

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JIAWEI TECHNOLOGY (HK) LTD., JIAWEI TECHNOLOGY (USA) LTD.,
SHENZHEN JIAWEI PHOTOVOLTAIC LIGHTING CO., LTD., ATICO
INTERNATIONAL (ASIA) LTD., ATICO INTERNATIONAL USA, INC.,
CHIEN LUEN INDUSTRIES CO., LTD., INC. (SHIEN LUEN FLORIDA),
CHIEN LUEN INDUSTRIES CO., LTD., INC. (SHIEN LUEN CHINA),
COLEMAN CABLE, LLC, NATURE'S MARK, RITE AID CORP., SMART
SOLAR, INC., AND TEST RITE PRODUCTS CORP.
Petitioner,

v.

SIMON NICHOLAS RICHMOND
Patent Owner.

Case No. IPR2014-00936
Patent 7,196,477

REPLY TO OPPOSITION TO MOTION TO EXPUNGE

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Contrary to Patent Owner's Opposition, the present Motion is NOT a renewal of all of its Motions to Expunge the same documents from each of IPR2014-00935 (Paper 66), IPR2014-00936 (Paper 68), and IPR2014-00938 (Paper 70) (January 29, 2016). The present motion only relates to the '936 IPR, which was undeniably terminated on August 23, 2016. *See* Ex. 1068. Patent Owner's arguments relating to its appeal on the '935 IPR (which is not the subject of this motion) are, therefore irrelevant.

Patent Owner's remaining arguments carry no weight. First, while Patent Owner states there is no "just cause" for granting the motion, the Board already granted a virtually identical unopposed motion in the '938 IPR, holding, "Petitioner has established good cause for expunging the Subject Exhibits." '938 IPR, paper 73 at 3. Second, Patent Owner's appeal of the '935 IPR is unrelated to this terminated IPR because the confidential information will remain in the record for the '935 IPR. Third, Patent Owner's "beat the clock" argument lacks merit because this Motion does not affect the issuance of the trial certificates for the '936 and '938 IPRs, the criteria for which is limited to "[a]fter the Board issues a final written decision in an *inter partes* review, ... and the time for appeal has expired or any appeal has terminated." 37 C.F.R. § 42.80 (emphasis added). Furthermore, Patent Owner's request for delay is contrary to the current state of the law. *See*, IPR2017-01092, paper 12 at 4–6 (citing *MCM Portfolio LLC v. Hewlett-Packard*

Co., 812 F.3d 1284, 1288–1293 (Fed. Cir. 2015); *cert. denied sub nom. MCM Portfolio LLC v. Hewlett-Packard Co.*, 137 S.Ct. 292 (U.S. Oct. 11, 2016) (No. 15-1330)). Put simply, the '936 IPR is finished. Patent Owner's attempt to delay by opposing this Motion should be denied.

Finally, Petitioner follows-up with its email request of November 9, 2017, for the Board to please confirm that the Office is preparing trial certificates for the '936 and '938 IPRs, according to 37 C.F.R. § 42.80 and 35 U.S.C. § 318(b). Petitioner feels this request is appropriate because it has been over 1.25 and 1.75 years since the time for appeal expired or the appeals terminated. There is a public interest in certainty by issuing speedily certificates to avoid parallel trials concerning unpatentable claims. *See* 37 C.F.R. § 42.1.

Accordingly, Petitioner respectfully requests that the Board expunge Exhibits 1018, 1021, 1031, 1042, 1043, 1044, and 1046, which contain confidential information of the Petitioner, from the record in this proceeding.

Respectfully submitted,

DENTONS U.S. LLP

Dated: November 30, 2017

/Mark Nelson/

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 30, 2017, a copy of Petitioner's REPLY TO OPPOSITION TO MOTION TO EXPUNGE for *Inter Partes* Review of U.S. Patent No. 7,196,477 was served on the Counsel for the Patent Owner via email to the following email addresses:

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Respectfully submitted,

Dated: November 30, 2017

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