

1 UNITED STATES PATENT AND TRADEMARK OFFICE  
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD

3  
4 THE GILLETTE COMPANY,  
5 et al.,  
6 Petitioners,

Patent No. 6,896,775

IPR 2014-00578

7 vs.

IPR 2014-00604

IPR 2014-01482

8 ZOND, LLC,

IPR 2014-01494

9 Patent Owner.  
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11  
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13 VIDEOTAPED DEPOSITION OF LARRY D. HARTSOUGH, Ph.D.

14 Berkeley, California

15 Thursday, February 19, 2015  
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24 REPORTED BY:

TAVIA MANNING, CSR No. 13294, CLR, CCRR, RPR

25 JOB NO. 90259

1 February 19, 2015  
2 10:08 A.M.

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6 Deposition of LARRY D. HARTSOUGH, Ph.D.,  
7 taken on behalf of Petitioners at 200  
8 Marina Boulevard, Berkeley, California,  
9 before Tavia Manning, Certified Shorthand  
10 Reporter No. 13294, Certified LiveNote  
11 Reporter, California Certified Realtime  
12 Reporter, Registered Professional Reporter.  
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1 APPEARANCES:  
2  
3 FOR TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY,  
4 LIMITED and TSMC NORTH AMERICA and FUJITSU:  
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14 FOR THE GILLETTE COMPANY:  
15 WILMERHALE  
16 BY: COSMIN MAIER, ESQ.  
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1 APPEARANCES (CONTINUED):  
2  
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4 FOR THE PATENT OWNER ZOND, LLC:  
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6 BY: ETAI LAHAV, ESQ.  
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15

16 Also present: Jeff Manly, Videographer  
17  
18 \*\*\*  
19  
20  
21  
22  
23  
24  
25

1 BERKELEY, CALIFORNIA;  
2 THURSDAY, FEBRUARY 19, 2015; 10:08 A.M.  
3

4 THE VIDEOGRAPHER: This is the start of  
5 tape labeled Number 1, of the videotaped deposition  
6 of Hartsough in the matter of Gillette Company  
7 versus Zond, in the Court of the Patent Trial and  
8 Appeal Board, and Case Numbers IPR 2014-01482, IPR  
9 2014-01494, IPR 2014-00578, IPR 2014-00604.

10 This deposition is being held at 200 Marina  
11 Boulevard in Berkeley, California on February 19th,  
12 2014 at approximately 10:09 a.m.

13 My name is Jeff Manly from TSG Reporting,  
14 and I am the legal video specialist.

15 The court reporter is Tavia Manning in  
16 association with TSG Reporting.

17 Will counsel please introduce yourself.

18 MR. MAIER: Cosmin Maier of WilmerHale on  
19 behalf of The Gillette Company, and on the phone is  
20 my colleague Sam Ha.

21 MR. HUH: Gregory Huh, from Haynes and  
22 Boone, on behalf of TSMC and Fujitsu.

23 MR. LAHAV: Etai Lahav, from Radulescu,  
24 LLP, on behalf of patent owner Zond and the witness.

25 THE VIDEOGRAPHER: Will the court reporter

1 please swear in the witness.  
2

3 LARRY D. HARTSOUGH, Ph.D.,  
4 having been first duly sworn by the court reporter,  
5 testified as follows:  
6

7 EXAMINATION

8 BY MR. MAIER:

9 Q. Good morning, sir.

10 A. Good morning.

11 Q. Any reason you can't give your best and  
12 truthful testimony here today?

13 A. No.

14 Q. And, again, as we discussed yesterday, if I  
15 ask a question and you answer it, I'll assume you  
16 understood it; is that fair?

17 A. Fair.

18 Q. And, again, we'll do our best to -- to not  
19 talk over each other.

20 Okay?

21 A. Right.

22 Q. Did you do anything to prepare for today's  
23 deposition?

24 A. Yes.

25 Q. What did you do?

1 A. Met with counsel and --

2 Q. Okay.

3 A. -- and reviewed some of the documents of  
4 the -- associated with this case.

5 Q. Who did you meet with?

6 A. Mr. Lahav and Mr. Vardanian.

7 Q. About how long did you meet with them?

8 A. Well, we spent some time on Sunday, not --  
9 not the entire time that we met, and some time on  
10 Tuesday, during that day, and about a couple of  
11 hours last night after the deposition was over  
12 yesterday.

13 Q. About how many hours did you spend last  
14 night?

15 A. Two.

16 Oh, meaning with them?

17 Q. Yes.

18 A. That's what you meant?

19 Yes.

20 Q. Okay. I'm going to hand you what's been  
21 marked as Exhibit 2006 in the 604 IPR, which is your  
22 declaration.

23 Do you recognize Exhibit 2006?

24 A. Yes.

25 Q. This is a declaration you submitted in

1 connection with the '775 IPRs?

