

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

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5           TAIWAN SEMICONDUCTOR

6           MANUFACTURING COMPANY, LTD.

7           AND TSMC NORTH AMERICA CORP.,           Case IPR2014-00799

8                           Petitioners,                   Patent 7,808,184

9           v.   Case IPR2014-00803

10           ZOND, LLC,                                   Patent 7,808,184 B2

11                           Patent Owner.  
12           \_\_\_\_\_

13                   VIDEOTAPED DEPOSITION of RICHARD DeVITO

14                                   Boston, Massachusetts

15   November 21, 2014  
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22           Reported by:

23           Dana Welch, CSR, RPR, CRR, CBC, CCP

24           Job #87398  
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November 21, 2014  
8:13 a.m.

Videotaped deposition of RICHARD DeVITO,  
held at the offices of WilmerHale, 60 State Street,  
Boston, Massachusetts, before Dana Welch, Certified  
Shorthand Reporter, Registered Professional  
Reporter, Certified Realtime Reporter, and Notary  
Public of the Commonwealth of Massachusetts.

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APPEARANCES (continued)  
For Taiwan Semiconductor Manufacturing Company,  
Ltd. and TSMC North America Corporation and  
Fujitsu Semiconductor Limited and Fujitsu  
Semiconductor America, Inc.:  
HAYNES AND BOONE  
2323 Victory Avenue  
Dallas, TX 75219  
BY: DAVID McCOMBS, ESQ.

For Taiwan Semiconductor Manufacturing Company,  
Ltd. And TSMC North America Corporation and  
Fujitsu Semiconductor Limited and Fujitsu  
Semiconductor America, Inc.:  
HAYNES AND BOONE  
1221 McKinney  
Houston, TX 77010  
BY: DONALD JACKSON, ESQ.

--- appearances continue ---

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APPEARANCES:  
For Zond, LLC:  
RADULESCU  
350 Fifth Avenue  
New York, NY 10118  
BY: ETAILAHAV, ESQ.

- AND -

CHAO HADIDI STARK & BARKER  
176 East Main Street  
Westborough, MA 01581  
BY: BRUCE BARKER, ESQ.

For The Gillette Company:  
WILMERHALE  
60 State Street  
Boston, MA 02109  
BY: LARISSA BIFANO PARK, ESQ.

--- appearances continue ---

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APPEARANCES (continued)  
For Taiwan Semiconductor Manufacturing Company,  
Ltd. And TSMC North America Corporation and  
Fujitsu Semiconductor Limited and Fujitsu  
Semiconductor America, Inc.:  
HAYNES AND BOONE  
2505 North Plano Road  
Richardson, TX 75082  
BY: GREGORY HUH, ESQ.

For Toshiba:  
BAKER BOTTS  
One Shell Plaza  
910 Louisiana Street  
Houston, TX 77002  
BY: ROBINSON VU, ESQ.

--- appearances continue ---

1 APPEARANCES (continue)  
 2 For GLOBALFOUNDRIES, Inc. (by telephone):  
 3 WHITE & CASE  
 4 701 Thirteenth Street, N.W.  
 5 Washington, D.C. 20005  
 6 BY: DAVID TENNANT, ESQ.

10 For Renesas Electronics Corporation and Renesas  
 11 Electronics America Inc. (by telephone):  
 12 FOLEY & LARDNER  
 13 3000 K Street, N.W.  
 14 Washington, D.C. 20007  
 15 BY: JOHN FELDHAUS, ESQ.

23 --- appearances continue ---

1 APPEARANCES (continued)  
 2 For Advanced Micro Devices (by telephone):  
 3 O'MELVENY & MYERS  
 4 400 South Hope Street  
 5 Los Angeles, CA 90071  
 6 BY: VINCENT ZHOU, ESQ.

11 Also Present: David Woodford, Videographer

1 DeVITO  
 2 PROCEEDINGS

3 THE VIDEOGRAPHER: This is tape labeled  
 4 number one in the videotaped deposition of  
 5 Richard DeVito. This is in the matter of Taiwan  
 6 Semiconductor Manufacturing Company, LTD and TSMC  
 7 North America Corporation, petitioners, versus  
 8 Zond, LLC, patent owner. This is the U.S. Patent  
 9 and Trademark Office before the Patent Trial and  
 10 Appeal Board, Case IPR2014-00799, also case  
 11 IPR2014-00803, for Patent 7,808,184 B2.

