

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUJITSU SEMICONDUCTOR LIMITED and
FUJITSU SEMICONDUCTOR AMERICA, INC.,
Petitioners,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-00859
Patent 6,805,779 B2

Before KEVIN F. TURNER, JONI Y. CHANG, SUSAN L.C. MITCHELL,
and JENNIFER M. MEYER, *Administrative Patent Judges*.

CHANG, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Fujitsu Semiconductor Limited and Fujitsu Semiconductor America, Inc. (collectively, “Fujitsu”) filed a Petition requesting an *inter partes* review of claims 16, 28, 41, 42, 45, and 46 of U.S. Patent No. 6,805,779 B2 (Ex. 1301, “the ’779 patent”). Paper 1 (“Pet.”). Zond, LLC (“Zond”) filed a Preliminary Response. Paper 8 (“Prelim. Resp.”).

We have jurisdiction under 35 U.S.C. § 314. The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides:

THRESHOLD.—The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Upon consideration of the Petition and Preliminary Response, we conclude that the information presented in the Petition demonstrates that there is a reasonable likelihood that Fujitsu would prevail in challenging claims 16, 28, 41, 42, 45, and 46 as unpatentable under 35 U.S.C. § 103(a). Pursuant to 35 U.S.C. § 314, we hereby authorize an *inter partes* review to be instituted as to claims 16, 28, 41, 42, 45, and 46 of the ’779 patent.

A. Related District Court Proceedings

Fujitsu indicates that the ’779 patent was asserted in *Zond, LLC v. Fujitsu*, No.1:13-cv-11634-WGY (D. Mass.). Pet. 1. Fujitsu also identifies other proceedings in which Zond asserted the ’779 patent. *Id.*

B. Related Inter Partes Reviews

The following Petitions for *inter partes* review also challenge the same claims based on the same grounds of unpatentability as those in the instant proceeding: *Intel Corp. v. Zond, LLC*, Case IPR2014-00820; *Taiwan Semiconductor Mfg. Co., Ltd. v. Zond, LLC*, Case IPR2014-00829; *The Gillette Co. v Zond, LLC*, Case IPR2014-001020; and *Advanced Micro Devices, Inc. v. Zond, LLC*, Case IPR2014-01072.

In IPR2014-00820, we terminated the proceeding, prior to institution, in light of the Joint Motion to Terminate and Written Settlement Agreement made in connection with the termination of the proceeding in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b) between Intel Corp. and Zond. IPR2014-00820, Papers 6, 7; IPR2014-00598, Ex. 1013.

In IPR2014-00829, we instituted an *inter partes* review of claims 16, 28, 41, 42, 45, and 46 of the '779 patent, based on the following grounds of unpatentability, IPR2014-00829, Paper 9 (“’829 Dec.”), 31:

Claims	Basis	References
46	§ 102(b)	Iwamura
16, 28, 41, 42, and 45	§ 103(a)	Iwamura, Angelbeck, and Pinsley

Fujitsu filed a revised Motion for Joinder, seeking to join with IPR2014-00829, and Zond filed an Opposition to Fujitsu’s Motion. Papers 9, 10. In a separate decision, we grant Fujitsu’s revised Motion for Joinder, joining the instant proceeding with IPR2014-00829, and terminating the instant proceeding.

C. Prior Art Relied Upon

Fujitsu relies upon the following prior art references:

Pinsley	US 3,761,836	Sept. 25, 1973	(Ex. 1305)
Angelbeck	US 3,514,714	May 26, 1970	(Ex. 1306)
Iwamura	US 5,753,886	May 19, 1998	(Ex. 1307)

D.V. Mozgrin, et al., *High-Current Low-Pressure Quasi-Stationary Discharge in a Magnetic Field: Experimental Research*, 21 PLASMA PHYSICS REPORTS, NO. 5, 400–409 (1995) (Ex. 1303, “Mozgrin”).

A. A. Kudryavtsev and V.N. Skrebov, *Ionization Relaxation in a Plasma Produced by a Pulsed Inert-Gas Discharge*, 28(1) SOV. PHYS. TECH. PHYS. 30–35 (1983) (Ex. 1304, “Kudryavtsev”).

D. Asserted Grounds of Unpatentability

Fujitsu asserts the following grounds of unpatentability:

Claims	Basis	References
46	§ 102(b)	Iwamura
16, 28, 41, 42, 45	§ 103(a)	Iwamura, Angelbeck, and Pinsley ¹
41	§ 103(a)	Mozgrin, Kudryavtsev, and Pinsley
16, 28, 42, 45, 46	§ 103(a)	Mozgrin, Kudryavtsev, Pinsley, and Iwamura

¹ Pinsley is omitted inadvertently from the statement of this asserted ground of unpatentability, although included in the corresponding analysis. *See* Pet. 42, 44. Therefore, we treat the statement as harmless error and presume that Fujitsu intended to assert that claims 16, 28, 41, 42, and 45 are unpatentable under § 103(a) based on the combination of Iwamura, Angelbeck, and Pinsley.

II. ANALYSIS

A. *Claim Construction*

The parties make the same claim interpretation arguments that TSMC and Zond made in IPR2014-00829. *Compare* Pet. 18–19, *with* IPR2014-00829, Paper 2 (“’829 Pet.”), 19–20; *Compare* Prelim. Resp. 19, *with* IPR2014-00829, Paper 8 (“’829 Prelim. Resp.”), 19.

We construed several claim terms in the Decision on Institution for IPR2014-00829. *See* ’829 Dec. 6–13. For the purposes of the instant decision, we incorporate our previous analysis and apply those claim constructions here.

B. *Grounds of Unpatentability Based on Iwamura, alone or in Combination with Angelbeck and Pinsley*

In its Petition, Fujitsu asserts the same grounds of unpatentability based on Iwamura, alone or in combination with Angelbeck and Pinsley, as those on which a trial was instituted in IPR2014-00829. *See* Pet. 42–60; ’829 Dec. 31. Fujitsu’s arguments are substantively identical to the arguments made by TSMC in IPR2014-00829. *Compare* Pet. 42–60, *with* ’829 Pet. 41–60. Fujitsu also proffers the same Declaration of Dr. Uwe Kortshagen that TSMC submitted in support of its Petition. *Compare* Ex. 1302, *with* IPR2014-00829 Ex. 1302. Zond’s arguments in the Preliminary Response are essentially identical to those arguments that it made in IPR2014-00829. *Compare* Prelim. Resp. 19–54, *with* ’829 Prelim. Resp. 19–54.

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