2 A. Yes.

3 Q. And I notice that there's only one IPR  
4 number listed for the Gillette matters on the cover,  
5 but I understand that -- that this declaration is  
6 your opinion for both IPRs that Gillette submitted;  
7 right?

8 A. That -- that is my understanding, yes.

9 Q. Okay. And you'll understand if I refer to  
10 U.S. Patent 6,896,775 as the '775 patent?

11 A. Yes.

12 Q. Turn to page 12 of your declaration.

13 It's page 12 --

14 A. Yes.

15 Q. -- not paragraph.

16 A. I am there.

17 Q. On this page, you're discussing the board's  
18 construction for the term "means for ionizing a feed  
19 gas" and "means for ionizing a volume of feed gas"  
20 in connection with Claims 36 and 37 respectively;  
21 correct?

22 A. Let -- let me just -- that -- that's what I  
23 see on that page. I just wanted to look -- look  
24 back here a little bit.

25 (Witness reviewing document.)

1 So your question was...

2 Q. On page 12 of your declaration, you are  
3 discussing the Board's construction for the term  
4 "means for ionizing a feed gas," which was in Claim  
5 36 --

6 A. Yes.

7 Q. -- and "means for ionizing a volume of feed  
8 gas," which was in Claim 37.

9 A. I'm discussing those, yes.

10 Q. And the Board adopted the broadest  
11 reasonable interpretation of these claim terms;  
12 correct?

13 MR. LAHAV: Objection; form.

14 THE WITNESS: That was -- I -- I -- that  
15 was the Board's opinion, I guess.

16 BY MR. MAIER:

17 Q. And the Board concluded that the structure  
18 for these terms is a power supply electrically  
19 connected to a cathode, an anode, and/or an  
20 electrode; correct?

21 A. Yes.

22 Q. And you disagree with the Board's  
23 construction; correct?

24 A. Yes.

25 Q. You state in page -- on page 12 in the

1 second sentence, "In my opinion, the Board's  
2 construction of this term is flawed"; right?

3 A. Yeah, insofar as it fails to account for  
4 the important cathode-to-anode arrangement that's  
5 described by Dr. Chistyakov in this patent -- in  
6 this patent.

7 Q. You think the Board's construction is  
8 flawed; right?

9 A. Yes.

10 Q. So you did not apply the construction  
11 adopted by the Board to your analysis of the '775  
12 patent; correct?

13 MR. LAHAV: Objection; form.

14 THE WITNESS: I disagreed with it, yes, and  
15 I did not apply that.

16 BY MR. MAIER:

17 Q. You applied a different construction to  
18 your analysis of the '775 patent; correct?

19 MR. LAHAV: Objection; form.

20 THE WITNESS: I disagreed with the Board,  
21 yes. And I applied this -- the construction that I  
22 quote at the bottom of -- on page 12:

23 "... means for ionizing a volume of feed  
24 gas as a power supply electrically  
25 connected to a cathode separated from an

1 anode and/or an electrode by a gap there  
2 between."

3 BY MR. MAIER:

4 Q. And you disagreed, and, therefore, did not  
5 apply the Board's construction, because it fails to  
6 account for the important cathode/anode arrangement  
7 that is described by Dr. Chistyakov; right?

8 MR. LAHAV: Objection; form.

9 THE WITNESS: Correct.

10 BY MR. MAIER:

11 Q. This important cathode/anode arrangement  
12 that you think is missing from the Board's  
13 construction is the notion of the gap between the  
14 anode and cathode; right?

15 MR. LAHAV: Objection; form.

16 THE WITNESS: As Doctor -- as -- as  
17 described in the patent.

18 BY MR. MAIER:

19 Q. I'm not sure that quite answers the  
20 question.

21 So the important cathode arrangement that  
22 you think is missing from the Board's construction  
23 is the notion of the gap and the volume resulting  
24 therefrom between the anode and cathode; right?

25 MR. LAHAV: Objection; form.

1 THE WITNESS: That -- that's not the entire  
2 description of the importance of that gap.

3 BY MR. MAIER:

4 Q. Well, what do you contend is missing from  
5 the Board's construction?

6 MR. LAHAV: Objection; form.

7 Go ahead.

8 I lodged my objection. Go ahead.

9 THE WITNESS: You're done?

10 MR. LAHAV: Yes.

11 THE WITNESS: I would prefer to look at the  
12 patent to show -- to be able to accurately and  
13 precisely tell you the -- the other attribute of  
14 the -- of the gap.

15 BY MR. MAIER:

16 Q. Well, sir, you understand that your  
17 opinions have to be in your declaration; right?

18 MR. LAHAV: Objection; form.

19 THE WITNESS: I -- I said that the  
20 structure is and the construction is separated by a  
21 gap there between, yes.

22 And you talked about a gap. You just --  
23 you said a gap had a distance and a volume.

24 BY MR. MAIER:

25 Q. No, you said that, sir. You said:

1 "... because the gap and the volume  
2 resulting therefrom between the anode and  
3 cathode."

