

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-00973
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 12 and 13 (“the challenged claims”) of U.S. Patent No. 7,604,716 B2 (Ex. 1101, “the ’716 patent”). Paper 3 (“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 Gillette would prevail in challenging claims 12 and 13. 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 IPR2014-00521; and *GLOBALFOUNDRIES U.S., INC., v. Zond, LLC.*, Case IPR2014-01100.

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In IPR2014-00521, 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). IPR2014-00521, Paper 7; IPR2014-00520, Ex. 1023.

In IPR2014-01100, we instituted *inter partes* review of claims 12 and 13 of the '716 patent, based on the following ground of unpatentability:

Claims	Basis	References
12, 13	§ 103	Wang and Lantsman

Gillette filed a revised Motion for Joinder with IPR2014-01100. Paper 10. In a separate Decision, we grant Gillette's revised Motion, joining the instant proceeding with IPR2014-01100, 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. 1104)

Lantsman US 6,190,512 B1 Feb. 20, 2001 (Ex. 1105)

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. 1103) (“Mozgrin”)

D. Asserted Grounds of Unpatentability

Gillette asserts the following grounds of unpatentability:

Claims	Basis	References
12, 13	§ 103	Mozgrin and Lantsman
12, 13	§ 103	Wang and Lantsman

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 IPR2014-01100. *Compare* Pet. 12–14, *with* ’1100 Pet. 11–13; *compare* Prelim. Resp. 10–16, *with* ’1100 Prelim. Resp. 10–16.

We construed several claim terms identified by GlobalFoundries and Zond in IPR2014-01100. *See* ’1100 Dec. 6–11. For the purposes of the instant decision, we incorporate our previous analysis and apply those claim constructions here.

B. Obviousness Over Wang and Lantsman

In its Petition, Gillette asserts over the same ground of unpatentability based on the combination of Wang and Lantsman, as that on which trial was instituted in IPR2014-01100. *See* Pet. 33–45; ’1100 Dec. 23. Gillette’s arguments are substantively identical to the arguments made by GlobalFoundries in IPR2014-01100.

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Compare Pet. 33–45, *with* ’1100 Pet. 32–44. Gillette also proffers the same Declaration of Dr. Uwe Kortshagen that GlobalFoundries submitted in support of its Petition. *Compare* Ex. 1102, *with* IPR2014-01100 Ex. 1102. Zond’s arguments in the Preliminary Response are essentially identical to those arguments that it made in IPR2014-01199. *Compare* Prelim. Resp. 16–42, *with* ’1100 Prelim. Resp. 16–42.

We incorporate our previous analysis regarding the asserted ground of unpatentability based on the combination of Wang and Lantsman (’1100 Dec. 12–22), 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 12 and 13 are unpatentable under 35 U.S.C. § 103 as obvious over the combination of Mozgrin and Lantsman. 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 this asserted ground 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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