

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GOOGLE LLC and MOTOROLA MOBILITY LLC,
Petitioner,

v.

MULTIFOLD INTERNATIONAL INCORPORATED PTE. LTD.,
Patent Owner.

Case IPR2025-00058
Patent No. 9,158,494

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST

PO has failed to identify any important issues of law and policy, erroneous conclusions of law, or abuses of discretion that would justify Director Review. PO's primary argument is that the Board erred by instituting "where only a single dependent claim . . . meets the reasonable likelihood standard." Request, 1 (referring to claim 2).¹ This misreads the Institution Decision, which credited Petitioners' arguments that there were evidentiary issues with *all* PO's alleged conception and reduction to practice, including the credibility of PO's declarants and whether PO sufficiently corroborated its inventor evidence as required. DI, 24–25. The Board regularly institutes IPRs to better develop the record on swear-behind disputes. *See, e.g., IQE PLC v. Cornell Rsch. Found.*, IPR2024-00609, Paper 9 at 40–41 (Sep. 13, 2024) (granting institution because PO's invention date arguments "raise disputed factual issues that are best resolved on a more fully developed record.").

Institution was particularly appropriate here given that for the majority of claims PO made only antedating arguments. It did not even allege any deficiencies in Petitioners' mapping of Seo. Nor did PO seek discretionary denial on any basis. Thus, because PO did not show that it would prevail in antedating Seo, Petitioners demonstrated a reasonable likelihood of success and there was no error in the DI.

I. PO IS MISTAKEN THAT THE BOARD ONLY FOUND A REASONABLE LIKELIHOOD OF SUCCESS FOR ONE CLAIM

¹ Petitioner uses the abbreviations defined in the Request unless otherwise stated.

PO contends that the Board erred by instituting IPR where “only a single dependent claim [dependent claim 2] out of twelve challenged claims meets the reasonable likelihood standard” (Request, 1), and that “Petitioners did not identify any issues as to the other challenged claims” (*id.*, 2). But those arguments are based on a misapprehension of the DI and a mischaracterization of the Preliminary Reply.

Petitioners identified numerous failings with PO’s alleged antedating evidence for all challenged claims, including a failure to show that the EV-1 and EV-2 prototypes purportedly reduced to practice any claims, credibility issues with PO’s declarants, and insufficiently corroborated inventor evidence. *See* Prelim. Reply at 1–5. The Board correctly recognized that PO bears the burden to produce evidence of an invention date before Seo’s effective date (DI, 21 (citing *Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1379–80 (Fed. Cir. 2015))), and that inventor evidence must be sufficiently corroborated (*id.* (citations omitted)). The Board then explained its concerns about the credibility of PO’s declarants and the sufficiency of PO’s alleged corroboration evidence. *Id.* at 24–25.

In view of those issues, the Board wanted a better-developed record to “properly assess the credibility of the three declarants and, importantly, to determine whether Mr. Sirpal’s testimony is sufficiently corroborated.” DI, 24–25. In “declin[ing] Patent Owner’s request to deny institution” based on the above issues (DI, 25), the Board effectively found a reasonable likelihood of success that Seo was

prior art to all of the claims. *See id.*, 20–21, 24–25.

II. PO'S EVIDENCE IS INSUFFICIENT TO ANTEDATE SEO

There are significant issues with PO's alleged antedating evidence. *See* Prelim. Reply, 1–5. These include, *inter alia*, a lack of evidence showing what claim limitations were embodied in PO's prototypes, arguments supported only by inadmissible hearsay, inventor evidence without independent corroboration, and declarations three witnesses that collaborated with each other on their testimony (calling into doubt their independent corroborative value). *See id.*; DI, 24–25.

