

v.

SPANSION LLC
Patent Owner

Case No. IPR2014-00107 Patent Number 7,018,922

Before KRISTEN L. DROESCH, JUSTIN T. ARBES, and RICHARD E. RICE, *Administrative Patent Judges*.

PATENT OWNER'S PRELIMINARY RESPONSE UNDER 37 C.F.R. § 42.107





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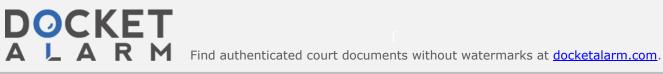
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37 C.F.R. § 42.120	1, 5
77 Fed. Reg. 48680, 48694 (Aug. 14, 2012)	3
OTHER AUTHORITIES	
Cardiocom, LLC v. Robert Bosch Healthcare Systems, Inc., IPR2013-00	)43928
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#### **EXHIBITS**

Ex. 2001	In re Flash Memory Chips and Products Containing Same, Inv. No. 337-TA-
	893, filed August 1, 2013, before the U.S. International Trade
	Commission (Joint Claim Construction Statement)
Ex. 2002	Excerpt from Chris Mack, Fundamental Principles of Optical Lithography: The
	Science of Microfabrication (John Wiley & Sons, Ltd., London 2007)
Ex. 2003	Chris A. Mack, Lithography: If you want to improve CD control, you must
	identify sources of focus and dose errors, MICRO: The Hot Button,
	http://micromagazine.fabtech.org/archive/06/06/hotbutton.html (last
	visited February 14, 2014)
Ex. 2004	Chris A. Mack, Optical Proximity Effects, Microlithography World, Spring
	1996
Ex. 2005	Chris A. Mack, Optical Proximity Effects Part 2, Microlithography World,
	Summer 1996
Ex. 2006	Teardowns, TechInsights, http://www.techinsights.com/ip-teardowns/
	(last visited Feb. 14, 2014)



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