

<p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE EASTERN DISTRICT OF VIRGINIA 3 ALEXANDRIA DIVISION 4 -----X 5 SPANSION LLC,) 6 Plaintiff,) 7 v.) 8 SAMSUNG ELECTRONICS CO.,) 9 LTD, et al.,) Civil Action No. 10 Defendants.) 1:10-cv-881-LO-JFA 11 SAMSUNG ELECTRONICS CO.,) 12 LTD,) 13 Counterclaim Plaintiff,) 14 v.) 15 SPANSION LLC and SPANSION,) 16 INC.) 17 Counterclaim Defendants.) 18 -----X 19 CONFIDENTIAL -- ATTORNEYS' EYES ONLY 20 VIDEOTAPED DEPOSITION of SHUKRI J. SOURI, Ph.D. 21 Washington, DC 22 Wednesday, April 13, 2011 9:02 a.m.</p>	<p>1 A P P E A R A N C E S 3 2 3 ON BEHALF OF PLAINTIFF AND COUNTERCLAIM 4 DEFENDANTS: 5 STEPHEN K. SHAHIDA, ESQUIRE 6 McDERMOTT WILL & EMERY LLP 7 600 Thirteenth Street, Northwest 8 Washington, DC 20005-3096 9 Telephone: (202) 756-8000 10 11 ON BEHALF OF DEFENDANTS AND COUNTERCLAIM 12 PLAINTIFF: 13 MICHAEL J. McKEON, ESQUIRE 14 FISH & RICHARDSON P.C. 15 11th Floor 16 1425 K Street, Northwest 17 Washington, DC 20005 18 Telephone: (202) 783-5070 19 20 21 22</p>
<p>1 VIDEOTAPED DEPOSITION of SHUKRI J. SOURI, Ph.D. 2 2 3 Job No.: 1-197484 4 Pages 1 - 317 5 Reported By: Joan V. Cain 6 7 Videotaped Deposition of SHUKRI J. SOURI, 8 Ph.D., held at the law offices of: 9 10 McDERMOTT WILL & EMERY LLP 11 600 Thirteenth Street, Northwest 12 Washington, DC 20005-3096 13 (202) 756-8000 14 15 Pursuant to Notice, before Joan V. Cain, 16 Court Reporter and Notary Public in and for the 17 District of Columbia. 18 19 20 21 22</p>	<p>1 A P P E A R A N C E S C O N T I N U E D 4 2 3 ALSO ON BEHALF OF DEFENDANTS AND COUNTERCLAIM 4 PLAINTIFF: 5 KAROLINA JESIEN, ESQUIRE 6 FISH & RICHARDSON P.C. 7 52nd Floor 8 153 East 53rd Street 9 New York, New York 10022-4611 10 Telephone: (212) 765-5070 11 12 ALSO PRESENT: 13 Cali Day, Videographer 14 15 16 17 18 19 20 21 22</p>

