

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-00981
Patent 7,147,759 B2

Before KEVIN F. TURNER, DEBRA K. STEPHENS, 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

The Gillette Company (“Gillette”) filed a Petition requesting an *inter partes* review of claims 1, 4, 10–12, 17, 18, and 44 of U.S. Patent No. 7,147,759 B2 (Ex. 1001, “the ’759 patent”). Paper 3 (“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 Gillette would prevail in challenging claims 1, 4, 10–12, 17, 18, and 44 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 1, 4, 10–12, 17, 18, and 44 of the ’759 patent.

A. Related District Court Proceedings

Gillette indicates that the ’759 patent was asserted in *Zond, LLC v. Gillette*, No.1:13-cv-11570-RGS (D. Mass.). Pet. 1. Gillette also identifies other proceedings in which Zond asserted the ’759 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 IPR2014-00443; *GLOBALFOUNDRIES U.S., Inc. v. Zond, LLC.*, Case IPR2014-01086.

In each of IPR2014-00444 and IPR2014-01087, we instituted an *inter partes* review of claims 1, 4, 10–12, 17, 18, and 44 of the '759 patent, based on the following grounds of unpatentability:

Claims	Basis	References
1, 4, 10, 12	§ 103(a)	Wang and Kudryavtsev
11	§ 103(a)	Wang, Kudryavtsev, and Li
17	§ 103(a)	Wang, Kudryavtsev, and Müller-Horsche
18	§ 103(a)	Wang, Kudryavtsev, and Kobayashi
44	§ 103(a)	Wang, Kudryavtsev, and the Mozgrin Thesis

In IPR2014-00443, we terminated the proceeding in light of the 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 and Zond. IPR2014-00443, Papers 17, 18, Ex. 1035.

Gillette filed a revised Motion for Joinder, seeking to join the instant proceeding with IPR2014-01086. Paper 13. In a separate decision, we grant Gillette's revised Motion for Joinder, joining the instant proceeding with IPR2014-01087, 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. 1005)
Müller-Horsche	US 5,247,531	Sept. 21, 1993	(Ex. 1021)
Kobayashi	US 5,968,327	Oct. 19, 1999	(Ex. 1022)

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”).

A. A. Kudryavtsev & 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. 1004, “Kudryavtsev”).

D.V. Mozgrin, *High-Current Low-Pressure Quasi-Stationary Discharge in a Magnetic Field: Experimental Research*, Thesis at Moscow Engineering Physics Institute (1994) (Ex. 1018, “Mozgrin Thesis”).¹

Li et al., *Low-Temperature Magnetron Sputter-Deposition, Hardness, and Electrical Resistivity of Amorphous and Crystalline Alumina Thin Films*, 18 J. VAC. SCI. TECH. A 2333–38 (2000) (Ex. 1020, “Li”).

¹ The Mozgrin Thesis is a Russian-language reference. The citations to the Mozgrin Thesis are to the certified English-language translation submitted by Intel (Ex. 1017).

D. Asserted Grounds of Unpatentability

Gillette asserts the following grounds of unpatentability:

Claims	Basis	References
1, 10, 18	§ 103(a)	Mozgrin and Kudryavtsev
4, 44	§ 103(a)	Mozgrin, Kudryavtsev, and the Mozgrin Thesis
10–12	§ 103(a)	Mozgrin, Kudryavtsev, and Li
17	§ 103(a)	Mozgrin, Kudryavtsev, and Müller-Horsche
1, 4, 10, 12	§ 103(a)	Wang and Kudryavtsev
11	§ 103(a)	Wang, Kudryavtsev, and Li
17	§ 103(a)	Wang, Kudryavtsev, and Müller-Horsche
18	§ 103(a)	Wang, Kudryavtsev, and Kobayashi
44	§ 103(a)	Wang, Kudryavtsev, and the Mozgrin Thesis

II. ANALYSIS

A. Printed Publication under 35 U.S.C. § 102

In its Petition, Gillette makes the same assertion that GlobalFoundries made in IPR2014-01086 concerning the Mozgrin Thesis—namely, the Mozgrin Thesis is a doctoral thesis at Moscow Engineering Physics Institute, published in 1994, and it is prior art under 35 U.S.C. § 102(b). *Compare* Pet. 4, *with* IPR2014-01086, Paper 2 (“‘1086 Pet.”), 3. Gillette also proffers the same catalog entry for the Mozgrin Thesis at the Russian State Library. *Compare* Ex. 1019, *with* IPR2014-01086, Ex. 1019.

In its Preliminary Response, Zond makes the same arguments that it made in IPR2014-01086 concerning the Mozgrin Thesis not being a prior art

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