to advocate for this interpretation of “n-doped”/“n-doping” in its post-trial briefs, and

will presumably continue to do so on appeal to the Federal Circuit. *See, e.g., Pictiva*, Dkt. 621 at 9 (Dec. 18, 2025) (citing Dr. Seo’s testimony to argue “that ***the HOMO and LUMO values of the materials in the ETLs*** in the Accused Products ***confirm that they are not n-doped***” (emphases added)). For consistency, the Director should let the district court and the Federal Circuit determine the proper construction and to apply that construction for both infringement and validity.

Petitioner may argue that Samsung did not propose a claim construction, but testimony by Petitioner’s engineer and arguments by Samsung did so implicitly because they interpreted the condition/scope of infringement and validity for the jury. Permitting this type of inconsistency at minimum violates the spirit of *Revvo* and its progeny. *See Tesla*, IPR2025-00340, Paper 18 at 3 (rejecting “assertion that a petitioner should be permitted to raise inconsistent invalidity challenges in the two forums”). To hold otherwise invites gamesmanship and risks inconsistent outcomes.

B. The Board Improperly Ignored the Jury Verdict and Petitioner’s Inconsistent Claim Construction Arguments

Remarkably, the Board failed to include *any* discussion of either the jury verdict or Petitioner’s inconsistent claim construction positions in the FWD. These omissions independently warrant Director intervention. The Federal Circuit has vacated decisions where “the Board’s analysis does not explicitly address [patent owner’s] arguments or even implicitly explain [its decision] in a way that fairly

contemplates and resolves those arguments.” *Provisur Techs., Inc. v. Weber, Inc.*, 50 F.4th 117, 124 (Fed. Cir. 2022); *see also Alacritech, Inc. v. Intel Corp.*, 966 F.3d 1367, 1371 (Fed. Cir. 2020) (vacating because “the Board did not endorse, adopt, or otherwise suggest that it was persuaded by those arguments, much less explain why it found those arguments persuasive”). The failure to address Petitioner’s own engineer’s conflicting testimony to the jury is particularly egregious.² As in *Ultratec, Inc. v. CaptionCall, LLC*, 872 F.3d 1267 (Fed. Cir. 2017), “[t]he Board offers no reasoned basis why it would not be in the interest of justice to consider sworn inconsistent testimony on the identical issue.” *Id.* at 1272-73.

The Board’s failure even to mention the jury verdict, much less “explain ... why a different outcome is warranted” also directly contravenes the September 16, 2025 Memorandum. “It is important for the Board to consider a district court’s prior validity determination,” and “the Board must explain why the different outcome is warranted.” *Inergy Tech., Inc. v. Force MOS Tech. Co.*, IPR2024-00094, Paper 44 at 2-3 (Director Nov. 25, 2025) (citing Memorandum). While the Director

² In a related proceeding, Petitioner referred to this same inconsistency argument and confusingly stated that “the Board rejected that argument in [this] proceeding.” IPR2026-00129, Paper 9 at 10. That is plainly incorrect, as the Board’s FWD does not even acknowledge Patent Owner’s argument.

determined that a different outcome was warranted in *Inergy* because the district court defendant failed to articulate a meaningful motivation to combine argument and both decisions rested on consistent findings of fact, *see id.* at 3-4, the facts are different here, and the Board's FWD here includes no such analysis. Had the Board considered the district court proceedings, it would have been forced to address the overlapping theories and inconsistent arguments discussed above and below.

C. Samsung's Failed District Court Invalidity Challenge to Claim 2 Is Cumulative of Petitioner's Unpatentability Grounds II and VII

The jury rejected Samsung's invalidity theories, which are cumulative of (or at minimum significantly overlap) Petitioner's unpatentability grounds in this IPR. For example, Samsung's expert conceded that while the Clix2 product's ETL included [REDACTED] mixed in another organic material, the ETL was not n-doped. EX2034 at 917:1-13. An engineer of Petitioner agreed. *See id.* at 1208:9-20. That concession undermines the Petition's theory that replacing Suzuki's or Diekmann's n-dopants with Liq would result in an n-doped ETL with a reasonable expectation of success.

