

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-01017
Patent 6,805,779 B2

Before KEVIN F. TURNER, 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, 10–15, 17, 18, 24–27, and 29 of U.S. Patent No. 6,805,779 B2 (Ex. 1001, “the ’779 patent”). Paper 3 (“Pet.”). Zond, LLC (“Zond”), filed a Preliminary Response. Paper 9 (“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, 10–15, 17, 18, 24–27, and 29 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, 10–15, 17, 18, 24–27, and 29 of the ’779 patent.

A. Related District Court Proceedings

Gillette indicates that the ’779 patent was asserted in *Zond, LLC v. The Gillette Co.*, No.1:13-cv-11567-DJC (D. Mass.). Pet. 1. Gillette also identifies other proceedings in which Zond asserted the ’779 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 IPR2014-00598; and *GLOBALFOUNDRIES U.S., Inc. v. Zond, LLC*, Case IPR2014-01073.

In IPR2014-00598, 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. IPR2014-00598, Papers 8, 9, Ex. 1013.

In IPR2014-01073, we instituted an *inter partes* review as to claims 1–4, 10–15, 17, 18, 24–27, and 29 as unpatentable under 35 U.S.C. § 103(a) as obvious over the combination of Iwamura, Angelbeck, and Pinsley. IPR2014-01073, Paper 11 (“1073 Dec.”), 25.

Gillette filed a revised Motion for Joinder, seeking to join with IPR2014-01073, and Zond filed an Opposition to Gillette’s revised Motion. Papers 11, 12. In a separate decision, we grant Gillette’s revised Motion for Joinder, joining the instant proceeding with IPR2014-01073, and terminating the instant proceeding.

C. Prior Art Relied Upon

Gillette relies upon the following prior art references:

Pinsley	US 3,761,836	Sept. 25, 1973	(Ex. 1005)
Angelbeck	US 3,514,714	May 26, 1970	(Ex. 1006)
Iwamura	US 5,753,886	May 19, 1998	(Ex. 1007)

D.V. Mozgrin, et al., *High-Current Low-Pressure Quasi-Stationary Discharge in a Magnetic Field: Experimental Research*, 21 PLASMA PHYSICS REPORTS, No. 5, 400–409 (1995) (Ex. 1003, “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 (1983) (Ex. 1004, “Kudryavtsev”).

D. Asserted Grounds of Unpatentability

Gillette asserts the following grounds of unpatentability:

Claims	Basis	References
1–4, 10–15, 17, 18, 24–27, and 29	§ 103(a)	Mozgrin, Kudryavtsev, and Pinsley
1–4, 10–15, 17, 18, 24–27, and 29	§ 103(a)	Iwamura, Angelbeck, and Pinsley ¹

II. ANALYSIS

A. Claim Construction

Gillette makes the same claim interpretation arguments that GlobalFoundries made in IPR2014-01073. *Compare* Pet. 17, with IPR2014-01073, Paper 2 (“1073 Pet.”), 17. We construed several claim

¹ Pinsley is omitted inadvertently from the statement of this asserted ground of unpatentability, although included in the substantive analysis. Pet. 40, 48. Therefore, we treat the statement as mere harmless error and presume that Gillette intended to assert that the challenged claims are unpatentable under § 103(a) based on the combination of Iwamura, Angelbeck, and Pinsley.

terms in the Decision on Institution for IPR2014-01073. *See* '1073 Dec. 6–9. For the purposes of the instant decision, we incorporate our previous analysis and apply those claim constructions here.

B. Obviousness over Iwamura, Angelbeck, and Pinsley

In its Petition, Gillette asserts the same ground of unpatentability based on the combination of Iwamura, Angelbeck, and Pinsley, as the ground on which a trial was instituted in IPR2014-01073. *See* Pet. 38–60; '1073 Dec. 25. Gillette's arguments are substantively identical to the arguments made by GlobalFoundries in IPR2014-01073. *Compare* Pet. 38–60, *with* '1073 Pet. 38–60. Gillette also proffers the same Declaration of Dr. Uwe Kortshagen that GlobalFoundries submitted in support of its Petition. *Compare* Ex. 1002, *with* IPR2014-01073 Ex. 1002. Zond's arguments in the Preliminary Response are essentially identical to those arguments that it made in IPR2014-01073. *Compare* Prelim. Resp. 18–50, *with* IPR2014-01073, Paper 9 (“'1073 Prelim. Resp.”), 18–50.

We incorporate our previous analysis regarding the asserted ground of unpatentability over the combination of Iwamura, Angelbeck, and Pinsley ('1073 Dec. 10–24), and determine that Gillette has demonstrated a reasonable likelihood of prevailing on those grounds of unpatentability.

C. Other Asserted Ground of Unpatentability

Gillette also asserts that claims 1–4, 10–15, 17, 18, 24–27, and 29 of the '779 patent are unpatentability under 35 U.S.C. § 103(a) as obvious over the combination of Mozgrin, Kudryavtsev, and Pinsley. Pet. 18–40. The

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.