

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.
TSMC NORTH AMERICA CORP.
FUJITSU SEMICONDUCTOR LIMITED
FUJITSU SEMICONDUCTOR AMERICA, INC.
Petitioner

v.

ZOND, LLC
Patent Owner

Case IPR2014-01494
U.S. PATENT NO. 6,896,775
CLAIMS 1-29

Title: High-power pulsed magnetically enhanced plasma processing

PETITIONER'S MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c) AND 37 C.F.R. § 42.22 AND § 42.122(b)

I. INTRODUCTION

Taiwan Semiconductor Manufacturing Company, Limited, TSMC North America Corp., Fujitsu Semiconductor Limited, and Fujitsu Semiconductor America, Inc., (collectively “Petitioner” or “TSMC and Fujitsu”) submit the present Motion for Joinder pursuant to 37 C.F.R. § 42.122(b), authorizing the filing of a “motion under § 42.22, no later than one month after the institution date of any *inter partes* review for which joinder is requested.”¹ Petitioner submits that the present Motion for Joinder is timely filed since the *inter partes* review proceeding for which joinder is requested has not yet been instituted.

Petitioner hereby moves for joinder of the present petition for *inter partes* review **IPR2014-01494** (the “TSMC/FUJITSU IPR”) with **IPR2014-00578** (the “GILLETTE IPR”), filed by the Gillette Company (“Gillette”). The TSMC/FUJITSU IPR is identical to the GILLETTE IPR in all substantive respects, includes identical exhibits to the GILLETTE IPR, and relies upon the same expert declarant as the GILLETTE IPR. Gillette does not oppose this motion.

¹In its May 29, 2014 Order (Paper 5) of related proceedings IPR2014-00781 and IPR2014-00782, the Board articulated that prior authorization for filing a motion for joinder is not required if sought prior to one month after the institution date of any *inter partes* review for which joinder is requested.

II. BACKGROUND AND RELATED PROCEEDINGS

The TSMC/FUJITSU IPR and the GILLETTE IPR are among a family of *inter partes* review proceedings relating to U.S. Patent Nos. 6,896,773 and 6,896,775 that are being asserted by Zond, LLC (“Zond”) against numerous defendants: 1:14-cv-12438-WGY (*Zond v. Fujitsu Semiconductor Limited et al*); 1:14-cv-00721-LPS (*TSMC Technology Inc. et al v. Zond LLC.*); and 1:13-cv-11567-DJC (*Zond, Inc. v. Gillette Company, the et al.*).

In particular, a complaint in 1:14-cv-12438-WGY (*Zond v. Fujitsu Semiconductor Limited et al*) was first served on June 10, 2014, and a complaint in 1:14-cv-00721-LPS (*TSMC Technology Inc. et al v. Zond LLC.*) was first served on June 6, 2014. Accordingly, all petitions for *inter partes* review that have been filed by Petitioner TSMC and Fujitsu are timely as prescribed by 35 U.S.C. § 315(b).

Currently, the family of *inter partes* review proceedings relating to the above identified Zond patents (the “Zond IPRs”) consists of the following proceedings that involve TSMC, Fujitsu, and Gillette:

TSMC-Fujitsu IPRs			Gillette IPRs		Claims in IPR
Patent	Ref	Filed	Ref	Filed	
6896773	2014-01479	9/11/14	2014-00580	4/4/14	1-20, 34-39
	2014-01481	9/11/14	2014-00726	5/2/14	21-33, 40
6896775	2014-01494	9/12/14	2014-00578	4/4/14	1-29
	2014-01482	9/11/14	2014-00604	4/10/14	30-37

In addition to the present Motion for Joinder, Petitioner is presently filing Motions for Joinder of other Zond IPR petitions with the corresponding petitions filed by Gillette, subject to the same conditions sought by this motion. Gillette does not oppose the motions.

III. DISCUSSION

If the Director institutes an *inter partes* review, Petitioner respectfully requests that the Board exercise its discretion to grant joinder of the TSMC/FUJITSU IPR and GILLETTE IPR proceedings pursuant to 35 U.S.C. § 315(c), 37 C.F.R. § 42.22, and 37 C.F.R. § 42.122(b). In support of this motion, Petitioner proposes consolidated filings and other procedural accommodations designed to streamline the proceedings.

1. Reasons Why Joinder Is Appropriate

Joinder is appropriate in this case because it is the most expedient way to secure the just, speedy, and inexpensive resolution of the related proceedings. *See* 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b). Intentionally, the TSMC/FUJITSU IPR is substantively identical to the corresponding GILLETTE IPR in an effort to avoid multiplication of issues before the Board. Given the duplicative nature of these petitions, joinder of the related proceedings is appropriate. As discussed below, Petitioner will agree to consolidated filings and discovery, and procedural concessions, which Gillette does not oppose and which do not prejudice Zond.

a. Substantively Identical Petitions

Petitioner represents that the TSMC/FUJITSU IPR is identical to the GILLETTE IPR in all substantive respects. It includes identical grounds, analysis, and exhibits and relies upon the same expert declarant and declaration as the GILLETTE IPR. Accordingly, if instituted, maintaining the TSMC/FUJITSU IPR proceeding separate from that of the GILLETTE IPR would entail needless duplication of effort.

b. Consolidated Filings and Discovery

Because the grounds of unpatentability in the TSMC/FUJITSU IPR and GILLETTE IPR are the same, the case is amenable to consolidated filings. Petitioner will agree to consolidated filings for all substantive papers in the proceeding (e.g., Reply to the Patent Owner's Response, Opposition to Motion to Amend, Motion for Observation on Cross Examination Testimony of a Reply Witness, Motion to Exclude Evidence, Opposition to Motion to Exclude Evidence and Reply). Specifically, Petitioner will agree to incorporate its filings with those of Gillette in a consolidated filing, subject to the ordinary rules for one party on page limits. Gillette and Petitioner will be jointly responsible for the consolidated filings.

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