

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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VIZIO, INC.,  
Petitioner,

v.

NICHIA CORP.,  
Patent Owner.

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Case IPR2018-00386 (Patent 9,490,411 B2)  
Case IPR2018-00437 (Patent 9,537,071 B2)

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Record of Oral Hearing  
Held: March 5, 2019

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Before SALLY C. MEDLEY, WILLIAM V. SAINDON, and  
NATHAN A. ENGELS, *Administrative Patent Judges*.

Case IPR2018-00386 (Patent 9,490,411 B2)  
Case IPR2018-00437 (Patent 9,537,071 B2)

APPEARANCES:

ON BEHALF OF THE PETITIONER:

GABRIELLE E. HIGGINS  
CHRISTOPHER M. BONNY  
Ropes & Gray LLP  
1900 University Avenue, 6th Floor  
East Palo Alto, California 94303-2284  
650-617-4000  
[christopher.bonny@ropesgray.com](mailto:christopher.bonny@ropesgray.com)  
[gabrielle.higgins@ropesgray.com](mailto:gabrielle.higgins@ropesgray.com)

ON BEHALF OF THE PATENT OWNER:

MARTIN M. ZOLTICK  
MICHAEL H. JONES  
Rothwell, Figg, Ernst & Manbeck, P.C.  
607 14th Street, N.W., Suite 800  
Washington, DC 20005  
202-783-6040

The above-entitled matter came on for hearing on Tuesday, March 5, 2019, commencing at 1:01 p.m. at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

PROCEEDINGS

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JUDGE SAINDON: We're here for an oral hearing in two cases, IPR 2018-00386 and IPR 2018-00437, involving Petitioner Vizio and Patent Owner Nichia.

I am Judge Saindon and with me here is Judge Medley, and Judge Engels is appearing from our Dallas, Texas office. He can only hear you through that microphone right there. So please talk only talk when you are at the podium.

All right. We have 75 minutes in total. So each side will have their 75 minutes. That will be between your primary time and rebuttal time. When you get up, if you want to let me know, to reserve some time for you, I will be giving you oral warnings and keeping the clock here. We don't have an external clock in this room.

So with that, Petitioner you are going to go first and you may reserve time for rebuttal. We'll do introductions for each side when you first step up. So we'll go with Petitioner first. Introduce yourself and your team. And then if you have any rebuttal time you want to reserve, let me know.

MS. HIGGINS: Thank you, Your Honor. Gabrielle Higgins. With me today is Christopher Bonny and Allen Cross from Ropes & Gray on behalf of Petitioner. We would like to reserve 25 minutes if we may of rebuttal time.

JUDGE SAINDON: Okay. You may begin when ready.

1 MS. HIGGINS: Thank you. Slide 4, please. So Petitioner has  
2 provided our positions and our evidence in our briefing. To assist the board  
3 in considering the record, we will address today in our opening discussion  
4 four topics along with any questions the Board may have.

5 I will first address the two claim construction issues, and we'll show  
6 how the prior reference Loh meets those two terms.

7 My colleague, Mr. Bonny, will then address the lack of written  
8 description support for Patent Owner's proposed amended claims in the 071  
9 patent as well as the unpatentability of Patent Owner's proposed amended  
10 claims under 35 U.S.C. Section 103.

11 Slide 5, please. So we're going to start with this disputed claim  
12 term, which is unique to the 386 proceeding involving the 411 patent.

13 Slide 6, please. And we see here independent Claim 1 of the 411  
14 patent, which recites in the highlighted language both a part of the metal part  
15 and a part of the resin part are disposed in a region below an upper surface  
16 of the metal part on four outer lateral surfaces of the resin package.

17 Now as shown in Figure 1, which is an annotated figure from the  
18 Petition, both a part of the metal part, which is colored in blue and a part of  
19 the resin part, colored in green, are disposed in a region below an upper  
20 surface of the metal part outlined in blue on four outer lateral surfaces of the  
21 resin package.

22 To be clear, it is the region below an upper surface of the metal part  
23 that is outlined in blue. The blue line illustrates the upper boundary of the  
24 region, which is in the resin package.

1 Turn to Slide 7, please. Now the term disposed in a region below an  
2 upper surface of the metal part on four outer lateral surfaces of the resin  
3 package should be given its plain and ordinary meaning consistent with the  
4 specification under the broadest reasonable interpretation that's applicable in  
5 this proceeding.

6 First, the claim self-requires that a part of the metal part and a part of  
7 the resin part are disposed in a region. And the claim language itself  
8 specifies the region. The region must be below an upper surface of the  
9 metal part. And the region is outlined in blue in Figure 1. And the region  
10 must also be on four outer lateral surfaces of the resin package, which is  
11 outlined by the red lines in Figure 1.

12 Second, consistent with the patent claims and specification, the plain  
13 meaning of below is at a lower level than.

14 Slide 8, please. Now, as the Federal Circuit case law tells us,  
15 specification is the single best guide to the meaning of the term. The  
16 figures for all embodiments disclose both a part of the metal part and a part  
17 of the resin part disposed in a region that is below, i.e. at a lower level than  
18 an upper surface of the metal part. All of the figures support the broadest  
19 reasonable interpretation.

20 Slide 9, please. So consistent with the claims and specification,  
21 contemporary dictionary definitions confirm the plain meaning of below,  
22 that it's at a lower level than. As Dr. Shanfield explained, a person of  
23 ordinary skill would have understood that when resin is below an upper  
24 surface, it is at a lower level than the upper surface.

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