

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 IPR2014-01019  
Patent 6,805,779 B2

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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 5, 6, 8, 19, 22, 23, and 43 of U.S. Patent No. 6,805,779 B2 (Ex. 1101, “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 claim 43 as unpatentable under 35 U.S.C. § 102(b), and claims 5, 6, 8, 19, 22, and 23 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 5, 6, 8, 19, 22, 23, and 43 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 IPR2014-00686; and *GLOBALFOUNDRIES U.S., Inc. v. Zond, LLC*, Case IPR2014-01076.

In IPR2014-00686, 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. IPR2014-00686, Papers 11, 12; IPR2014-00598, Ex. 1013.

In IPR2014-01076, we instituted an *inter partes* review for the following grounds of unpatentability, IPR2014-01076, Paper 11 (“1076 Dec.”), 30:

<b>Claims</b>	<b>Basis</b>	<b>References</b>
43	§ 102(b)	Iwamura
5, 6, 8, 19, 22, and 23	§ 103(a)	Iwamura, Angelbeck, and Pinsley

Gillette filed a revised Motion for Joinder, seeking to join with IPR2014-01076, and Zond filed an Opposition to Gillette’s Motion. Papers 11, 12. In a separate decision, we grant Gillette’s revised Motion for Joinder, joining the instant proceeding with IPR2014-01076, 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. 1105)
Angelbeck	US 3,514,714	May 26, 1970	(Ex. 1106)
Iwamura	US 5,753,886	May 19, 1998	(Ex. 1107)

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. 1103, “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. 1104, “Kudryavtsev”).

*D. Asserted Grounds of Unpatentability*

Gillette asserts the following grounds of unpatentability:

Claims	Basis	References
43	§ 102(b)	Iwamura
5, 6, 8, 19, 22, and 23	§ 103(a)	Iwamura, Angelbeck, and Pinsley <sup>1</sup>
5, 6, 8, 19, 22, 23, and 43	§ 103(a)	Mozgrin, Kudryavtsev, and Pinsley

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<sup>1</sup> Pinsley is omitted inadvertently from the statement of this asserted ground of unpatentability, although included in the substantive analysis. Pet. 52, 54. Therefore, we treat the statement as mere harmless error and presume that Gillette intended to assert that claims 5, 6, 8, 19, 22, and 23 are unpatentable under § 103(a) based on the combination of Iwamura, Angelbeck, and Pinsley.

## II. ANALYSIS

### A. *Claim Construction*

Gillette makes the same claim interpretation arguments that GlobalFoundries made in IPR2014-01076. *Compare* Pet. 17–18, *with* IPR2014-01076, Paper 2 (“’1076 Pet.”), 17–18. We construed several claim terms in the Decision on Institution for IPR2014-01076. *See* ’1076 Dec. 7–10. For the purposes of the instant decision, we incorporate our previous analysis and apply those claim constructions here.

### B. *Grounds of Unpatentability Based on Iwamura, alone or in Combination with Angelbeck and Pinsley*

In its Petition, Gillette asserts the same grounds of unpatentability based on Iwamura, alone or in combination with Angelbeck and Pinsley, as the ground on which a trial was instituted in IPR2014-01076. *See* Pet. 41–60; ’1076 Dec. 30. Gillette’s arguments are substantively identical to the arguments made by GlobalFoundries in IPR2014-01076. *Compare* Pet. 41–60, *with* ’1076 Pet. 41–60. Gillette also proffers the same Declaration of Dr. Uwe Kortshagen that GlobalFoundries submitted in support of its Petition. *Compare* Ex. 1102, *with* IPR2014-01076, Ex. 1102. Zond’s arguments in the Preliminary Response are essentially identical to those arguments that it made in IPR2014-01076. *Compare* Prelim. Resp. 19–56, *with* IPR2014-01076, Paper 10 (“’1076 Prelim. Resp.”), 19–56.

We incorporate our previous analysis regarding the asserted grounds of unpatentability based on Iwamura, alone or in combination with Angelbeck and Pinsley, (’1076 Dec. 10–29), and determine that Gillette has

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