EXHIBIT
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<p>1 CONTENTS 5</p> <p>2</p> <p>3 EXAMINATION OF SHUKRI J. SOURI, Ph.D. PAGE</p> <p>4 By MR. McKEON 8</p> <p>5</p> <p>6 EXHIBITS</p> <p>7 (Attached to the Transcript.)</p> <p>8 DEPOSITION EXHIBITS PAGE</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p>	<p>1 PROCEEDINGS 7</p> <p>2 THE VIDEOGRAPHER: Here begins Tape No. 1</p> <p>3 in the deposition of Shukri Sourı in the matter of</p> <p>4 Spansion LLC versus Samsung Electronics Co., Ltd.,</p> <p>5 et al., and the related counterclaim, in the United</p> <p>6 States District Court for the Eastern District of</p> <p>7 Virginia, Alexandria Division, Civil Action No.</p> <p>8 1:10-cv-881-LO-JFA.</p> <p>9 Today's date is April 13th, 2011. The time</p> <p>10 is 9:03 a.m. The video operator today is Cali Day.</p> <p>11 This deposition is taking place at McDermott Will &</p> <p>12 Emery, 600 Thirteenth Street, Northwest, Washington,</p> <p>13 D.C. 20005.</p> <p>14 Would counsel please identify themselves</p> <p>15 and state whom they represent.</p> <p>16 MR. SHAHIDA: Steve Shahida, McDermott Will</p> <p>17 & Emery for plaintiff Spansion and for the witness</p> <p>18 here today.</p> <p>19 MR. McKEON: Good morning. I'm Mike McKeon</p> <p>20 and with me today is Karolina Jesien, both from Fish</p> <p>21 & Richardson representing the Samsung parties.</p> <p>22 THE VIDEOGRAPHER: The court reporter today</p>
<p>1 EXHIBITS CONTINUED 6</p> <p>2 (Attached to the Transcript.)</p> <p>3 DEPOSITION EXHIBITS PAGE</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p>	<p>1 is Joan Cain of Merrill LAD. Would the reporter 8</p> <p>2 please swear in the witness.</p> <p>3 SHUKRI J. SOURI, Ph.D.</p> <p>4 having been duly sworn, was examined and did testify</p> <p>5 as follows:</p> <p>6 EXAMINATION BY COUNSEL FOR DEFENDANTS AND</p> <p>7 COUNTERCLAIM PLAINTIFF</p> <p>8 BY MR. McKEON:</p> <p>9 Q Good morning.</p> <p>10 A Good morning.</p> <p>11 Q Would you state your full name for the</p> <p>12 record, please.</p> <p>13 A Yes. It's Shukri Sourı.</p> <p>14 Q And who are you employed by?</p> <p>15 A I'm an employee of Exponent, Incorporated.</p> <p>[REDACTED]</p>

1 So you would have to go back to figure 3B
2 in this particular example discussed in the patent,
3 and you can consider 310a to be poly-1 proximate to
4 the memory and 310b to be poly-1 proximate to the
5 periphery as -- as an example.

6 BY MR. McKEON:

7 Q Okay. And then claim 2, though, is etching
8 poly-1 layer proximate to said periphery. Do you
9 see that?

10 A Yes. So that would be accomplished as
11 shown -- as an example, shown in figure 3C.

12 Q Okay. And that's happening -- in terms of
13 time, that's happening before etching said poly-2
14 layer proximate to said periphery in claim 1,
15 correct?

16 MR. SHAHIDA: Objection.

17 THE WITNESS: Sorry. Your question is as a
18 sequence in time?

19 BY MR. McKEON:

20 Q Yes.

21 A It can, yes.

22 Q Well, I mean it does, right? It's not can.

1 It actually does.

2 A In this example. It's not limited to this
3 example.

4 Q Well, is there any -- is there any -- is it
5 possible to etch poly-2 before poly-1 and not etch
6 poly-1?

7 A I'm sorry. Is it possible to do what?

8 Q Well --

9 A Poly-2 etch without poly-1?

10 Q Right.

11 A Sure.

12 Q Okay. So it's possible to etch poly-2 and
13 only poly-2 and then subsequent to that in time etch
14 poly -- poly-1?

15 A You could, yes.

16 Q Okay. Is that what's contemplated by this
17 patent?

18 A I -- I -- I think what's contemplated by
19 this patent is something a person of ordinary skill
20 would understand to go beyond just what you're
21 seeing here as an example in the embodiment. It's
22 possible to etch poly-2 separately and first from

10 Q Okay. Well, let me ask you this question.
11 In the -- going to 3E, for example, where's the
12 poly-1 layer that's proximate to the periphery in
13 3E?

14 MR. SHAHIDA: Objection.

15 THE WITNESS: Sorry. Which figure again?

16 BY MR. McKEON:

17 Q Well, I'm looking at 3E by way of example,
18 but we can look at 3D or 3F if you'd like. Where's
19 the poly-1 layer that's proximate to periphery?

