

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

THE GILLETTE COMPANY,
Petitioner,

v.

ZOND, LLC,
Patent Owner.

Case IPR2014-01022
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 30–37, 39, and 40 of U.S. Patent No. 6,805,779 B2 (Ex. 1201, “the ’779 patent”). Paper 3 (“Pet.”). Zond, LLC (“Zond”), filed a Preliminary Response. Paper 11 (“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 30–37, 39, and 40 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 30–37, 39, and 40 of the ’779 patent.

A. Related District Court Proceedings

Gillette indicates that the ’779 patent was asserted in *Zond, LLC v. Gillette*, 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 IPR2014-00765; *Taiwan Semiconductor Mfg. Co., Ltd. v. Zond, LLC*, Case IPR2014-00828; *Fujitsu Semiconductor Ltd. v. Zond, LLC*, Case IPR2014-00856; and *Advanced Micro Devices, Inc. v. Zond, LLC*, Case IPR2014-01070.

In IPR2014-00765, 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. IPR2014-00765, Papers 9, 10; IPR2014-00598, Ex. 1013.

In each of IPR2014-0828, IPR2014-00856, and IPR2014-01070, we instituted an *inter partes* review of claims 30–37, 39, and 40 of the ’779 patent, based on the following grounds of unpatentability (*see, e.g.*, IPR2014-00828, Paper 9 (“’828 Dec.”), 26):

| Claims | Basis | References |
|-------------------|--------------|---|
| 30–33, 35, 37, 40 | § 103(a) | Iwamura, Angelbeck, and Pinsley |
| 34, 39 | § 103(a) | Iwamura, Angelbeck, Pinsley, and Wells |
| 36 | § 103(a) | Iwamura, Angelbeck, Pinsley, and Lovelock |

We further joined IPR2014-00856 and IPR2014-01070 with IPR2014-00828, and terminated both IPR2014-00856 and IPR2014-01070. *See, e.g.*, IPR2014-00856, Paper 12.

Gillette filed a revised Motion for Joinder, seeking to join with IPR2014-00828, and Zond filed an Opposition to Gillette's Motion. Papers 9, 10. In a separate decision, we grant Gillette's revised Motion for Joinder, joining the instant proceeding with IPR2014-00828, and terminating the instant proceeding. Once that Decision is entered, IPR2014-00828 will be the only *inter partes* review pending before us for reviewing claims 30–37, 39, and 40 of the '779 patent.

C. Prior Art Relied Upon

Gillette relies upon the following prior art references:

| | | | |
|-----------|-----------------|----------------|------------|
| Pinsley | US 3,761,836 | Sept. 25, 1973 | (Ex. 1205) |
| Angelbeck | US 3,514,714 | May 26, 1970 | (Ex. 1206) |
| Iwamura | US 5,753,886 | May 19, 1998 | (Ex. 1207) |
| Wells | PCT WO 83/01349 | Apr. 14, 1983 | (Ex. 1214) |
| Lovelock | EP 0 242 028 A2 | Oct. 21, 1987 | (Ex. 1215) |

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. 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 (1983) (Ex. 1204, “Kudryavtsev”).

D. Asserted Grounds of Unpatentability

Gillette asserts the following grounds of unpatentability:

| Claims | Basis | References |
|-------------------|--------------|--|
| 30–33, 35, 37, 40 | § 103(a) | Mozgrin, Kudryavtsev, and Pinsley |
| 34, 39 | § 103(a) | Mozgrin, Kudryavtsev, Pinsley, and Wells |
| 36 | § 103(a) | Mozgrin, Kudryavtsev, Pinsley, and Lovelock |
| 30–33, 35, 37, 40 | § 103(a) | Iwamura, Angelbeck, and Pinsley ¹ |
| 34, 39 | § 103(a) | Iwamura, Angelbeck, Pinsley, and Wells |
| 36 | § 103(a) | Iwamura, Angelbeck, Pinsley, and Lovelock |

II. ANALYSIS

A. Claim Construction

Gillette makes the same claim interpretation arguments that TSMC made in IPR2014-00828. *Compare* Pet. 18–19, *with* IPR2014-00828, Paper 2 (“’828 Pet.”), 19–20. We construed several claim terms in the Decision on Institution for IPR2014-00828. *See* ’828 Dec. 7–10. For the

¹ Pinsley is omitted inadvertently from each statement of the asserted grounds of unpatentability based on Iwamura, although included in the corresponding analysis. *See* Pet. 41, 47, 56, 58. Therefore, we treat the statements as mere harmless error and presume that Gillette intended to assert that the challenged claims are unpatentable under § 103(a) based, in whole, or in part, on the combination of Iwamura, Angelbeck, and Pinsley.

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