

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

EOPTOLINK TECHNOLOGY USA INC.,

Petitioner,

v.

APPLIED OPTOELECTRONICS, INC.,

Patent Owner.

Case IPR2026-00123
Patent No. 11,177,887

**PATENT OWNER'S PRELIMINARY SUR-REPLY TO PETITIONER'S
PRELIMINARY REPLY**

Patent Owner Applied Optoelectronics, Inc. (“AOI”) submits this Preliminary Sur-Reply to the Preliminary Reply of Petitioner Eoptolink Technology USA Inc. (“Petitioner”) to AOI’s Patent Owner’s Preliminary Response, pursuant to the email authorization of March 25, 2026.

“In an [inter partes review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring inter partes review petitions to identify “with particularity . . . the evidence that supports the grounds for the challenge to each claim”)).

Furthermore, Petitioner must explain with particularity how the prior art would have rendered the challenged claims unpatentable. 35 U.S.C. § 312(a)(3); 37 C.F.R. § 42.104(b)(4) (“The petition must specify where each element of the claim is found in the prior art patents or printed publications relied upon.”). “The IPR petition, thus, must provide an understandable explanation of the element-by-element specifics of the patentability challenges, including the identification of particular portions of prior art on which the petitioner is relying.” *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1001 (Fed. Cir. 2023). Finally, a “Petitioner may not submit new evidence or argument in reply that it could have presented earlier,

e.g. to make out a prima facie case of unpatentability.” Board’s Consolidated Trial Practice Guide, 73 (Nov. 21, 2019).

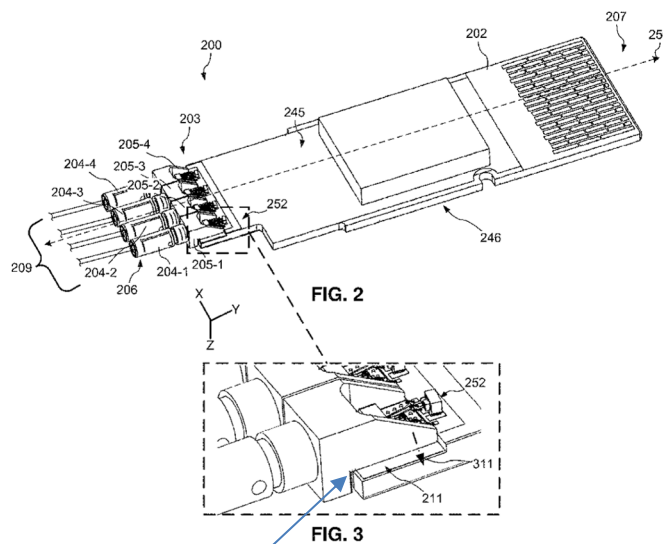
Petitioner asserted in its Petition that “[n]o claim terms of the ’887 patent require claim construction to resolve any disputes in this forum.” Petition at p. 13. Yet, Petitioner apparently now realizes its Petition fails to show that its prior art references render obvious or anticipate any of the Challenged Claims and tries, albeit unsuccessfully, to save its Petition by raising claim construction arguments for the first time in its Reply. Such attempts should be rejected because they are procedurally improper and do not remedy Petitioner’s initial failure to show that the prior art references render obvious or anticipate any of the Challenged Claims.

Independent Claim 1 of the ’887 Patent requires “wherein the second mounting region at the optical coupling end of the substrate is configured to edge mount to the at least one TOSA module,” and Independent Claim 10 of the ’887 Patent similarly requires “at least one TOSA module edge mounted to the optical coupling end of the transceiver substrate.” These limitations were also one of the key points of novelty identified during prosecution. *See, e.g.*, Exhibit 1002 at pp. 39, 52-53. Yet, in its Petition, Petitioner only conclusory asserted without further support or explanation that “[a]s further shown in Figures 1A, 1B, and 2 of Kuhara, the TOSA module 5 is edge mounted to the concave portion 29 (second mounting

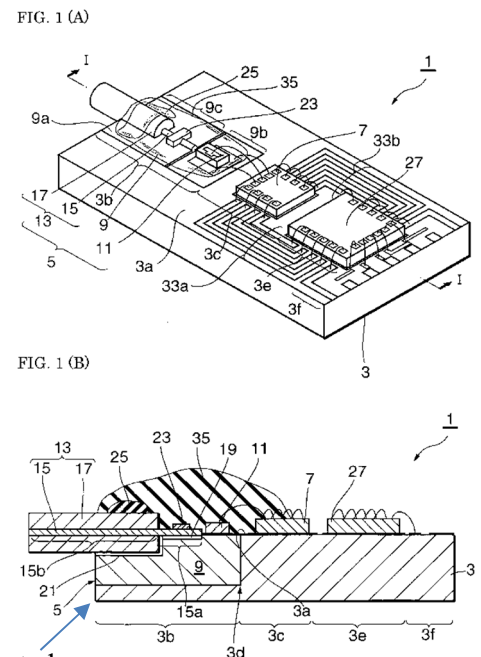
region) at the optical coupling end 3b of circuit board 3.” See Petition at p. 29.

Petitioner and its expert did not explain why they argue, or believe, that mounting on the top surface 29 is edge mounting even though it does not match the edge mounting disclosed and claimed in the ’887 Patent.

Comparing Figures 2 and 3 from the ’887 Patent with Figures 1A and 1B from Kuhara clearly shows the difference:



Edge mounting of the TOSA to the transceiver substrate in the ’887 Patent



No edge mounting of the asserted TOSA to the substrate in Kuhara

Petitioner’s failed attempts to now construe edge mounting in Reply to only require the TOSA be mounted on the top surface of the substrate should be rejected, and the Director should deny institution of the Petition.

Dated: April 3, 2026

/s/ Jo Dale Carothers

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CERTIFICATE OF WORD COUNT

Under the provisions of 37 C.F.R. § 42.24(d), the undersigned hereby certifies that the Microsoft Office word count including all footnotes for the foregoing Patent Owner's Preliminary Response, excluding the table of contents, table of authorities, certificate of word count, appendix and certificate of service, totals 2,762 words, which is less than the 14,000 words allowed under 37 C.F.R. § 42.24(b)(1).

Dated: April 3, 2026

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CERTIFICATE OF SERVICE

The undersigned hereby certifies service on the Petitioner, pursuant to 37 C.F.R. § 42.6(e) and by agreement of counsel, by electronic (e-mail) delivery of a true copy of the foregoing **PATENT OWNER'S PRELIMINARY RESPONSE**, which was served on April 3, 2026 to the following Counsel for Petitioner via e-mail:

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