

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-00992
Patent 7,811,421 B2

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

STEPHENS, *Administrative Patent Judge.*

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

I. INTRODUCTION

On June 19, 2014, The Gillette Company (“Gillette”) filed a Petition requesting an *inter partes* review of claims 9, 14, 21, 26, 35, and 37 of U.S. Patent No. 7,811,421 B2 (“the ’421 patent”). Paper 3 (“Pet.”). Zond, LLC (“Zond”) filed a Patent Owner 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.

Taking into account Zond’s Patent Owner Preliminary Response, we conclude that the information presented in the Petition demonstrates there is a reasonable likelihood that Gillette would prevail in challenging claims 9, 14, 21, 26, 35, and 37 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 9, 14, 21, 26, 35, and 37 of the ’421 patent.

A. *Related District Court Proceedings*

Gillette indicates the ’421 patent was asserted in *Zond, LLC v. The Gillette Company*, No.1:13-cv-567-DJC (D. Mass.). Pet. 1; Paper 5. Gillette also identifies other matters where Zond asserted the claims of the ’421 patent against third parties. *Id.*

B. Related Inter Partes Reviews

Intel Corporation (“Intel”) filed a Petition to institute an *inter partes* review in *Intel Corp. v. Zond, LLC.*, Case IPR2014-00470 (PTAB) (“IPR2014-00470”), challenging the same claims based on the same grounds of unpatentability as those in the instant proceeding. *Compare* IPR2014-00470, Paper 1 (“’470 Pet.”), 2–58, *with* Pet. 3–58. On September 2, 2014, we instituted an *inter partes* review of claims 9, 14, 21, 26, 35, and 37 of the ’421 patent in IPR2014-00470 (Paper 11, “’470 Dec.”), based on the following grounds of unpatentability:

Claims	Basis	References
9, 21, and 35	§ 103	Wang and Kudryavtsev
14, 26, and 37	§ 103	Wang and Mozgrin Thesis

The trial, however, was terminated 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 TSMC and Zond. IPR2014-00470, Papers 13, 14. Gillette has filed a Motion for Joinder, seeking to join the instant proceeding with IPR2014-00470. Paper 7 (“Mot.”).

The following Petitions for *inter partes* review also challenge the same claims based on the same grounds of unpatentability as those in those in IPR2014-00470 and in the instant proceeding: *Taiwan Semiconductor Manuf. Co., v. Zond, LLC.*, Case IPR2014-00802; *Fujitsu Semiconductor Ltd. v. Zond, LLC*, Case IPR2014-00848; and *Advanced Micro Devices, Inc.*

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v. Zond, LLC, Case IPR2014-01071.

Gillette filed a revised Motion for Joinder, seeking to join the instant proceeding with *Taiwan Semiconductor Manufacturing Co., Ltd. v. Zond, LLC*, Case IPR2014-00802 (PTAB)(“IPR2014-00802”). Paper 10. In a separate Decision, we grant Gillette’s revised Motion, joining the instant proceeding with IPR2014-00802, and terminating the instant proceeding.

C. The Prior Art Relied Upon

Gillette relies upon the following prior art references:

Wang	US 6,413,382 B1	July 2, 2002	(Ex. 1204)
Lantsman	US 6,190,512 B1	Feb. 20, 2001	(Ex. 1205)

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. 1203) (hereinafter “Mozgrin”).

A.A. Kudryavtsev and V.N. Skrebov, *Ionization Relaxation in a Plasma Produced by a Pulsed Inert-Gas Discharge*, 28(1) SOV. PHYS. TECH. PHYS., 30-35 (January 1983) (Ex. 1206) (hereinafter “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. 1207) (hereinafter “Mozgrin Thesis”).¹

¹ Mozgrin Thesis is a Russian-language reference (Ex. 1208). The citations to Mozgrin Thesis are to a certified English-language translation by Fujitsu (Ex. 1207).

D. The Asserted Grounds of Unpatentability

Gillette asserts the following grounds of unpatentability:

Claim(s)	Basis	References
9 and 35	§ 103	Mozgrin and Kudryavtsev
14 and 37	§ 103	Mozgrin and Mozgrin Thesis
21	§ 103	Mozgrin, Lantsman, and Kudryavtsev
26	§ 103	Mozgrin, Lantsman, and Mozgrin Thesis
9, 21, and 35	§ 103	Wang and Kudryavtsev
14, 26, and 37	§ 103	Wang and Mozgrin Thesis

II. DISCUSSION

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

In its Petition, Gillette makes the same assertion that TSMC made in IPR2014-00802 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* '802 Pet. 4. Gillette also proffers the same catalog entry for the Mozgrin Thesis at the Russian State Library. *Compare* Ex. 1209, *with* IPR2014-00802, Ex. 1209.

In its Preliminary Response, Zond makes the same arguments that it made in IPR2014-00802 concerning the Mozgrin Thesis not being a prior art printed publication under 35 U.S.C. § 102. *Compare* Prelim. Resp. 52–55, *with* IPR2014-00802, Paper 8 (“'802 Prelim. Resp.”), 52–55.

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