

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.,
TSMC NORTH AMERICA CORPORATION, FUJITSU
SEMICONDUCTOR LIMITED, FUJITSU SEMICONDUCTOR AMERICA,
INC., ADVANCED MICRO DEVICES, INC., RENESAS ELECTRONICS
CORPORATION, RENESAS ELECTRONICS AMERICA, INC., GLOBAL
FOUNDRIES 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,
Petitioners,

v.

ZOND, LLC,
Patent Owner.

Cases IPR2014-00828, IPR2014-00829, and IPR2014-00917¹
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*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5

¹ The joinder cases are identified in the Appendix of this Order.

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We instituted an *inter partes* review in each of the following proceedings, challenging U.S. Patent No. 6,805,779 B2 (“the ’779 patent”): IPR2014-00828, IPR2014-00829, and IPR2014-00917 (“the TSMC reviews”), as well as IPR2014-01073 and IPR2014-01076 (“the GlobalFoundries reviews”). Paper 9.² After institution, we also granted the revised Motions for Joinder filed by Fujitsu Semiconductor Limited and Fujitsu Semiconductor America, Inc. (collectively, “Fujitsu”), 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., and Toshiba Corporation (collectively, “AMD”), and The Gillette Company (“Gillette”). Papers 12, 13, 14. A list of these Joinder Cases is provided in the Appendix of the instant Order.

A conference call was held on December 17, 2014, between respective counsel for the parties for the above-identified reviews and Judges Turner, Chang, Mitchell, and Meyer. Counsel for each of the Joinder Cases also attended the conference call. Although the purpose of the call was to discuss any proposed changes to the Scheduling Order and any motions that the

² For the purpose of clarity and expediency, we treat IPR2014-00828 as representative, and all citations are to IPR2014-00828 unless otherwise noted.

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parties intend to file in the above identified proceedings, the participants also discussed alternate filing procedures for all of the cases in the Zond family.

Filing Procedure when the Patent Review Processing System is Unavailable

As an initial matter, Zond attempted to file a Notice of Stipulation to extend due dates 1 and 2 in IPR2014-00479, on December 17, 2014, when the Board's electronic filing system, the Patent Review Processing System (PRPS), was unavailable during normal business hours. Zond also attempted to file the Notice of Stipulation, pursuant to 37 C.F.R. § 42.6(b)(2)(i), accompanied by a Motion Requesting Acceptance of the Notice of Stipulation via electronic mail to Trials@uspto.gov.

As noted by Zond, our regulation provides for an alternate procedure for filing papers when PRPS is unavailable during normal business hours. *See* 37 C.F.R. § 42.6(b)(2)(i). The Office Patent Trial Practice Guide also sets forth an alternative procedure for such a situation:

[I]f a problem with business hours, a party may contact the Board and request a one-day extension of time for due dates that are set by rule or orders of the Board. § 42.5. In the unlikely event that an administrative patent judge is not available to rule on the extension, the Board may grant an extension the day after the paper is due, which includes situations where electronic filing problems are shown to have occurred.

Office Patent Trial Practice Guide, 77 Fed. Reg. 48,756, 48,758 (Aug. 14, 2012).

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In connection with the PRPS unavailability, the Board's Web site (<http://www.uspto.gov/ip/boards/bpai/prps.jsp>) posted the following notice:

PRPS is currently down as of December 16, 2014 3:00 pm EST.

PTAB will be extending deadlines for the parties for all matters that do not have statutory deadlines until the site becomes available. As for petition filings, patent owner responses, motions, and requests for rehearing (on institution decisions or final decisions) and any other matters that have an imposed deadline or statutory due date, the parties should send an e-mail to TRIALS@USPTO.GOV indicating the need to file one of these items. DO NOT send attachments. PTAB will authorize filing of late attachments and PTAB will change the filing dates in PRPS to reflect the appropriate filing date. ALL MATTERS SHOULD BE SERVED ON OPPOSING COUNSEL ON THE APPROPRIATE DUE DATE.

We are mindful that there are at least 33 proceedings pending before us, which involve the parties. For expediency and efficiency, we authorize the parties to serve the appropriate paper and exhibits on the opposing party before or on the due date for filing the paper, and then file the paper and exhibits via PRPS on the next business day when the system is available again. 37 C.F.R. § 42.5(b). The paper filed with the Board via PRPS should include the appropriate certificate of service (37 C.F.R. § 42.6(e)), and a statement indicating that the party seeks a filing date other than the date of receipt at the Board. The filing party would not be required to file a motion under 37 C.F.R. § 42.6(b)(2)(i), requesting acceptance of the paper, or request an extension of time for filing the paper.

Trial Schedule

For efficiency, we entered a single Scheduling Order that sets forth the due dates for the parties to take action in all five reviews, ensuring that the reviews will be completed within one year of institution. Paper 10. During the conference call, we explained that the trial schedule for the above-identified reviews had been synchronized. The parties indicated that they do not, at this time, foresee any problems with meeting their due dates. We reminded the parties that they may stipulate to different dates for Due Dates 1 through 5 (earlier or later, but no later than Due Date 6). If the parties decide to stipulate to different due dates, the parties should file a notice of stipulation that includes a copy of the due date appendix of the Scheduling Order, showing the new due dates next to the original due dates.

We further noted that the oral hearings for all five reviews related to the '779 patent are scheduled on the same day. The parties may request a single-combined oral hearing in their requests for oral hearing before or on Due Date 4. *Id.* at 5. Given the similarity in claimed subject matter and overlapping asserted prior art, we explained that the oral hearings for all five reviews would be combined and the transcript from the combined oral hearing would be useable across all five reviews. Should the parties seek to change the oral hearing date, they should notify the Board promptly with several proposed alternative dates.

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