



Failure to Prove Admissibility of Prior Art Dooms IPR Challenge

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The Patent Trial and Appeal Board (PTAB) simultaneously granted a patent owner's motion to exclude a key piece of prior art for lack of authentication, and issued a final written decision upholding all of the challenged patent claims. The key prior art was a technical article bearing a footer with the mark "© 1999 IEEE" and an ISSN number. In its petition, the petitioner claimed the article was printed in a particular journal on an exact publication date, but this information was nowhere to be found in the prior art itself. The patent owner objected to the authenticity of this exhibit and when the petitioner did not serve any additional evidence in response to this objection, the patent owner filed a motion to exclude the prior art. The PTAB granted this motion to exclude, holding that neither the copyright date, the ISSN number, nor the IEEE inscription were sufficient to support a finding that the article was printed in the journal or on the date alleged by the petitioner. Without this key prior art in evidence, the petitioner's IPR challenge necessarily failed.

TRW Auto. U.S. LLC v. Magna Elecs. Inc., IPR2014-01347 (PTAB January 6, 2016) [Fitzpatrick (opinion), Grossman, Calve (dissent)]

Categories

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Inter Partes Review

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