

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD., AND SAMSUNG ELECTRONICS
AMERICA, INC.,

Petitioners,

v.

KEYLESS LICENSING LLC,

Patent Owner.

Case No. IPR2025-00528
U.S. Patent No. 11,503,144

**PETITIONERS' NOTICE RANKING PETITIONS
FOR *INTER PARTES* REVIEW OF U.S. PATENT NO. 11,503,144**

I. INTRODUCTION

Petitioners are filing two concurrent Petitions (IPR2025-00529 and IPR2025-00528) challenging the validity of claims 1-5 and 7-20 of U.S. Patent No. 11,503,144 (“the ’144 patent”). Pursuant to the Board’s November 2019 Consolidated Trial Practice Guide (“TPG”), Petitioners submit this paper to “identify: (1) a ranking of the Petitions in the order in which it wishes the Board to consider the merits ..., and (2) a succinct explanation of the differences between the Petitions, why the issues addressed by the differences are material, and why the Board should exercise its discretion to institute additional petitions” TPG, 60.

II. RANKING OF THE PETITIONS

Although Petitioners believe that both Petitions are meritorious and justified, Petitioners request that the Board consider the Petitions in the following order:

Rank	Petition	Primary Reference
1	IPR2025-00529	<i>Pensjo</i>
2	IPR2025-00528	<i>Bast</i>

III. MATERIAL DIFFERENCES BETWEEN THE PETITIONS

The two Petitions are materially different. The Petitions rely on distinct prior art references with different priority dates, which may result in a dispute regarding whether at least one reference qualifies as prior art. The *Pensjo* petition, for example, relies on two references published less than one year prior to the earliest

claimed priority date of the '144 patent: *Pensjo*, European Patent Application Publication No. 1229428, published on July 8, 2002; and *Benoit*, French Patent Application Publication No. 2830093, published on March 28, 2003. As both references qualify as prior art under pre-AIA 35 U.S.C. § 102(a), Patent Owner may seek to swear behind the references. Because Patent Owner may seek to swear behind *Pensjo* or *Benoit* in an attempt to remove either reference as prior art, Petitioners present the *Bast* Petition, which includes a challenge to the priority date of the '144 patent and relies exclusively on post-AIA § 102 prior art,¹ like European Patent Application Pub. No. 1336949, filed on February 18, 2003, and published on August 20, 2003. Assuming the Board agrees with Petitioners' priority date challenge, Patent Owner cannot swear behind the references cited in the *Bast* Petition.

The obviousness grounds in the two Petitions also contain material differences. Although each combination of references discloses every claim element, they do not present the same theories of obviousness or use identical

¹ In the *Pensjo* petition, Petitioners submit an alternative argument regarding claim 8 of the '144 patent that could convert the claims to post-AIA claims. This priority challenge, however, differs from the priority challenge in the *Bast* petition, which makes later prior art, such as *Bast*, available for *all* the claims.

language. For example, the *Pensjo* Petition relies on *Pensjo* alone in light of the knowledge of a person having ordinary skill in the art (POSITA) to show that all of the features of claim 1 would have been obvious. By contrast, the *Bast* Petition relies on a combination of *Bast* with *Wedel* to demonstrate that certain features of claim 1 are obvious, including “a display unit integrated within the front surface of said housing wherein said display unit practically covers the entire front surface of said housing.” Given the early stages of the parallel district court litigation, it is unclear how Patent Owner may dispute the obviousness combinations or attempt to interpret the claims to avoid such well-established teachings.

Accordingly, the Petitions have different priority arguments and rationales for why the challenged claims are obvious, making them materially different.

IV. THE BOARD SHOULD EXERCISE ITS DISCRETION TO INSTITUTE BOTH PETITIONS

The Board has recognized “that there may be circumstances in which more than one petition may be necessary.” TPG, 59. One of the examples provided by the Board for justifying the institution of multiple petitions is a “dispute about priority date.” *Id.* Here, Petitioners contend that *Pensjo* qualifies as prior art due to its publication date of July 8, 2002. But if Patent Owner attempts to swear behind *Pensjo* to remove it as prior art, the *Bast* Petition challenges the priority of all claims in the ’144 patent, and provides arguments based on *Bast*, which would be

indisputably prior art if the Board agrees with Petitioners' priority arguments.

Because no tribunal has adjudicated the priority of the '144 patent claims, both Petitions are necessary to address the possible outcomes.

The Petitions are not redundant, duplicative, or substantially similar, and this is not a situation in which it would be reasonable to include all challenges in a single petition, because both Petitions challenge nineteen of the twenty claims (1-5 and 7-20) of the '144 patent. Instituting on only one petition would give Patent Owner an unfair advantage. For example, if only the *Pensjo* petition were instituted, it would allow Patent Owner to commence the proceeding without arguing about whether *Pensjo* is prior art, but then attempt to swear behind *Pensjo* to remove it as prior art after institution. Or alternatively, if only the *Bast* petition were instituted, Patent Owner could commence the proceeding without arguing about whether *Bast* is prior art, but then seek to overcome Petitioners' priority challenge, removing *Bast* as prior art.

Each Petition also provides a strong showing of unpatentability addressing the claims in different ways. *See Hanwha Sols. Corp. v. REC Solar Pte. Ltd.*, IPR2021-00989, Paper 12 at 10-12 (Dec. 13, 2021) (instituting two petitions where the examined petition is strong on the merits). Both Petitions show what was well known to POSITAs, but neither *Pensjo* nor *Bast* was before the Examiner during prosecution. Thus, the strength of the Petitions also counsels in favor of instituting

both. This is not a situation where Petitioners have filed many IPR petitions against one patent or are asserting numerous independent grounds. Rather, Petitioners have filed only two petitions, each based on a combination of references with materially different teachings. Moreover, the number and length of claims makes it impossible to address both the *Pensjo* and *Bast* grounds in a single petition.

The potential dispute about the priority date and prior art status of *Pensjo* and *Bast* together with the different disclosures of the references is sufficient to justify institution of two petitions against the '144 patent.

V. CONCLUSION

This case satisfies the Board's example justification for filing two petitions. The Petitions depend on the Board's ultimate findings on the priority date of at least one reference in the combination, *Pensjo*, and its prior art status relative to the '144 patent. These grounds raised will not unduly burden the Board or the parties. The Board should institute trial for both IPR2025-00529 and IPR2025-00528.

Date: February 14, 2025

Respectfully submitted,

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