

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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**SAMSUNG ELECTRONICS CO., LTD., and  
SAMSUNG ELECTRONICS AMERICA, INC.,**

Petitioners,

v.

**CELLECT, LLC,**

Patent Owner.

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Case IPR2020-00561

U.S. Patent No. 6,982,742

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**PETITIONER'S RANKING AND EXPLANATION OF PARALLEL  
PETITIONS**

1. Petitioner herewith files three petitions for *inter partes* review of U.S. Patent No. 6,982,742 (“’742 patent”), IPR2020-00559 (“Petition 1”), IPR2020-00560 (“Petition 2”), and IPR2020-00561 (“Petition 3”), and submits this explanation of the differences between the petitions and a ranking of the petitions for the Board’s consideration. As these petitions present alternative arguments in a manner contemplated by the Board and are not cumulative challenges, Petitioner requests that these three petitions be independently considered.

2. These filed petitions present art that treats the ’742 patent as if it were either (1) entitled to a priority date of 8/23/2001 (Petition 1) (Ex. 1001, 1), or (2) entitled to the earliest claimed priority date of 10/6/1997, as claimed by Patent Owner in litigation (Ex. 1017, 4) (Petitions 2 and 3). Due to the differences in prior art necessitated by the contested priority date, as well as the volume of discussion on the priority deficiencies and the length of the claims, these grounds could not be presented in a single filing.<sup>1</sup>

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<sup>1</sup> As explained in this paper, the priority dispute necessitates two petitions with alternative arguments, where one of these alternative arguments had to be split into two for word count purposes. Petitioner believes this situation presents a compelling justification for instituting three petitions challenging claims of this patent. PTAB Consolidated Trial Practice Guide (November 2019), 59 (“[T]he Board finds it

3. Petition 1 is based on a 8/23/2001 priority date, which is the filing date of the application leading to the '742 patent. Ex. 1001, 1. Meanwhile, Petitions 2 and 3 assume the Challenged Claims are entitled to the earliest claimed priority date of 10/6/1997. While Patent Owner has argued in the co-pending district court litigation that it is entitled to an earlier priority date, Petitioner is contesting this date. *See* Pet. 1 §VII. As stated in the Trial Practice Guide, “when there is a dispute about [a] priority date requiring arguments under multiple prior art references,” multiple petitions “may be needed.”<sup>2</sup>

4. Meanwhile, Petitions 2 and 3 are split into separate petitions to accommodate the additional words required to describe how claims 22, 42, 58, 66—all of which have been asserted in the co-pending district court litigation against Petitioner—are unpatentable in view of the number and length of the challenged claims. These four independent claims are lengthy: claim 22 (230 words), claim 42 (184 words), claim 58 (198 words), and claim 66 (321 words).

5. Moreover, these challenged claims recite different configurations of elements, calling for application of different prior art references and different

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unlikely that circumstances will arise where three or more petitions by a petitioner with respect to a particular patent will be appropriate.”).

<sup>2</sup> PTAB Consolidated Trial Practice Guide (November 2019), 59.

grounds. Between Petitions 2 and 3, each challenged claim is challenged in only one petition. Petition 2 (IPR2020-00560) has 2 grounds, challenges claim 22, and is 9,412 words. Petition 3 (IPR2020-00561) has 4 grounds, challenges claims 42, 58, and 66, and is 13,963 words. Accordingly, multiple petitions are needed.

6. Notably, the Challenged Claims are directed to three mutually-exclusive configurations regarding the placement of “circuitry means ... for timing and control” relative to the other camera components, either: A) with the array of pixels (claim 22); B) with the processing circuitry (claims 42 and 66); or C) separate from the array and processing circuitry (claim 58). Specifically:

- A. Claim 22 recites “said *image sensor* further *including circuitry means on said first plane* and coupled to said array of pixels for *timing and control* of said array of pixels” (Ex. 1001, 21:36-38);
- B. Claims 42 and 66 recite an “*image sensor* lying in a *first plane*” and “a *first circuit board including circuitry means for timing and control* of said array of pixels,” which claim 42 additionally recites is “*lying in a second plane*” (Ex. 1001, 24:58, 24:61-63, 27:31, 27:35-36); and
- C. Claim 58 recites “said *image sensor* further including *circuitry means* electrically coupled to said array of said pixels *for timing and control* of said array of pixels, said circuitry means for timing and control

*placed remote from said array of pixels on a second plane*” (28:47-52).

7. As described in Petition 2, which is directed to configuration A discussed above (claim 22), **Ackland** (Ex. 1006) teaches an active pixel imaging system using a “CMOS active pixel array” with circuitry for timing and control of the array of CMOS pixels located in the active pixel array. Pet. 2, 25-26; Ackland, 1:35-38, 8:24-35, 8:45-52, Fig. 6. In contrast, and as described in Petition 3, which is directed to configurations B and C above (claims 42, 58, and 66), **Ricquier** (Ex. 1038) discloses a “timing controller” implemented on “an off-chip driving unit.” Pet. 3, 24-26; Ricquier, 3-4. **Ricquier** thus discloses that the “timing controller” is separate from the pixel array of the image sensor. Thus, in order to address the separate invalidity grounds based on either **Ackland** or **Ricquier** in combination with additional references, more words are required than permitted in a single filing.

8. **Comparison and rankings of the petitions:**

<b>'742 Patent</b>	<b>Petition 1 IPR2020-00559</b>	<b>Petition 2 IPR2020-00560</b>	<b>Petition 3 IPR2020-00561</b>
Challenged Claims	<b>22, 42, 58, 66</b>	<b>22</b>	<b>42, 58, 66</b>
Applied Priority Date	8/23/2001 or later	10/6/1997	10/6/1997

	(based on U.S. Pat. Appl. 09/638,976)	(based on U.S. Pat. Appl. 08/944,322)	(based on U.S. Pat. Appl. 08/944,322)
Number of Grounds	2	2	4
Number of Words	13,933	9,412	13,963
Distinct Prior Art and Date	<b>Adair</b> <sup>3</sup>	<b>Ackland</b> <sup>4</sup>	<b>Ricquier</b> <sup>5</sup>
Ranking	#1	#2	#3

9. The ranking above between Petitions 2 and 3 is provided to comply with the Trial Practice Guide only. As these two petitions are necessitated by word count constraints, the ranking in no way communicates a choice of one petition to the exclusion of the other.

10. As these petitions present alternative arguments in a manner contemplated by the Board and are not cumulative challenges, the Board should exercise its discretion to institute all three petitions because of the material differences discussed above and the strong showing of obviousness in both petitions.

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<sup>3</sup> PCT Application No. WO 99/18613 (“Adair”), 35 U.S.C. §102(b) (published Apr. 15, 1999).

<sup>4</sup> U.S. Patent No. 5,835,141 (“Ackland”), 35 U.S.C. §102(e) (filed July 3, 1996).

<sup>5</sup> “The CIVIS Sensor: A Flexible Smart Imager with Programmable Resolution” (“Ricquier”), 35 U.S.C. §102(b) (published 1994).

Dated: February 16, 2020

/Scott A. McKeown/  
Name