4 Do you see where I am reading from?

5 A. So let me -- I -- I can read it here --  
6 from here. I would prefer to quote it directly, but  
7 since this is a quote:

8 "So as to form a gap between the cathode or  
9 the anode that is sufficient to allow  
10 current to flow through a region between  
11 the anode and the cathode."

12 So that's an additional attribute, that gap  
13 has to be sufficient to allow current to flow --

14 Q. Well, you didn't --

15 A. -- through a region 245 between the anode  
16 238 and the cathode 216.

17 Q. You didn't put that in your construction,  
18 did you?

19 MR. LAHAV: Objection; form.

20 BY MR. MAIER:

21 Q. Look at your construction.

22 A. It is not -- it is not in the construction.

23 Q. So what you've added to the Board's  
24 construction, by way of your own construction, is  
25 the notion of a gap separating the anode and an

1 electrode; correct?

2 MR. LAHAV: Objection; asked and answered.

3 THE WITNESS: Yes.

4 BY MR. MAIER:

5 Q. Now, turn -- have I given you the '775  
6 patent?

7 A. No.

8 Q. This has been marked as Gillette 1001.

9 Sir, Gillette Exhibit 1001 is the '775  
10 patent that you studied in connection with the two  
11 IPRs we're discussing today?

12 A. Yes.

13 Q. Turn to Figure 2.

14 Now, the claimed gap in your construction  
15 in the embodiment shown in Figure 2 is labeled 244;  
16 right?

17 And I will direct you to Column 5, Lines  
18 15, 16.

19 A. This -- this is an embodiment of the  
20 apparatus according to the present invention.

21 Q. Right.

22 And the gap in this embodiment of Figure 2  
23 is labeled 244; correct?

24 A. Yes.

25 Q. Turn to Figure 3.

1 And I will direct you to Column 8, Lines 63  
2 to 65.

3 Same question:

4 The gap in the embodiment shown in Figure 3  
5 that you reference in your construction is labeled  
6 244; correct?

7 A. Yes.

8 Q. In both Figures 2 and 3, the gap is  
9 depicted as the distance between anode 238 and  
10 cathode 216; correct?

11 MR. LAHAV: Objection; form.

12 THE WITNESS: It's -- yes.

13 BY MR. MAIER:

14 Q. Turn to Figure 10.

15 Where is the claimed gap that you require  
16 in Figure 10?

17 MR. LAHAV: Objection; form.

18 THE WITNESS: It's -- excuse me, Figure 10.  
19 It's labeled as 244.

20 BY MR. MAIER:

21 Q. Again, it's the distance labeled 244  
22 between cathode 216 and anode 238; correct?

23 MR. LAHAV: Objection; form.

24 THE WITNESS: It's pointing to the gap.  
25 It -- it doesn't describe it as -- as -- as a

1 distance.

2 BY MR. MAIER:

3 Q. Are you done with your answer?

4 A. Yes.

5 Q. Is it a distance or not?

6 A. Well, it's -- it's labeling -- it's showing  
7 what the gap is.

8 Q. And is the gap a distance between the anode  
9 and cathode?

10 A. Well, the gap has a distance.

11 Q. Between the anode and cathode?

12 A. Yeah. There are other distances between  
13 the anode and cathode as well.

14 Q. The one depicted by 244 is the gap; right?

15 MR. LAHAV: Objection; form.

16 THE WITNESS: That -- that's what -- yes,  
17 that's what it says.

18 BY MR. MAIER:

19 Q. Turn to Figure 7.

20 Where is the gap you require in Figure 7?

21 MR. LAHAV: Objection; form.

22 BY MR. MAIER:

23 Q. We'll give you a hint: The gap isn't  
24 explicitly labeled in Figure 7, if that's what  
25 you're searching for.

1 A. And the answer is the gap isn't explicitly  
2 labeled in Figure 7.

3 Q. So where is the gap in label -- in --  
4 strike that.

5 Where is the gap in Figure 7?

6 A. It's a -- it's -- it's a space between the  
7 anode and the cathode that -- that is sufficient  
8 to -- as I told you earlier, is sufficient to  
9 perform the functions that are talked about in the  
10 Chistyakov patent.

11 Q. And where is that in Figure 7?

12 A. It -- in this region.

13 Q. Well, the court reporter can't tell where  
14 you're pointing.

15 I'll give you a pen.

16 A. I'm not going to mark it.

17 Q. Well, sir, you can't just refuse to mark  
18 it.

19 So I'll give you a pen. Identify for me,  
20 as best you can, the gap in Figure 7.

21 MR. LAHAV: You may refuse to mark it, if  
22 you wish. You also may choose to comply. And you  
23 can describe it in words, if you'd like.

24 MR. MAIER: You can't instruct him not to  
25 comply.

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