

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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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. (CHIEN LUEN FLORIDA), CHIEN LUEN INDUSTRIES CO., LTD., INC. (CHIEN 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.

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Case IPR2014-00938  
Patent 7,429,827 B2

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Before WILLIAM V. SAINDON, JUSTIN T. ARBES, and  
BARRY L. GROSSMAN, *Administrative Patent Judges*.

SAINDON, *Administrative Patent Judge*.

DECISION

Final Written Decision  
*35 U.S.C. § 318(a); 37 C.F.R. § 42.73*

Granting Motion to Seal  
*37 C.F.R. § 42.55*

Denying-in-Part and Dismissing-in-Part Motions to Exclude  
*37 C.F.R. § 42.64(c)*

## I. BACKGROUND

We have jurisdiction under 35 U.S.C. § 6(c). This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. With respect to the grounds asserted in this trial, we have considered the papers submitted by the parties and the evidence cited therein. For the reasons discussed below, we determine that Petitioner has shown, by a preponderance of the evidence, that the subject matter of claims 24–30 and 35 of U.S. Patent No. 7,429,827 B2 (Ex. 1001, “the ’827 patent”) is unpatentable. In addition, we deny-in-part and dismiss-in-part Petitioner’s and Patent Owner’s Motions to Exclude Evidence, and we grant Petitioner’s Motion to Seal.

### A. Procedural History

Petitioner filed a revised Petition to institute an *inter partes* review (Paper 13, “Pet.”) of claims 24–35 of the ’827 patent on June 30, 2014. Pet. 1. Patent Owner filed a Preliminary Response. Paper 19 (“Prelim. Resp.”). We instituted an *inter partes* review of claims 24–30 and 35 of the ’827 patent on December 16, 2014. Paper 20 (“Dec. on Inst.”). Patent Owner then filed his Response to Petitioner’s Petition (Paper 34, “PO Resp.”), to which Petitioner filed its Reply (Paper 50, “Pet. Reply”). An oral hearing was held on September 21, 2015. Paper 68 (“Tr.”).

Patent Owner alleged that Petitioner failed to list all real parties in interest, and we authorized the parties to brief the issue. Paper 37 (Motion to Terminate); Paper 44 (Opposition); Paper 47 (Reply). We denied Patent Owner’s Motion to Terminate. Paper 57.

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There are several outstanding motions decided herein. Patent Owner filed a Motion to Exclude Evidence. Paper 54 (“PO Mot. Excl.”); *see also* Paper 62 (Petitioner’s Opposition, “Pet. Opp. PO Mot. Excl.”); Paper 64 (Patent Owner’s Reply, “PO Reply PO Mot. Excl.”). Likewise, Petitioner filed a Motion to Exclude Evidence. Paper 56 (“Pet Mot. Excl.”); *see also* Paper 59 (Patent Owner’s Opposition, “PO Opp. Pet. Mot. Excl.”); Paper 63 (Petitioner’s Reply, “Pet. Reply Pet. Mot. Excl.”). Lastly, Petitioner filed a Motion to Seal. Paper 43 (“Pet. Mot. Seal”). Patent Owner did not file an opposition to Petitioner’s Motion to Seal.

### *B. Related Matters*

Petitioner states that Patent Owner has asserted a number of lawsuits against the Petitioner companies alleging infringement of the ’827 patent. Paper 18, 3–4; Paper 17, 3. Petitioner and Patent Owner also are involved in other *inter partes* reviews: IPR2014-00935 (Patent 8,089,370 B2) (instituted), IPR2014-00937 (U.S. Patent No. 8,362,700 B2, “the ’700 patent”) (denied), and IPR2014-00936 (U.S. Patent No. 7,196,477, “the ’477 patent”) (instituted). Pet. 5; Paper 17, 2. The ’700 patent is a continuation-in-part of the ’827 patent, which is a continuation-in-part of the ’477 patent.

### *C. The ’827 Patent*

The ’827 patent describes a solar powered light that produces light of varying color. Ex. 1001, 1:11–13. According to the ’827 patent, producing light of a varying color is known, and solar powered “garden lights” are known. *Id.* at 1:17–25. The claimed invention “overcome[s] or substantially ameliorate[s] at least one of the . . . disadvantages” of the prior

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art, which includes “difficulty in adjusting the various lighting functions” and “not producing a uniform desired colour.” *Id.* at 1:26–35.

*D. Exemplary Claims*

Of the claims in this trial, claims 24, 27, and 35 are independent.

Claim 24 is reproduced below.

24. A lighting device to produce light of varying colour, said device comprising:  
a lens generally enclosing a chamber;  
a circuit including:  
at least two lamps of different colours to produce a desired colour, the lamps being mounted to direct light into said chamber;  
connections for at least one rechargeable battery to power the circuit;  
a solar cell mounted on a surface so as to be exposed to light and operatively associated with the connections to charge the battery;  
a light sub-circuit having an integrated circuit for controlling said lamps to produce lighting effects, and a selection switch, said selection switch being connected to said integrated circuit and operable to select a desired lighting effect; and  
a volatile memory retained for a period of time and associated with said integrated circuit, said memory causing operation of said circuit to produce said lighting effects.

*E. Prior Art and Asserted Grounds*

The following grounds were instituted:

References	Basis under 35 U.S.C.	Claims In Trial
Chliwnyj, <sup>1</sup> Wu, <sup>2</sup> Pu, <sup>3</sup> and Dowling <sup>4</sup>	§ 103	24–26
Chliwnyj and Wu	§ 103	27–29 and 35 <sup>5</sup>
Chliwnyj, Wu, and Lau <sup>6</sup>	§ 103	30

II. MOTIONS

*A. Petitioner's Motion to Seal*

Petitioner moves to seal Exhibits 1016 and 1029, portions of Exhibits 1019 and 1040–42, as well as portions of its Opposition to Patent Owner's Motion to Terminate (Paper 44) and Exhibit 1044. Pet. Mot. Seal 2. Petitioner proposes entry of the Default Protective Order. *Id.* at 5; *see Office Trial Practice Guide*, 77 Fed. Reg. 48,769–71 (Aug. 14, 2012). Petitioner has provided redacted versions of Exhibits 1019, 1040–1042, and 1044. Pet. Mot. Seal 2.

The Exhibits generally relate to an internal corporate resolution, listings of financial account numbers, and invoices for attorney fees. *See* Pet. Mot. Seal 3–4. The redacted versions of these documents, upon which

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<sup>1</sup> U.S. Patent No. 5,924,784, issued July 20, 1999 (Ex. 1005).

<sup>2</sup> U.S. Patent Application Publication No. US 2003/0201874 A1, published Oct. 30, 2003, filed Apr. 24, 2002 (Ex. 1006).

<sup>3</sup> Chinese Patent Publication No. CN 2522722Y, published Nov. 27, 2002 (Ex. 1008) (certified translation).

<sup>4</sup> U.S. Patent No. 7,064,498 B2, issued June 20, 2006, filed Mar. 13, 2001 (Ex. 1010).

<sup>5</sup> We denied review of claims 31–34. Dec. on Inst. 16–17.

<sup>6</sup> U.S. Patent No. 6,431,719 B1, issued Aug. 13, 2002 (Ex. 1011).

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