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PANL: Key Patent Claims Denied In German Hearing, Says Watchdog Group

By Tiernan Ray

As I noted on Friday, there have been reports that a European Patent Office (EPO) hearing last Thursday in Germany has cast doubt on the defensibility of patents held by organic light-emitting diode technology provider Universal Display (PANL). Today there's another development to report.

This afternoon I received a copy of a letter from a non-profit group policy organization calling itself the Alliance For Economic Stability, which the group sent to the Securities & Exchange Commission, laying out what it claims is the denial of Universal's petition at the hearing in Germany.

The Alliance employed a patent lawyer with an engineering background who was one of the only persons present at the hearing aside from the court staff and the various parties to the hearing. The letter relates,

At the Oral Proceeding a three member Oppositional Patent Member Panel ("Panel") made a series of fact findings and legal decisions that invalidated and revoked the majority of UDC's PHOLED patent claims, including but not limited to its broadest patent claims. UDC was denied its main petition's request to have its patent upheld, and was also denied a second petition's request. Both of these UDC petitions were denied in their entirety. After the Panel ruled it ordered UDC to incorporate the effect of their issued oral rulings into their patent by removing the invalidated claims and deleting any references to any phosphorescent materials other than iridium and submit a copy of the reduced much narrowed patent to the representatives of the opposition for their review. After the panel heard from the oppositional parties it approved a final version and instructed UDC republish the patent in its reduced form.

Opposition to Universal's patent claims was brought by Merck, BASF, and Sumation, which the letter notes is owned by Japanese chemical giant Sumitomo Co. Ltd. The Alliance's main

contention is that “UDC has not announced the patent claim loss to its investors or filed a Form 8K with the SEC disclosing the claims that were invalidated by the EPO.”

I contacted Universal to request comment on Thursday’s hearing. The company offered in response the following statement:

“The European Patent Office conducted an oral hearing on November 3rd. The EPO panel announced its decision to maintain the patent with claims directed to OLEDs containing phosphorescent organo-metallic iridium compounds.”

Universal also said that it expects a transcript of the hearing to be available in two weeks.

In response, Manuel Asensio, Chairman, CEO and President of investment firm Asensio & Co. Inc., and co-founder of the Alliance, tells me in a phone conversation this afternoon that Universal’s statement in his opinion is “entirely misleading,” as “18 of their 30 claims were disallowed” in the panel’s decision.

“Their biggest claim was that they owned phosphorescent OLED, but any such claim was invalidated,” says Asensio.

Neither Asensio nor his organization holds a short position in PANL’s stock. Universal reports Q3 earnings tomorrow morning, and I expect the company will have further remarks addressing the matter then.

For further background on the matter, see also Melissa Davis’s lengthy piece at The Streetsweeper.

PANL shares ended the day down \$4.61, or 9%, at \$47.36, partially reversing a rise of 17% on Friday.