20 MR. SHAHIDA: Objection.

21 THE WITNESS: May I just refer to the claim
22 again?

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1 poly-1. It's possible to etch them together at the
2 same time. One of ordinary skill would understand
3 that.
4 It's also possible to -- there's a lot of
5 things that one of ordinary skill in the area of
6 semiconductors and in this field can do, can design
7 a process to do.
8 Q Okay. So let me -- let me ask you this.
9 Is it your viewpoint then, with respect to claims 1
10 and 2, that the order of the etching steps is not
11 limited to any particular order; you can do it in
12 any order you want?
13 MR. SHAHIDA: Objection.
14 THE WITNESS: I -- I think with respect to
15 poly-1 and poly-2 and also with respect to whether
16 we're talking about proximate to periphery or
17 proximate to memory array, one of ordinary skill and
18 referencing and understanding the specification and
19 the figures would understand that they can do it
20 in -- as they see fit, and there's also support for
21 that in the patent bottom of column 5.
22 BY MR. McKEON:

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1 Q Where is that now?
2 A Bottom of column 5, paragraph lines 54 till
3 the end of the column. It says that the embodiments
4 have been presented for purposes of illustration and
5 description. They're not intended to be exhaustive
6 or to limit the invention to the precise forms
7 disclosed, and obviously many modifications and
8 variations are possible in light of the above
9 teaching.
10 Q This is the form paragraph that's in almost
11 every patent you're talking about; is that right?
12 MR. SHAHIDA: Objection.
13 BY MR. McKEON:
14 Q I mean --
15 A Maybe. I don't know about other patents.
16 All I'm saying is that one of ordinary skill reading
17 this would understand that, okay, I mean the patent
18 is not limiting me to doing it in a particular
19 manner, and it says the embodiments were chosen and
20 described in order to best explain the principles of
21 the invention and its practical application, to
22 thereby enable others skilled in the art to best

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1 utilize the invention and various embodiments with
2 various modifications as are suited to the
3 particular use contemplated.
4 So it's not limiting me as -- or one of
5 ordinary skill upon reading this to performing it in
6 specific -- to a precise -- to the precise forms
7 disclosed.
8 Q Let me ask you this question.
9 A Yes.
10 Q With respect to the etching steps in claim
11 1 and then we have etching steps in claim 2, is it
12 your viewpoint that -- that the etching steps in
13 those claims can all be done simultaneously and
14 satisfy claims 1 and claims 2? One etching step,
15 poly-1, poly-2, and you can meet claim 1 and 2?
16 A In the hypothetical that you have just
17 described, I'm assuming that we have poly-1 and
18 poly-2 across from memory through interface through
19 periphery and that your question is whether I --
20 whether it's my opinion that simultaneously etching
21 through poly-2 and poly-1 on either side of the
22 interface can I read that onto the claims?

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1 Q Yes.
2 A Yes.
3 Q Okay. So let's take it one at a time.
4 Claim 1, is your testimony that claim 1 requires
5 forming poly-2 layer above the substrate at an
6 interface, et cetera, in the first element there,
7 and then as a second step you can etch both
8 proximate to the memory and proximate to the
9 periphery simultaneously, and it's your viewpoint
10 that that's covered by claim 1?
11 MR. SHAHIDA: Objection.
12 THE WITNESS: Yes.
13 BY MR. McKEON:
14 Q Okay.
15 A I mean, one of ordinary skill would
16 understand that that would be a good thing to do.
17 That would be saving etching steps.
18 Q Now in terms of disclosure in the patent
19 that supports that viewpoint, is -- you identified
20 column 5, the bottom of column 5. I saw that.
21 Anywhere else that you believe supports your
22 viewpoint that -- that simultaneous etching of

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1 poly-2 is covered by claim 1?

2 **A I'm not sure. It's possible, but I -- I**
3 **can't find it right now if it exists.**

4 **Q Okay.**

5 **A But I think one of ordinary skill would**
6 **understand that it's possible.**

7 **Q Okay. Well --**

8 **A It's reasonable.**

