UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLOBALFOUNDRIES U.S., INC., GLOBALFOUNDRIES DRESDEN MODULE ONE LLC & CO. KG, GLOBALFOUNDRIES DRESDEN MODULE TWO LLC & CO. KG, and THE GILLETTE COMPANY,
Petitioners,

v.

Zond, LLC.
U.S. Patent No. 7,147,759[1]
IPR Case No. IPR2014-01083

PETITIONER'S RESPONSE TO PATENT OWNER'S MOTION FOR OBSERVATION ON CROSS-EXAMINATION OF PETITIONER'S REPLY WITNESS

[1] Case No. IPR2014-00988 has been joined with this proceeding.

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I. INTRODUCTION

Petitioner submits this response to Patent Owner Zond's Observations on Cross-Examination of Dr. Overzet, Paper No. 29 ("Observation"). Patent Owner presents nine observations on Dr. Overzet's testimony. While Petitioner believes that the testimony will be appropriately viewed and weighed by the Board, the specific observations presented by Patent Owner are irrelevant and mischaracterize the testimony of Dr. Overzet, as specified below, and therefore are not probative of any material issue before the Board.

II. RESPONSES TO OBSERVATIONS ON DR. OVERZET'S TESTIMONY

A. Response to Observation 1

Patent Owner contends that Dr. Overzet's testimony indicates that his field of expertise is inadequate to support Petitioner's positions with respect to "gas laser references" such as Müller-Horsche. Observation at 2. Patent Owner misdirects the proper inquiry. Dr. Overzet's testimony demonstrates his expertise in the relevant field of plasma generation.

The testimony cited by Patent Owner merely indicates that Dr. Overzet is not an expert in all aspects of "gas laser design." On the other hand, Dr. Overzet testified that "I am an expert in the generation of plasma; furthermore all of the articles that we've gone through with respect to the '759 patent involve the generation of plasma." Overzet Dep. at 109:14-18 (Ex. 2012). In other words, Dr.

Overzet is an expert in the relevant field for the patent at issue and he applies his expert opinion when concluding that it would be obvious to substitute a well-known UV radiation source – such as that disclosed in Müller-Horsche – for the electrodes of Wang to perform Wang's preionization step. *See* Overzet Dec. at ¶¶ 104-105 (Ex. 1421).

Dr. Overzet testified that aspects of Müller-Horsche that do not relate to preionization are irrelevant to his opinion regarding the combination of Müller-Horsche's UV source with Wang's system:

> A. In a pulsed -- in a gas laser, in a pulsed gas laser, Müller-Horsche -- actually I believe this is also covered in my declaration. In paragraph 106, page 63 where I write, "To be clear, I have referred to Müller-Horsche with respect to preionization. Whether the main electrode at Müller-Horsche (which is not used for preionization) has advantages directed to erosion does not change the fact that it would be obvious to use a UV source for preionization."

Overzet Dep. at 106:11-21. (Ex. 2012); Overzet Dec. at ¶106 (Ex. 1421). Dr. Overzet relies on aspects of Müller-Horsche that are directly in his field of expertise. As a result, it is irrelevant whether Dr. Overzet considers himself to be an expert in "gas laser design."

B. Response to Observation 2

Patent Owner contends that Dr. Overzet's testimony related to Kudryavtsev establishes that he does not understand Kudryavtsev because "Dr. Overzet stated that Kudryatsev did not disclose a gas laser even though Kudryavsev explicitly does so." Observation at 2. Patent Owner mischaracterizes Dr. Overzet's testimony, which demonstrates the opposite.

In fact, Dr. Overzet specifically testified that Kudryavtsev mentions gas lasers, gas breakdown and laser sparks. Dr. Overzet further testified that Kudryavtsev's model can be used to study emission mechanisms in those devices. Dr. Overzet never testified that Kudryavtsev fails to disclose gas lasers. Instead, he testified that Kudryavtsev does not expressly disclose *the mechanisms of emission in those devices*.

> Q. Earlier you answered a question in the negative, and I'll read you the question: "Is it your opinion that Kudryavtsev discloses emission mechanisms in pulsed gas lasers, gas breakdown and laser sparks." Do you recall answering that question?
>
> A. I do.
>
> Q. Can you explain your answer to that question, please?

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