

## **LG Display Co., Ltd. v. Innovative Display Technologies LLC: Denying Institution IPR2014-01092**

Article By:

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*Takeaway: An obviousness showing requires “some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.”*

In its [Decision](#), the Board denied the Petition as to all challenged claims of the '974 patent. Consequently, no trial was instituted.

The Petitioner had challenged claims 1, 3-5, 7-11, 13, and 17 of the '974 patent, which relates to light emitting panel assemblies. Using the broadest reasonable construction standard applicable for an unexpired patent, the Board found that all claim terms other than “deformities” were entitled to their plain and ordinary meaning. As for the term “deformities” appearing in all of the challenged claims, the Board adopted Petitioner’s proposed construction (which was previously adopted and agreed to by the district court) as meaning “any change in the shape or geometry of a surface and/or coating or surface treatment that causes a portion of light to be emitted.”

After providing its analysis, the Board concluded that there was not a reasonable likelihood that Petitioner would prevail on any of its proposed challenges to the patentability of claims 1, 3-5, 7-11, 13, and 17 of the '974 patent. In this regard, the proposed challenges were: (a) obviousness of claims 1, 3-5, 7 and 13 over Funamoto; (b) obviousness of claims 1, 3-5, 7-8, 10-11, and 13 over Tsuchiyama and Funamoto; and (c) obviousness of claims 13 and 17 over Nakayama.

The problem with Funamoto, according to the Board, was that the device of Funamoto made use of a fluorescent tube and polarizer, whereas each of the challenged claims instead required an LED light source. While Petitioner had argued that one skilled in the art “would easily substitute an LED for the fluorescent light source disclosed,” it was the Board’s position that Petitioner had not provided a convincing rationale for making the substitution and that Petitioner’s “argument ignores Funamoto’s stated requirement of a high output fluorescent light in the disclosed device.”

As for Petitioner’s argument that the combination of Tsuchiyama and Funamoto would have been obvious because both are “directed to thinner, smaller devices,” the Board found that “[t]he deformities missing from Tsuchiyama but present in Funamoto are used to effect control of characteristics of the light, not miniaturization of the device.” Moreover, the Board agreed with Patent Owner’s argument as to the non-obviousness of the proposed combination of Tsuchiyama and

Funamoto because, for example, the proposed combination lacked the posts, tabs, or other structural features recited in the claims.

The Board also concluded that Petitioner had not provided a sufficient rationale for combining Funamoto and Nakayama. According to the Board, Funamoto relates to “providing a surface-type illumination device that displays a brightness higher than conventional illumination devices without increasing the number of driver circuits, and restricting heat radiation,” whereas Nakayama instead relates to “an LCD device where part of the light guiding board can be removed without varying the outer dimensions and thickness of the device.” The Board found these to be two very different goals, and thus was not persuaded that the proposed combination of these two references would have rendered claims 13 and 17 obvious.

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Paper 9: Decision Denying Institution of Inter Partes Review

Dated: January 13, 2015

Patent: 7,434,974

Before: Thomas L. Giannetti, Neil T. Powell, and Beverly M. Bunting

Written by: Giannetti

Related Proceedings: Delaware Display Group LLC et al. v. LG Electronics Inc. et al., No.

1:13-cv-02109 (D. Del., filed Dec. 31, 2013); four other pending requests for inter partes review by Petitioner for patents relating to the '974 patent, including IPR2014-01094 (U.S. Patent No. 7,404,660), IPR2014-01095 (U.S. Patent No. 8,215,816), IPR2014-01096 (U.S. Patent No. 7,537,370), and IPR2014-01097 (U.S. Patent No. 7,300,194); “numerous other proceedings” listed by Patent Owner in Paper 4

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