

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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TOSHIBA CORPORATION  
Petitioner

v.

OPTICAL DEVICES, LLC,  
Patent Owner

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Case No. IPR2014-01443  
Patent RE40,927

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**PETITIONER'S REQUEST FOR ORAL ARGUMENT**

***Mail Stop "Patent Board"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Pursuant to 37 C.F.R. 42.70(a), Petitioner requests oral argument on the issues set forth below at a place and time set by the Board. Oral argument is presently scheduled for December 11, 2015 (originally set for December 7, 2015 (Paper No. 10) (Scheduling Order), but modified by e-mail notice of October 9, 2015 from the Interference Trial Section).

Issues to be Presented by Petitioner at Oral Argument:

1. Proper constructions of the relevant claims of the '927 patent;
2. Arguments and evidence that claims 37-38, 48-49, 51-53, 55, 57-58, 60-61, 63-64, 67-69, and 71 are anticipated by Ando;
3. Arguments and evidence that Patent Owner's Contingent Motion to Amend should be denied because:
  - a. Substitute claims 72-89 lack adequate written description support for newly added limitations, and impermissibly add new subject matter;
  - b. Substitute claims 72, 74-76 and 79-83, 85-89 are obvious over Stephany in view of Wilkenson, Sauer or Hickok;
  - c. Substitute claims 72, 82 and 89 are obvious over Stephany in view of Wilkenson, Sauer or Hickok, and further in view of Froome, Stroke or Taylor;

- d. Substitute claims 73 is obvious over Stephany in view of Wilkenson, Sauer or Hickok, further in view of Froome, Stroke or Taylor, and in further view of Ando;
  - e. Substitute claims 73, 77-78 and 84 are obvious over Stephany in view of Wilkenson, Sauer or Hickok, and in further view of Ando;
4. Rebuttal to Patent Owner's arguments and evidence on all issues, including the issues listed above.

Respectfully submitted,

Dated: November 2, 2015

/Alan A. Limbach/

Alan A. Limbach  
Registration No. 39,749

DLA PIPER LLP (US)  
2000 University Avenue  
East Palo Alto, CA 94303-2215  
Telephone: 650.833.2433  
Facsimile: 650.687.1182

