

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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LG ELECTRONICS, INC.,  
Petitioner,

v.

INNOVATIVE DISPLAY TECHNOLOGIES LLC,  
Patent Owner.

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Case IPR2015-00496  
Patent 8,215,816 B2

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Before THOMAS L. GIANNETTI, BEVERLY M. BUNTING, AND  
MICHELLE N. WORMEESTER *Administrative Patent Judges*.

BUNTING, *Administrative Patent Judge*.

DECISION

Denying Institution of *Inter Partes* Review

*37 C.F.R. § 42.108*

Dismissal of Motion for Joinder

*37 C.F.R. § 42.122*

LG Electronics, Inc. (“Petitioner”) filed a petition (“Petition”) pursuant to 35 U.S.C. §§ 311–319 to institute an *inter partes* review of claims 1–4 (“the challenged claims”) of U.S. Patent No. 8,215,816 B2 (Ex. 1001, “the ’816 patent”). Paper 2 (“Pet.”). With the Petition, Petitioner filed a motion for joinder (Paper 3 (“Joinder Motion”)), seeking to join with *LG Display Co., Ltd. v. Innovative Display Technologies LLC*, Case IPR2014-01095 (PTAB) (“the 1095 IPR”).<sup>1</sup> Joinder Motion 1. Innovative Display Technologies LLC (“Patent Owner”) filed an opposition to the Joinder Motion (Paper 7) and a Preliminary Response (Paper 8).

Applying the standard set forth in 35 U.S.C. § 314(a), and for the reasons that follow, we deny this Petition and dismiss the Joinder Motion.

## I. BACKGROUND

### A. *Related Proceedings*

The parties state that Patent Owner has asserted infringement of the ’816 patent in *Delaware Display Group LLC v. LG Electronics Inc.*, No. 1:13-cv-02109 (D. Del., filed Dec. 31, 2013). Pet. 1; Paper 5, 2. Patent Owner identifies other proceedings in which it has alleged infringement of the ’816 patent. Paper 5, 2–6. In addition to the 1095 IPR, Patent Owner identifies another petition challenging the patentability of the ’816 patent, *Mercedes-Benz, LLC v. Innovative Display Technologies LLC*, IPR2015-00366 (PTAB) (terminated). *Id.* at 6. Further, Patent Owner cites additional

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<sup>1</sup> At the time Petitioner filed its motion for joinder with the 1095 IPR, the Board had not yet decided whether to institute an *inter partes* review. We subsequently denied *inter partes* review of claims 1–4 on all asserted grounds. *See* 1095 IPR, Paper 9.

petitions challenging the patentability of patents related to the '816 patent.  
*Id.* at 6–7.

### *B. References*

Petitioner relies on the following references (Pet. 8–11), the Admitted Prior Art (“APA”) discussed in the '816 patent (*id.* at 8) and the Declaration of Dr. Michael J. Escuti (Ex. 1004):

| References | Patents/Printed Publications | Date                        | Exhibit |
|------------|------------------------------|-----------------------------|---------|
| Pristash   | US 5,005,108                 | April 2, 1991               | 1006    |
| Funamoto   | US 5,619,351                 | April 8, 1997 <sup>1</sup>  | 1007    |
| Gyoko      | JP H6-273756                 | Sept. 30, 1994 <sup>2</sup> | 1008    |
| Murase     | US 5,178,447                 | Jan. 12, 1993               | 1011    |
| Tsunoda    | JP H6-051130                 | Feb. 25, 1994 <sup>3</sup>  | 1012    |
| Imai       | US 5,253,089                 | Oct. 12, 1993               | 1015    |

### *C. Grounds Asserted*

Petitioner challenges claims 1–4 of the '816 patent on the following grounds. Pet. 11.

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<sup>1</sup> Petitioner relies on Funamoto’s 35 U.S.C. § 371 date of May 10, 1994. Pet. 9.

<sup>2</sup> Gyoko is a Japanese unexamined patent application, and Petitioner relies on the September 30, 1994 application publication date. *Id.* at 10.

<sup>3</sup> Tsunoda is a Japanese unexamined patent application, and Petitioner relies on the February 25, 1994 publication date. *Id.*

| References                                    | Basis    | Claims Challenged |
|---|----------|-------------------|
| Pristash, Tsunoda, or in the alternative Imai | § 103(a) | 1–4               |
| Funamoto, Tsunoda, or in the alternative Imai | § 103(a) | 1–4               |
| Gyoko, Tsunoda, or in the alternative Imai    | § 103(a) | 1–4               |
| Murase, Tsunoda, or in the alternative Imai   | § 103(a) | 1–4               |

## II. ANALYSIS

In the 1095 IPR, applying the standard set forth in 35 U.S.C. § 314(a), we denied the Petition and declined to institute an *inter partes* review of claims 1–4 of the ’816 patent based on any of the asserted grounds. 1095 IPR, Paper 9, 2. Now, in the instant Petition, Petitioner challenges these same claims, and Petitioner relies on the same arguments we found unavailing in the 1095 IPR. Pet. 11–50. Indeed, Petitioner acknowledges that “the invalidity grounds raised in this IPR are identical to the invalidity grounds raised in the LGD IPR.” Mot. 1.

In view of the identity of the challenges to the ’816 patent, and reliance on essentially the same arguments and evidence presented in both this Petition and the 1095 IPR, we deny institution of *inter partes* review in this proceeding of claims 1–4 for the same reasons we denied institution of *inter partes* review in the 1095 IPR. *See* 1095 IPR, Paper 9.

## III. SUMMARY

For the foregoing reasons, we conclude Petitioner has not demonstrated a reasonable likelihood that at least one challenged claim is unpatentable based on the asserted grounds. We, therefore, do not institute

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an *inter partes* review on any of the asserted grounds as to any of the challenged claims. Because the petition in IPR2014-01095 was denied and *inter partes* review was not instituted, Petitioner's Joinder Motion is dismissed as moot. *See* 35 U.S.C. § 315(c) (permitting joinder if Director institutes *inter partes* review).

#### IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is denied as to all challenged claims and no trial is instituted;

FURTHER ORDERED that the Motion for Joinder is dismissed.

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