

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUJITSU SEMICONDUCTOR LIMITED and
FUJITSU SEMICONDUCTOR AMERICA, INC.
Petitioner

v.

ZOND, INC.
Patent Owner

Case IPR2014-00849
U.S. PATENT NO. 7,604,716
CLAIMS 19-24

Title: Methods and apparatus for generating high-density plasma

PETITIONER'S REVISED MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c) AND 37 C.F.R. § 42.22 AND § 42.122(b)

I. INTRODUCTION

Fujitsu Semiconductor Limited and Fujitsu Semiconductor America, Inc., (collectively "Fujitsu") submit the present revised Motion for Joinder pursuant to the Order of September 16, 2014, (Paper 12) in IPR2014-00781 and (Paper 10) in IPR2014-00845, authorizing the filing of a revised Motion for Joinder. Fujitsu further submits that the present revised Motion for Joinder is timely filed within *five business days* from the date of the Order.

Fujitsu hereby moves for joinder of the present petition for *inter partes* review **IPR2014-00849** (the "FUJITSU IPR") with **IPR2014-00808**, filed by Taiwan Semiconductor Manufacturing Company, LTD, and TSMC North America Corp. (the "TSMC IPR").¹ The FUJITSU IPR is identical to the TSMC IPR in all substantive respects, includes identical exhibits to the TSMC IPR, and relies upon the same expert declarant as the TSMC IPR. TSMC does not oppose this motion.

II. BACKGROUND AND RELATED PROCEEDINGS

The FUJITSU IPR and the TSMC IPR are among a family of *inter partes* review proceedings relating to seven patents² that are being asserted by Zond, LLC ("Zond") against numerous defendants in the District of Massachusetts:

¹ "TSMC" as used herein refers to Taiwan Semiconductor Manufacturing Company Limited and TSMC North America Corp., collectively.

² U.S. Patent Nos. 6,805,779; 6,806,652; 6,853,142; 7,147,759; 7,604,716; 7,808,184; and 7,811,421.

1:13-cv-11577-DPW (*Zond v. AMD, Inc., et al*); 1:13-cv-11581-DJC (*Zond v. Toshiba Am. Elec. Comp. Inc.*); 1:13-cv-11625-NMG (*Zond v. Renesas Elec. Corp.*); 1:13-cv-11634-WGY (*Zond v. Fujitsu and TSMC*); and 1:13-cv-11567-DJC (*Zond v. Gillette, Co.*).

In particular, a complaint in 1:13-cv-11634-WGY (*Zond v. Fujitsu and TSMC*) was first served on defendants Fujitsu and TSMC on July 9, 2013, and September 5, 2013, respectively. Accordingly, all petitions for *inter partes* review that have been filed by defendants TSMC and Fujitsu are timely as prescribed by 35 U.S.C. § 315(b).

On June 2, 2014, as clarified on June 3, 2014, in 1:13-cv-11634-WGY (*Zond v. Fujitsu and TSMC*), the Court entered an order to administratively close the case pending conclusion of *inter partes* reviews or until May 9, 2016, whichever shall occur first.

Currently, the family of *inter partes* review proceedings relating to the seven Zond patents (the “Zond IPRs”) consists of the following proceedings that involve TSMC and Fujitsu:³

³ Gillette Co. filed petitions for *inter partes* review of other patents asserted by Zond in 1:13-cv-11567-DJC (*Zond v. Gillette, Co.*), namely IPR2014-00477 and IPR2014-00479 (U.S. Patent No. 8,125,155); IPR2014-00580 and IPR2014-00726 (U.S. Patent No. 6,896,773); and IPR2014-00578 and IPR2014-00604 (U.S. Patent No. 6,896,775). Other Gillette filings are ongoing.

| TSMC IPRs | | | Fujitsu IPRs | | Claims |
|-----------|------------|---------|--------------|---------|--|
| Patent | Ref | Filed | Ref | Filed | Claims in IPR |
| 6805779 | 2014-00828 | 5/28/14 | 2014-00856 | 5/30/14 | 30-37, 39-40 |
| | 2014-00829 | 5/28/14 | 2014-00859 | 5/30/14 | 16, 28, 41, 42, 45, 46 |
| | 2014-00917 | 6/9/14 | 2014-00918 | 6/9/14 | 7, 9, 20, 21, 38, 44 |
| 6806652 | 2014-00861 | 5/30/14 | 2014-00864 | 5/30/14 | 18-34 |
| 6853142 | 2014-00818 | 5/27/14 | 2014-00866 | 5/30/14 | 1, 3-10, 12, 15, 17-20, 42 |
| | 2014-00821 | 5/27/14 | 2014-00863 | 5/30/14 | 2, 11, 13, 14, 16 |
| | 2014-00819 | 5/27/14 | 2014-00867 | 5/30/14 | 21, 24, 26-28, 31, 32, 37, 38 |
| | 2014-00827 | 5/28/14 | 2014-00865 | 5/30/14 | 22, 23, 25, 29, 30, 33-36, 39, 43 |
| 7147759 | 2014-00781 | 5/19/14 | 2014-00845 | 5/29/14 | 20, 21, 34-36, 38, 39, 47, 49 |
| | 2014-00782 | 5/19/14 | 2014-00850 | 5/29/14 | 22-33, 37, 46, 48, 50 |
| 7604716 | 2014-00807 | 5/23/14 | 2014-00846 | 5/29/14 | 14-18, 25-32 |
| | 2014-00808 | 5/23/14 | 2014-00849 | 5/29/14 | 19-24 |
| 7808184 | 2014-00799 | 5/22/14 | 2014-00855 | 5/30/14 | 1-5, 11-15 |
| | 2014-00803 | 5/22/14 | 2014-00858 | 5/30/14 | 6-10, 16-20 |
| 7811421 | 2014-00800 | 5/22/14 | 2014-00844 | 5/29/14 | 1, 2, 8, 10-13, 15-17, 22-25, 27-30, 33, 34, 38, 39, 42, 43, 46-48 |
| | 2014-00802 | 5/22/14 | 2014-00848 | 5/29/14 | 9, 14, 21, 26, 35, 37 |
| | 2014-00805 | 5/23/14 | 2014-00851 | 5/30/14 | 3-7, 18-20, 31, 32, 36, 40, 41, 44, 45 |

In addition to the present Motion for Joinder, Fujitsu is presently filing Motions for Joinder of other Zond IPR petitions with the corresponding petitions filed by TSMC, subject to the same conditions sought by this motion. TSMC does not oppose the Fujitsu motions.

III. DISCUSSION

If the Director institutes an *inter partes* review, Fujitsu respectfully requests that the Board exercise its discretion to grant joinder of the FUJITSU IPR and TSMC IPR proceedings pursuant to 35 U.S.C. § 315(c), 37 C.F.R. § 42.22, and 37 C.F.R. § 42.122(b). In support of this motion, Fujitsu proposes consolidated filings and other procedural accommodations designed to streamline the proceedings.

1. Reasons Why Joinder Is Appropriate

Joinder is appropriate in this case because it is the most expedient way to secure the just, speedy, and inexpensive resolution of the related proceedings. *See* 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b). Intentionally, the FUJITSU IPR is substantively identical to the corresponding TSMC IPR in an effort to avoid multiplication of issues before the Board. Given the duplicative nature of these petitions, joinder of the related proceedings is appropriate. As discussed below,

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