Samsung's expert also made the conclusory assertion that "if one were motivated to N-dope the ETL, [Wei] would have been evidence that you could indeed go ahead and do that." *Id.* at 920:8-14. *Wei*, however, provides ***materially the same disclosure as Ma***. Compare EX2035, with EX1010 (sharing coauthors as well as substantively identical abstracts, disclosures, figures, and conclusions).

Petitioner cannot dispute that both it and Samsung relied on the materially identical disclosures of Ma/Wei for the claimed n-doped ETL comprising Liq. *Compare* EX2034 at 920:8-16 (relying on “a prior art reference from Wei which shows an N-doped ETL using Liq in the BPhen”), *with* Pet. 36 (“It would have been obvious to a POSITA to use [Liq] as the dopant in Diekmann’s n-doped electron transport layer as taught by Ma.”), 70 (“It would have been obvious to a POSITA to use [Liq] as the dopant in Suzuki’s n-doped electron transport layer”). By rejecting the Clix2 theory, the jury necessarily disagreed that it would have been obvious to incorporate Wei’s teachings (which are materially identical to Ma’s teachings) to form an n-doped ETL using Liq. *Contra* Pet. 37 (“A POSITA would have been ***motivated to use an Liq-doped electron transport layer*** in the organic layer stack of Diekmann ***due to the known benefits of an Liq-doped electron transport layer.***” (emphases added)); Pet. 70 (“A POSITA would have been ***motivated to use an Liq-doped electron transport layer of Ma*** in the organic layer stack of Suzuki ***due to the known benefits of an Liq-doped electron transport layer***” (emphases added)).

In Paper 50, Petitioner attempted to distinguish the Clix2 ground by arguing that the Clix2 ground started out with an ETL that is not n-doped while the Petition starts with n-doped ETLs. But in the excerpts of pages 37 and 70 of the Petition quoted above, the Petition discussed the alleged benefits of doping an ETL with Liq over an undoped ETL. *See* Pet. 37, 70. By finding claim 2 of the ’425 Patent not

invalid, the jury has rejected that theory.

D. Congress Did Not Create IPR to Unravel Jury Verdicts

Congress created *inter partes* review (“IPR”) as part of the America Invents Act (AIA) in 2011 to provide “quick and cost effective *alternatives*” to district court litigation. H.R. Rep. No. 112-98, at 48 (2011); *see also* S. Rep. No. 110-259 at 71 (IPR “should generally serve as a complete substitute for at least some phase of the litigation.”). Congress did not envision IPR imposing a duplicative and costly *additional* battleground for validity disputes. For that reason, the Office recently confirmed the importance of “reduc[ing] the risk of the Office and a district court rendering inconsistent decisions.” Notice of Proposed Rulemaking, 90 Fed. Reg. 48335, 48335 (Oct. 17, 2025). But that is precisely what happened here.

Because Samsung presented invalidity arguments that were cumulative of Petitioner’s unpatentability challenges, Patent Owner respectfully requested termination in view of the jury verdict. EX3007 at 5; *see* 37 C.F.R. § 42.72 (permitting termination without rendering a FWD, where appropriate). The Board nonetheless issued a FWD at odds with the prior jury verdict, which underscores concerns articulated by several current and former Federal Circuit judges.

For example, “[t]he integrity of the U.S. patent system is ... undermined when the PTAB unwinds and effectively overrules presumptively valid judgments and verdicts by Article III judges and juries,” which is “inconsistent with the objectives

of the AIA.” *OpenSky Indus., LLC v. VLSI Tech. LLC*, IPR2021-01064, Paper 80 (former C.J. Michel Amicus Brief) at 9 (Aug. 19, 2022). A losing infringement defendant “ought not to be able to turn around and rely on the PTO to undo the prior district court litigation.” *ePlus, Inc. v. Lawson Software, Inc.*, 790 F.3d 1307, 1314 (Fed. Cir. 2015) (“Moore, J., dissenting); *id.* at 1309 (Newman, J., dissenting) (expressing concern that “non-final judicial judgments are subject to overrule by subsequent holdings of the Patent and Trademark Office”); *ePlus*, 789 F.3d 1349, 1370 (Fed. Cir. 2015) (O’Malley, J., dissenting) (expressing concern that “a decision of the PTO, an administrative agency under a coordinate branch of government, can displace a judgment of an Article III court”); *Fresenius USA, Inc. v. Baxter Int’l, Inc.*, 733 F.3d 1369, 1382-83 (Fed. Cir. 2013) (Newman, J., dissenting) (expressing concern that current precedent has “routinely subject[ed] Article III judgments to agency override” and led to “pervasive duplication of litigation”).