12 This deposition is being held at the firm  
 13 of WilmerHale at 60 State Street, Boston,  
 14 Massachusetts on November 21st, 2014, beginning at  
 15 8:13 a.m.

16 My name is David Woodford, I'm the legal  
 17 video specialist from TSG Reporting Inc.,  
 18 headquartered at 747 Third Avenue, New York, New  
 19 York. The court reporter is Dana Welch, in  
 20 association with TSG Reporting.

21 Will counsel present please introduce  
 22 yourselves and your affiliations and the witness  
 23 will be sworn.

24 MR. LAHAV: Etai Lahav of Radelescu LLP  
 25 representing patent owner Zond.

1 DeVITO

2 MR. BARKER: Bruce Barker from Chao Hadidi  
 3 Stark & Barker, also for Zond.

4 MR. JACKSON: Don Jackson of Haynes and  
 5 Boone for TSMC and Fujitsu.

6 MR. HUH: Gregory Huh from Haynes and  
 7 Boone representing TSMC and Fujitsu.

8 MR. McCOMBS: David McCombs with Haynes  
 9 and Boone representing TSMC and Fujitsu.

10 MS. PARK: Larissa Park from WilmerHale  
 11 representing Gillette.

12 MR. VU: Robinson Vu with Baker Botts  
 13 representing Toshiba.

14 MR. JACKSON: Can we make a statement for  
 15 the record about our agreement before we get  
 16 started?

17 MR. LAHAV: Absolutely. Sure.

18 MR. JACKSON: TSMC is presenting the  
 19 witness, and there are other parties who have  
 20 joined in the proceeding, and I'm going to read the  
 21 other proceedings that are joined with this one:  
 22 It's 2014-00855, 2014-00858, 2014-01042,  
 23 2014-01061, 2014-00995, and 2014-00996.

24 And I believe we have Zond's agreement  
 25 that we are presenting today this witness, and the

DeVITO

other parties, the other nonpatent owners in those other proceedings that are joined that I just announced can rely upon any objections that TSMC makes today.

Do we have that agreement?

MR. LAHAV: We do.

MR. JACKSON: Thank you.

RICHARD DeVITO, sworn

EXAMINATION

BY MR. LAHAV:

Q. Good morning.

A. Good morning.

Q. I just want to remind you to allow me to finish my questions before you begin answering. Is that all right?

A. Sure.

I may screw up, but I'll try my best.

Q. I appreciate it.

And also I'll remind you to give audible responses to my questions, okay?

A. Okay.

Q. And try to avoid uh-huhs and things like that. Is that all right?

A. Uh-huh.

DeVITO

did you meet with them?

A. This morning.

Q. For how long?

A. Maybe 45 minutes to half an hour.

Q. Any other preparation for this deposition?

A. Prior to that, we had met off and on maybe every other week for four to eight hours.

Q. In preparation for this week's depositions?

A. Yes. Over the course of a month, not over the last eight months.

Q. Okay. So four to eight hours a week for the past four weeks?

A. Approximately.

Q. Okay. Did you do anything else to prepare for your deposition today?

A. I read some of the background material that I had referenced in my declaration.

Q. Anything else?

A. That's it that I can recall.

Q. Okay. I want to hand you what we marked yesterday as Exhibit 2008. It's Kudryavtsev in the '799 petition, it's Exhibit 1004.

MR. LAHAV: I don't have anymore. I

DeVITO

Sorry.

Q. So yesterday we had a deposition on two cases for the '155 patent that went all day, right?

A. Yes.

Q. Do you have any corrections or amendments to make to your testimony from yesterday?

A. I do not right now, no.

Q. What did you do to prepare for your deposition today?

A. What did I do?

Q. Yes.

A. I read the patents; I read my declaration.

Q. Did you meet with any of the lawyers present here or otherwise involved in these proceedings?

A. Yes.

Q. With whom did you meet?

A. I met with all of them prior to today.

Q. Can you name the ones that you can recall?

A. All of the -- well, I don't know their names, but Greg, I met with this gentleman here, I met with Larissa, and the other gentleman from TSMC.

Q. In preparation for this deposition, when

DeVITO

handed them out yesterday.

MR. JACKSON: That's fine.

Q. And I also want to hand you Exhibit 1103, which is Mozgrin. And Exhibit 1103 is the Mozgrin reference that you discuss in your declarations, correct?

