

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUJITSU SEMICONDUCTOR LIMITED,
FUJITSU SEMICONDUCTOR AMERICA, INC.,
ADVANCED MICRO DEVICES, INC., RENESAS ELECTRONICS
CORPORATION, RENESAS ELECTRONICS AMERICA, INC.,
GLOBALFOUNDRIES U.S., INC., GLOBALFOUNDRIES DRESDEN
MODULE ONE LLC & CO. KG, GLOBALFOUNDRIES DRESDEN
MODULE TWO LLC & CO. KG, TOSHIBA AMERICA ELECTRONIC
COMPONENTS, INC., TOSHIBA AMERICA INC., TOSHIBA
AMERICA INFORMATION SYSTEMS, INC.,
TOSHIBA CORPORATION, and
THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner

Case IPR2014-00805¹
U.S. PATENT NO. 7,811,421

**PETITIONER'S RESPONSE TO PATENT OWNER'S OBSERVATIONS
ON CROSS-EXAMINATION OF PETITIONER'S REPLY WITNESS**

¹ Cases IPR2014-01069, IPR2014-00990 and IPR2014-00851 have been joined with the instant proceeding.

TABLE OF CONTENTS

A.	Response to Observation 1	1
B.	Response to Observation 2	2
C.	Response to Observation 3	3
D.	Response to Observation 4	4
E.	Response to Observation 5	6
F.	Response to Observation 6	8
G.	Response to Observation 7	9
H.	Response to Observation 8	11
I.	Response to Observation 9	13

Petitioner submits this response to Patent Owner Zond's Observations on Cross-Examination of Dr. Overzet, Paper No. 44 ("Observation"). Patent Owner presents nine observations on Dr. Overzet's testimony. The observations are irrelevant and mischaracterize the testimony of Dr. Overzet, as specified below, and therefore are not probative of any material issue before the Board.

A. Response to Observation 1

Patent Owner contends that Dr. Overzet's testimony "confirms that the '421 patent used the phrase 'creates a weakly ionized plasma' to refer to the ignition of feed gas." Observation at 1-3. This observation is irrelevant.

First, the observation is irrelevant because it fails to address the fact that the initial ignition of feed gas is not the *only* way to create a weakly ionized plasma that the '421 Patent discloses. Paper No. 41, Petitioner Reply ("Reply") at 2-3. Patent Owner's proposed construction of "creates a weakly ionized plasma" is improper because it excludes an embodiment of the '421 Patent in which the weakly-ionized plasma is generated after a strongly-ionized plasma. *Id.* This is true regardless of whether the '421 Patent also uses the term to refer to the initial ignition of feed gas. Excerpt A notes only that one embodiment of the '421 Patent describes creating a weakly ionized plasma by the initial ignition. It does not change the fact that Patent Owner's conclusions improperly exclude other

embodiments of the '421 Patent.

Second, the observation is irrelevant because the '421 Patent is unpatentable even under Patent Owner's improper proposed claim construction.² Even if "creates a weakly ionized plasma" is construed to refer only to the initial ignition of the feed gas, this limitation is disclosed by Wang (*e.g.*, Ex. 1104 at 7:46-48) and Patent Owner never relies on this construction to distinguish Wang. In fact, Patent Owner admitted that Wang addresses the problem of arcing during ignition and only disputed whether arcing occurred during the transition from weakly- to strongly-ionized plasma. Patent No. 27, Patent Owner Response ("Response") at 33 ("Wang does not address arcing in the transition from a preionized plasma to a strongly ionized plasma at all, **but only during ignition.**") (emphasis added).

B. Response to Observation 2

Patent Owner contends that Dr. Overzet was unable to identify the use of the phrase "creates a weakly ionized plasma" in the specification of the '421 patent to refer to the creation of weakly ionized plasma from strongly ionized plasma. Observation at 3. Patent Owner's quotation surreptitiously omits from the cited testimony its instruction that Dr. Overzet not "waste time" by reviewing the patent:

Q. That is fine. **I don't want to spend the entire -- it is a long patent, and I don't want to waste time having you read**

² Observations 2 and 3 are irrelevant for the same reason.

the entire thing. So based upon your review to date and your -- your current knowledge, are you able to cite right now any additional text in the '421 patent where the phrase "creates a weakly-ionized plasma" was used to refer to the technique referred to in paragraph 31 of your declaration?

Ex. 2018, Dep. Tr. of Dr. Overzet re U.S. Patent No. 7,811,421 (“Overzet Dep. Tr.”) at 114:5-14. Patent Owner did not give Dr. Overzet a fair opportunity to review the patent before asking if he could provide a detailed citation to where specific phrase is used in a specific context in the '421 Patent. Whether he could do so off the top of his head is irrelevant.

More importantly, Patent Owner’s observation is irrelevant because it is premised on the flawed understanding that the '421 Patent does not disclose multiple means of creating a weakly ionized plasma unless it uses the exact language “creates a weakly-ionized plasma.” Dr. Overzet explained how the '421 Patent describes an alternative way to create a weakly ionized plasma. Ex. 1126, Overzet Decl., ¶ 31. Aside from challenging the word choice (*see* Observation 3), Patent Owner does not attempt to rebut him.

C. Response to Observation 3

Patent Owner contends that Dr. Overzet confirmed that the specification uses the phrase “maintains the plasma” to refer to the transition from a strongly-

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