Director Review provides an opportunity to avoid this situation going forward by vacating the FWD, terminating the proceeding, and directing future panels to avoid—or at minimum explain—any such conflicting decisions. The Director already has taken similar action in the context of another forum determining an identical challenge. In *Sinclair Pharma Ltd. v. Hydrafacial LLC*, IPR2025-00145, Paper 41 (Director Feb. 12, 2026), the Director “de-instituted because the ITC already has adjudicated validity of the challenged patent based on the same

challenges asserted in this IPR.” *Id.* at 2 (citing, among other things, the “risk of inconsistent decisions”). Raising overlapping or cumulative challenges in parallel litigation raises similar concerns. Another institution decision was vacated and the petition denied because a district court already had held the challenged claims invalid under § 101. *Hulu, LLC v. Piranha Media Distribution, LLC*, IPR2024-01252, Paper 27 (Acting Director Apr. 17, 2025). Despite the fact that subject-matter eligibility challenges are not available in IPR, *see* § 311(b), “where a district court already has found the challenged claims invalid, the efficiency and integrity of the patent system is best served by denying institution.” *Hulu*, Paper 27 at 3. These concerns are only magnified when the Board proceeds to find claims unpatentable *after* a jury in an Article III court reached the opposite conclusion.

E. The Director Should Vacate the FWD and Terminate the IPR

The Board’s failure to address the conflicting positions and justify an outcome at odds with the jury verdict undermines the credibility of the FWD. Because the Board’s unpatentability determination fundamentally conflicts with Samsung’s non-infringement (as well as invalidity) arguments in the district court, vacatur and termination is appropriate. *See Interactive Commc’ns Int’l v. Blackhawk Network*, IPR2024-00465, Paper 40, at 3-4 (Director Oct. 9, 2025) (terminating IPR after vacating final written decision premised on expert who “gave conflicting testimony”); *cf. Generac Power Sys., Inc. v. Champion Power Equip., Inc.*,

IPR2025-00805, Paper 40, at 2-4 (Director Feb. 3, 2026) (vacating institution decisions and denying petitions due to inconsistent positions).

As explained above in Section III.D, avoiding conflicts with prior Article III determinations would promote confidence in the patent system and avoid Separation of Powers concerns. The Director has authority to, and has exercised the authority to, vacate final written decisions and terminate IPRs. *See Aylo Freesites Ltd v. Dish Techs. L.L.C.*, IPR2024-00940, Paper 75 at 4 (Director Feb. 3, 2026); *Verizon Connect Inc. v. Omega Patents, LLC*, IPR2023-01162, Paper 40 at 2 (Acting Director June 3, 2025). Such decisions are akin to non-institution decisions, which the Federal Circuit has characterized as “a matter of unreviewable discretion.” *Apple Inc. v. Squires*, No. 2024-1864, 2026 WL 406495, at *8 (Fed. Cir. Feb. 13, 2026); *see also Sling TV, L.L.C. v. Realtime Adaptive Streaming LLC*, 840 F. App’x 598, 599 (Fed. Cir. 2021) (“We have held that the Board has the inherent authority to reconsider institution decisions (beyond the regulatory time for a patentee’s entitlement to seek reconsideration)”). For all of the reasons explained herein, vacating the FWD and terminating this proceeding would ensure consistency in different forums and accord appropriate respect to the prior jury verdict.

IV. CONCLUSION

For these reasons, Patent Owner respectfully requests Director Review to promote consistency and preserve the integrity of the patent system.

Dated: March 11, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. § 42.6, that on March 11, 2026, a complete copy of the foregoing document, **PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW**, was served by ELECTRONIC MAIL, as agreed to by the parties, upon the following:

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