

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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INTEL CORPORATION

Petitioner

v.

ZOND, LLC  
Patent Owner

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Case IPR2014-00446  
Patent 7,147,759

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ZOND LLC'S PATENT OWNER PRELIMINARY RESPONSE  
PURSUANT TO 37 C.F.R. § 42.107(a)

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## I. INTRODUCTION

The Board should deny the present request for *inter partes* review of U.S. Patent No. 7,147,759 (“the ’759 patent”) because there is not a reasonable likelihood that the Petitioner will prevail at trial with respect to at least one claim of the ’759 patent.<sup>1</sup>

The references that are primarily relied upon by the Petitioner (*i.e.*, Mozgrin and Wang) were already considered by the Examiner and overcome during the prosecution of the application corresponding to the ’759 patent. Indeed, these references were considered by 6 different examiners and overcome during the prosecution of 9 other patents that are related to the ’759 patent over nearly a 10 year period.<sup>2</sup>

Upon realizing that there was no prior art that was closer to the claimed invention than the art that had already been considered and overcome at the

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<sup>1</sup> 35 U.S.C. § 314(a).

<sup>2</sup> Examiners Douglas Owens, Tung X. Le, Rodney McDonald, Wilson Lee, Don Wong, and Tuyet T. Vo allowed U.S. Patents 7,808,184, 7,811,421, 8,125,155, 6,853,142, 7,604,716, 6,896,775, 6,896,773, 6,805,779, and 6,806,652 over Mozgrin and Wang over nearly a decade from the time that the application for the ’759 patent was filed on 9/30/2002 to the time that the ’155 patent issued on 2/28/2012.

patent office, the Petitioner resorted to a desperate strategy of filing an enormous number of IPR petitions (*i.e.*, 5 IPRs against the '759 patent and an additional 17 against related patents) and alleging that the Patent Owner had mischaracterized Mozgrin to the patent office.<sup>3</sup>

But this strategy cannot succeed because the Patent Owner did not make any mischaracterizations and could not have possibly tricked 6 different examiners to allow 10 patents over the course of nearly a decade by mischaracterizing a reference that all 6 Examiners read themselves. Rather, the Petitioner mischaracterized the prior art references in its Petition and failed to set forth a *prima facie* case of obviousness for the proposed grounds of rejection, as shown by four main groups of reasons.

First, Petitioner neglected to follow the legal framework for an obviousness analysis set forth long ago by the Supreme Court.<sup>4</sup> That framework requires consideration of the following factors: (1) the scope and

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<sup>3</sup> Petition, p. 7.

<sup>4</sup> *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966); *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 399 (2007) (“While the sequence of these questions might be reordered in any particular case, the [Graham] factors define the controlling inquiry.”)

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