

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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THE GILLETTE COMPANY,  
Petitioner,

v.

ZOND, LLC,  
Patent Owner.

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Case IPR2014-01004  
Patent 6,806,652 B1

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

MITCHELL, *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 claim 35 of U.S. Patent No. 6,806,652 B1 (Ex. 1201, “the ’652 patent”). Paper 3 (“Pet.”). Zond, LLC (“Zond”), filed a Preliminary Response. Paper 12 (“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 claim 35 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 claim 35 of the ’652 patent.

### A. *Related District Court Proceedings*

Gillette indicates that the ’652 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 ’652 patent. *Id.*

*B. Related Inter Partes Reviews*

The following Petitions for *inter partes* review also challenge the same claim based on the same grounds of unpatentability as those in the instant proceeding: *Intel Corp. v. Zond, LLC*, Case IPR2014-00923 and *GLOBALFOUNDRIES U.S., Inc. v. Zond, LLC*, Case IPR2014-01089.

In IPR2014-00923, we terminated the proceeding, prior to institution, in light of the Joint Motion to Terminate and 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 Corp. and Zond. *Intel Corp. v. Zond*, IPR2014-00923, Papers 7, 8; *Intel Corp. v. Zond*, IPR2014-00843, Ex. 1115.

Gillette also filed a renewed Motion for Joinder, seeking to join the instant proceeding with *GLOBALFOUNDRIES U.S., Inc. v. Zond, LLC*, Case IPR2014-01089 (“IPR2014-01089”). Paper 10 (“Mot.”). In a separate decision, we grant Gillette’s renewed Motion for Joinder, joining the instant proceeding with IPR2014-01089, and terminating the instant proceeding.

*C. Prior Art Relied Upon*

Gillette relies upon the following prior art references:

Iwamura et al. US 5,753,886 May 19, 1998 (Ex. 1208)

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) (“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 (Jan. 1983) (Ex. 1206) (“Kudryavtsev”).

D. W. Fahey, W. F. Parks, and L. D. Schearer, *High Flux Beam Source of Thermal Rare-Gas Metastable Atoms*, 13 J. PHYS. E: SCI. INSTRUM. 381–383 (1980) (Ex. 1205) (“Fahey”).

*D. Asserted Grounds of Unpatentability*

Gillette asserts the following grounds of unpatentability:

Claim	Basis	References
35	§ 103(a)	Mozgrin, Kudryavtsev, and Fahey
35	§ 103(a)	Mozgrin, Kudryavtsev, Fahey, and Iwamura
35	§ 103(a)	Mozgrin and Iwamura
35	§ 103(a)	Mozgrin, Iwamura, and Fahey

II. ANALYSIS

A. Claim Construction

The parties make the same claim interpretation arguments that GLOBALFOUNDRIES U.S., Inc. GLOBALFOUNDRIES Dresden Module One LLC & Company KG, and GLOBALFOUNDRIES Dresden Module Two LLC & Co. KG (collectively, “GLOBALFOUNDRIES”) and Zond made in IPR2014-01089. *Compare* Pet. 13–17, *with* ’1089 Pet. 12–17; *compare* Prelim. Resp. 10–21, *with* ’1089 Prelim. Resp. 10–21.

We addressed the proposed constructions of the claim elements identified by Gillette and Zond in IPR2014-01089. *See* ’1089 Dec. 8–18. For the purposes of the instant decision, we incorporate our previous analysis and apply our claim constructions here.

*B. Obviousness over Mozgrin in Combination with Other Cited References*

In its Petition, Gillette asserts the same grounds of unpatentability based on the same combinations of Mozgrin, Kudryavtsev, Fahey, and Iwamura as those on which a trial was instituted in IPR2014-01089. *See* Pet. 24–53; ’1089 Dec. 32. Gillette’s arguments are substantively identical to the arguments made by GLOBALFOUNDRIES in IPR2014-01089. *Compare* Pet. 24–53, *with* ’1089 Pet. 23–52. Gillette also proffers the same Declaration of Dr. Uwe Kortshagen that GLOBALFOUNDRIES submitted in support of its Petition. *Compare* Ex. 1202, *with* IPR2014-01089, Ex. 1202. Zond’s arguments in the Preliminary Response are essentially identical to those arguments that it made in IPR2014-01089. *Compare* Prelim. Resp. 21–53, *with* ’1089 Prelim. Resp. 21–53.

We incorporate our previous analysis regarding the asserted ground of unpatentability based on various combinations of Mozgrin, Kudryavtsev, Fahey, and Iwamura (’1089 Dec. 19–31), and determine that Gillette has demonstrated a reasonable likelihood of prevailing on those grounds of unpatentability.

*C. Other Asserted Grounds of Unpatentability*

Gillette also asserts the following grounds of unpatentability:

<b>Claim</b>	<b>Basis</b>	<b>References</b>
35	§ 103(a)	Mozgrin, Kudryavtsev, and Fahey
35	§ 103(a)	Mozgrin and Iwamura

The Board’s rules for *inter partes* review proceedings, including those pertaining to institution, are “construed to secure the just, speedy, and

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