A. Well, I believe that the board hasn't ruled on that, but we do discuss it in other grounds within the declaration.

Q. There are actually two claims for which Mozgrin is at issue in the --

A. You're right, excuse me, yes.

Q. -- in the '184, correct?

A. Yes.

Q. And I'll just remind you to allow me to finish my questions before you answer --

A. Sorry.

Q. -- even if you know what the answer is going to be. Thank you. Just for purposes of keeping the record straight.

And at the end of the day yesterday, you referenced Mozgrin a number of times in reference to Kudryavtsev, right?

A. Yes. As a background reference.

DeVITO

1 Q. Please turn to Figure 3 of Mozgrin.

2 A. Yes.

3 Q. And if you look at Figure -- well, there's  
4 labels 1, 2a, 2b, and 3 on Figure 3, correct?

5 A. Uh-huh. Yes.

6 Q. And part 3, the label 3 of Figure 3 --

7 A. Uh-huh, yes.

8 Q. -- that corresponds to the high current  
9 diffuse discharge regime, correct?

10 A. Um, I just have to read the part that  
11 talks about that.

12 Q. I'll point you to the next page, 403, at  
13 the top in the left column.

14 A. (Perusing document.)

15 I don't see it.

16 Q. You're on page 403 of Mozgrin?

17 A. The top left column?

18 Q. Yes. The second sentence, "If the current  
19 was increased and ranged from 15 to 1,000 amps," --

20 A. Yes.

21 Q. -- "a diffuse regime of high current" --

22 A. Okay. I just saw it.

23 Q. -- "discharge --

24 COURT REPORTER: I'm sorry.  
25

DeVITO

1 edge of the target there are light spots?

2 A. I do.

3 Q. And these light spots are due to arcing,  
4 right?

5 A. Yes.

6 Q. Okay. And Figure 6.(a)(2) shows similar  
7 light spots at the edge of the target, right?

8 MR. JACKSON: Objection, form.

9 A. Well, I just want to say they appear to  
10 be. They're at the very edge, whereas, the other  
11 ones are actually in the body of the actual target.  
12 So it's tough to see if those are maybe at the  
13 anode. But there are bright spots there at the  
14 very edge which are -- are similar to the spots in  
15 Figure (a) 3 but they're not directly in the body,  
16 deep within the body of the target.

17 Q. Okay. And those white spots correspond to  
18 arcing, correct?

19 MR. JACKSON: Objection, form.

20 A. Can I just read within the body?

21 Q. Absolutely.

22 But if you would -- you absolutely may,  
23 but before you do, apart from whatever is discussed  
24 in Mozgrin, one of skill in the art would  
25

DeVITO

1 MR. LAHAV: Okay. We'll redo that.

2 Actually, I'll just withdraw that

3 question.

4 Q. Do you see where we are in the top of 403?

5 A. I see it now.

6 Q. And do you agree that part 3 of Figure 3  
7 corresponds to a high current diffuse discharge  
8 regime?

9 A. I do.

10 Q. Turn to Figure 6 of Mozgrin, page 405.

11 So Figure 6 shows photographs of Mozgrin's  
12 target, right?

13 A. Correct.

14 Q. And the Figure 6.(a)(1) on the top left is  
15 a picture of the target that corresponds to the  
16 high current magnetron discharge, correct?

17 A. Correct.

18 Q. And Figure 6.(a)(2) corresponds to high  
19 current diffusive discharge, right?

20 A. Correct.

21 Q. And Figure 6.(a)(3) corresponds to the arc  
22 regime, right?

23 A. Correct.

24 Q. And do you see in Figure 6.(a)(3) at the  
25

DeVITO

1 appreciate that light spots such as this correspond  
2 to arcs, right?

3 MR. JACKSON: Objection, lacks foundation.

4 A. They can.

5 Just give me a second.

6 (Perusing document.)

7 I've read what the -- I read what refers  
8 to the figure.

9 Did you want to repeat the question or...

10 Q. Sure.

11 The white spots in Figure (a) 2 --

12 A. Uh-huh. Yes.

13 Q. -- just like the white spots in Figure  
14 (a) 3 correspond to arcs, right?

15 MR. JACKSON: Objection, foundation.

16 A. In the description he's silent, but one  
17 skilled in the -- one skilled in the art would  
18 presume in 3, they could possibly be arcs, but in  
19 2, I know it's just that they look -- so if you  
20 notice the arcs in (a), how they occur, sort of a  
21 random pattern, but in -- it's suspiciously almost  
22 appearing like there's a -- there's a spacing  
23 between all of these. So I don't know if that's  
24 how they're holding the target or what.  
25

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