

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-00972
Patent 7,604,716 B2

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

MEYER, *Administrative Patent Judge.*

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

I. INTRODUCTION

The Gillette Company (“Gillette”) filed a Petition requesting *inter partes* review of claims 1–11 and 33 (“the challenged claims”) of U.S. Patent No. 7,604,716 B2 (Ex. 1001, “the ’716 patent”). Paper 1 (“Pet.”). Zond, LLC (“Zond”) timely filed a Preliminary Response. Paper 7 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” 35 U.S.C. § 314(a).

Upon consideration of the information presented in the Petition and the Preliminary Response, we determine that there is a reasonable likelihood that Petitioner would prevail in challenging claims 1–11 and 33. Accordingly, pursuant to 35 U.S.C. § 314, we authorize an *inter partes* review to be instituted as to the challenged claims.

A. Related District Court Proceedings

Gillette indicates that the ’716 patent was asserted in *Zond, LLC v. Gillette Co.*, No. 1:13-cv-11567-DJC (D. Mass.). Pet. 1. Gillette also identifies other proceedings in which Zond asserted the ’716 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 IPR2014-00520; and *GLOBALFOUNDRIES U.S., INC., v. Zond, LLC.*, Case IPR2014-01099.

In IPR2014-00520, we terminated the proceeding, prior to institution, in light of the Joint Motion to Terminate and Written Settlement Agreement filed by Intel and Zond in accordance with 35 U.S.C. § 317(b) and 37 C.F.R. § 42.74(b). IPR2014-00520, Paper 7, Ex. 1023.

In IPR2014-01099, we instituted *inter partes* review of claims 1–11 and 33 of the '716 patent, based on the following ground of unpatentability:

Claims	Basis	References
1–11, 33	§ 102	Wang

Gillette filed a revised Motion for Joinder with IPR2014-01099. Paper 10. In a separate Decision, we grant Gillette’s revised Motion, joining the instant proceeding with IPR2014-01099, and terminating the instant proceeding.

C. Prior Art Relied Upon

Gillette relies upon the following prior art references:

Wang US 6,413,382 B1 July 2, 2002 (Ex. 1004)

D.V. Mozgrin, et al., *High-Current Low-Pressure Quasi-Stationary Discharge in a Magnetic Field: Experimental Research*, 21 PLASMA PHYSICS REPORTS 400–409 (1995) (Ex. 1003) (“Mozgrin”)

D.V. Mozgrin, *High-Current Low-Pressure Quasi-Stationary Discharge in a Magnetic Field: Experimental Research*, Thesis at Moscow Engineering Physics Institute (1994) (Ex. 1006) (“Mozgrin Thesis”).¹

¹ The Mozgrin Thesis is a Russian-language reference. Petitioner has also submitted a certified English-language translation (Ex. 1005).

D. Asserted Grounds of Unpatentability

Gillette asserts the following grounds of unpatentability:

Claims	Basis	References
1–5, 8–11, 33	§ 102	Mozgrin
6, 7	§ 103	Mozgrin and Mozgrin Thesis
1–11, 33	§ 102	Wang

II. ANALYSIS

A. Claim Construction

The parties make the same claim construction arguments that GLOBALFOUNDRIES U.S., Inc., GLOBALFOUNDRIES Dresden Module One LLC & Co. KG, and GLOBALFOUNDRIES Dresden Module Two LLC & Co. KG (collectively, “GlobalFoundries”) and Zond made in IPR2014-01099. *Compare* Pet. 11–14, *with* ’1099 Pet. 12–14; *compare* Prelim. Resp. 11–16, *with* ’1099 Prelim. Resp. 11–16.

We construed several claim terms identified by GlobalFoundries and Zond in IPR2014-01099. *See* ’1099 Dec. 6–16. For the purposes of the instant decision, we incorporate our previous analysis and apply those claim constructions here.

B. Anticipation by Wang

In its Petition, Gillette asserts the same ground of unpatentability based on Wang, as that on which a trial was instituted in IPR2014-01099. *See* Pet. 39–58; ’1099 Dec. 23. Gillette’s arguments are substantively

identical to the arguments made by GlobalFoundries in IPR2014-01099. *Compare* Pet. 39–58, *with* ’1099 Pet. 39–60. Gillette also proffers the same Declaration of Dr. Uwe Kortshagen that GlobalFoundries submitted in support of its Petition. *Compare* Ex. 1002, *with* IPR2014-01099 Ex. 1002. Zond’s arguments in the Preliminary Response are essentially identical to those arguments that it made in IPR2014-01099. *Compare* Prelim. Resp. 16–33, *with* ’1099 Prelim. Resp. 16–33.

We incorporate our previous analysis regarding the asserted ground of unpatentability based on Wang (’1099 Dec. 16–22), and determine that Gillette has demonstrated a reasonable likelihood of prevailing on this ground of unpatentability.

C. Other Asserted Ground of Unpatentability

Gillette also asserts that claims 1–5, 8–11, and 33 are unpatentable under 35 U.S.C. § 102 as anticipated by Mozgrin, and that claims 6 and 7 are unpatentable under 35 U.S.C. § 103 as obvious over the combination of Mozgrin and the Mozgrin Thesis. The Board’s rules for *inter partes* review proceedings, including those pertaining to institution, are “construed to secure the just, speedy, and inexpensive resolution of every proceeding.” 37 C.F.R. § 42.1(b); *see also* 35 U.S.C. § 316(b) (regulations for *inter partes* review take into account “the efficient administration of the Office” and “the ability of the Office to timely complete [instituted] proceedings”). Therefore, we exercise our discretion and do not institute a review based on these asserted grounds for reasons of administrative necessity to ensure timely completion of the instituted proceeding. *See* 37 C.F.R. § 42.108(a).

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