As one example, PO repeatedly references two video clips of a device (allegedly from January 2011) (EXS2022, 2023), an email purportedly linking to the original unexcerpted video (EX2024) (but there is no way to verify what was at the other end of the link), and alleged metadata for that video from inventor Sirpal (EX2025). *See* Request, 5–6, 10, 13–14. But this evidence fails at least the corroboration requirement because it is all from the inventor and supported only by his testimony. *See* Prelim. Reply, 4; *Microsoft Corp. v. Surfcaster, Inc.*, IPR2013-00292, Paper 93 at 16-17 (finding inventor evidence cannot alone authenticate a document or corroborate an exhibit's date of origin).

PO focuses on its “voluminous evidence” (Prelim. Reply, 5), repeatedly quoting Petitioner's use of that phrase out of context in the Request, while failing to appreciate the crucial difference between quantity and legal sufficiency. PO did not

even explain the vast majority of its exhibits to the Board. *See, e.g.*, POPR, 35–36 (citing EXS2040-2087 and explaining only that they are “JIRA reports”). As such, it cannot expect the Board to find in its favor on volume of exhibits alone.

Given these issues and deficiencies in PO’s evidence, the Board did not err in declining to agree with PO that Seo is not prior art.

III. PO’S DECLARANTS HAVE CREDIBILITY ISSUES

PO submitted three fact witness declarations in support of antedating Seo. But it was clear that those declarations were not independently written (Prelim. Reply, 4–5), and PO did not dispute that its declarants teamed up to prepare those declarations (DI, 24–25). PO also contends that it used documents to allegedly refresh Cassar’s recollection, but circularly uses the hearsay in those same documents to “corroborate” Cassar’s “independent recollection,” causing the Board to discount Cassar’s testimony. *See* DI, 24–25; Prelim. Reply, 3. The Board also noted a credibility issue with respect to Sirpal’s testimony on claims 2 and 14, for which Sirpal’s mapping of his claims to his prototype was facially erroneous. *See* DI, 21–24; Prelim. Reply, 7–8.

PO argues that the Board erred in discounting this evidence, citing *Fleming v. Escort Inc.*, 774 F.3d 1371, 1377 (Fed. Cir. 2014). Request, 13. But the very quote PO takes from *Fleming*—“all pertinent evidence is examined in order to determine whether the inventor’s story is credible”—confirms that the Board did not err in

granting institution because it reviewed the pertinent evidence and did not find it credible enough to determine PO is likely to antedate Seo. *See* DI, 24–25.

IV. THE BOARD ROUTINELY DETERMINES INVENTION DATES

Despite never seeking discretionary denial on any basis, PO now asserts that the Board abused its discretion in instituting IPR, and that its receiving evidence on PO’s swear-behind defense would violate FAQ 21. *See* Request, 14–15. PO argues that institution will result in “full blown discovery” (*id.*, 2), but IPR discovery is limited under *Garmin*, and PO identifies no unusual discovery anticipated here.

PO also contends the dispute is better suited to an Article III court (Request, 14–15), effectively urging the Board to never institute IPR if there is antedating evidence. That is inconsistent with the Board’s long history of resolving invention dates. *See, e.g., CBS Interactive Inc. v. Helferich Pat. Licensing, LLC*, IPR2013-00033, Paper 122, at 47 (Mar. 3, 2014); *Peloton Interactive, Inc. v. NEC Corp.*, IPR2023-01240, Paper No. 43, at 23–24 (Feb. 5, 2025). PO also fails to mention that the parties stipulated to staying the related district court cases pending Final Written Decisions on this and seven other instituted IPRs. *See Multifold Int’l Inc. v. Google LLC*, 1:23-cv-1323, D.I. 110, at *3 (D. Del. May 30, 2025). This IPR is thus well situated to offer an efficient alternative to district court litigation.

V. CONCLUSION

PO’s Request should be denied because it identified no error in the DI.

Respectfully submitted,

Dated: June 6, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2025, I caused a true and correct copy of the foregoing Authorized Response to Director Review Request to be served electronically on counsel for Patent Owner at the following addresses:

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