

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COOPER CROUSE-HINDS, LLC  
Petitioner

v.

CMP PRODUCTS LIMITED,  
Patent Owner

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Case IPR2018-00994  
Patent 8,872,027

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Filed: August 15, 2018

**Declaration of Lee Frizzell**

## My Background

1. My name is Lee Frizzell, and I am the Product Development Manager at CMP Products Limited.
2. CMP Products Limited (sometimes referred to as simply “CMP”) is the owner of U.S. Patent Numbers 8,872,027; and 9,484,133 (respectively, “the ‘027 Patent;” and “the ‘133 Patent;” and collectively “the patents-at-issue.”). It is my understanding that the ‘133 Patent is a continuation of the ‘027 Patent. They share the same specification.
3. I have been employed by CMP Products Limited for eleven years and have been working in the encapsulation field – which includes the subject matter of the patents-at-issue – for seventeen years.
4. My education includes a Higher National Diploma in Mechanical Engineering. Additionally, I am named as an inventor on at least 3 patent families; as well as a number of additional pending patent applications.
5. I have reviewed the patents-at-issue. Indeed, I previously provided a declaration on June 1, 2016 (sometimes, the “previous Declaration”), which was submitted to the USPTO in the prosecution of the ‘133 Patent. Because the patents-at-issue have the same specification, facts contained in my previous Declaration are equally applicable to both the ‘027 Patent and ‘133 Patent. I incorporate the previous Declaration by reference hereto.

6. Furthermore, I have reviewed the petitions seeking the institution of *Inter Partes Review* filed by Cooper Crouse-Hinds, and having case numbers IPR2018-00994; and -00996; (sometimes referred to as the “Petitions.”). As part of my review, I have reviewed the *Babiarz* reference; the *Everitt* reference; the *Dunn* reference; the *Widman* reference; and the *3M* reference, as well as the Declaration of Dr. Glenn Vallee (e.g., Exhibit 1003 to both Petitions). A complete list of the materials I reviewed is provided at the end of this declaration.

**The Obviousness Inquiry and the Level of Ordinary Skill in the Art**

7. My understanding is that Crouse-Hinds (sometimes referred to as the “Petitioner”) is seeking to invalidate the patents-at-issue based on 35 U.S.C. § 103, alleging that the claims of the patents-at-issue would have been “obvious” to a person or ordinary skill in the art, at the time of the invention. I understand that, with respect to the ‘027 Patent, claims 1, 2, 4, 5, and 10-19 are at issue. With respect to the ‘133 Patent, claims 1, 2, 3, 5, 9, 11-17, 19, 23, and 25-28 are at issue.
8. It is my understanding that the use of hindsight is prohibited as part of the obviousness analysis.
9. I have been informed that, to render a claim invalid as “obvious,” Petitioner must show that the prior art included each of the elements claimed, with the

only difference between the claimed invention and the prior art being the lack of actual combination of the elements in a single prior art reference.

10. If the prior art contains each element, Petitioner must further show that one of ordinary skill in the art would have combined the elements as claimed by known methods, and that in the combination, each element merely performs the same function as it does separately.
11. Moreover, it is important to identify a reason – or, a rationale – why a person of ordinary skill in the art would have combined the prior art in the way the claimed inventions do.
12. I consider a person of ordinary skill in the art to be a person having at least 3 years of experience in encapsulation or resin systems, and at least about 5 years of experience in the design and manufacture of cable glands or cable connectors. Although I may have more experience than a person of ordinary skill in the art (sometimes referred to as a “POSTIA”), I provide this declaration through the viewpoint of a person of ordinary skill in the art. That is to say, while I may be more qualified than one of ordinary skill in the art, my observations and statements are based on the perspective of a person of ordinary skill in the art at the time the inventions were made.
13. As I summarize below, the references cited by Petitioner do not contain each element of the claimed inventions, as required by the obviousness inquiry.

Moreover, I also explain that there is no teaching, suggestion, motivation, or any other rationale that would lead a POSITA to combine the prior art reference in the manner suggested by Petitioner.

14. As a result, it is my opinion that a POSITA, at the time of the inventions, would not have found any claim of any of the patents-at-issue to be “obvious” in view of the *Babiarz* reference, the *Everitt* reference, the *Dunn* reference, the *Widman* reference, and/or the *3M* reference, alone or in combination. It is my understanding that the patents-at-issue are therefore valid.

#### **Background of the Inventions and State of The Art at the Time of the Inventions**

15. Cable glands are a type of coupling used to connect electric cables to an enclosure, typically, used in hazardous environments, such as oil rigs and oil refineries. More specifically, a cable gland is typically used to connect the terminating end of a cable to equipment such as a junction box. I explain this further, below.
16. As I indicated in my previous Declaration of June 1, 2016, encapsulated cable glands are used in explosive atmospheres where the gland must prevent explosive gases under pressure from an explosion, from migrating along interstitial spaces along or through wires passing through the gland.

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