Petition for Corporate Reorganization Claim Assessment

(Basic Case Number. Heisei 24 (Mi) No. 1)

December 22, 2012

To: Civil Affairs 8th Department of Tokyo District Court

Petitioner's Attorney: TAKECHI Katsunori

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The Purposes of Petition

We request the judicial proceedings declaring that:

1. The amount of corporate reorganization claims against Elpida Memory, Inc. in the corporate reorganization procedure, which were filed by the Petitioner, be assessed as 71 million U.S. dollars; and
2. The cost incurred for this petition be borne by the Petitioned Party.

The Grounds for Petition

Section 1: Notification of Reorganization Claims

On October 31, 2012, the Petitioner filed the reorganization claims against Elpida Memory, Inc. in the corporate reorganization procedure (the "Corporate Reorganization Company"), details of which are described in the later Section 2 (Exhibit Koh No. 1: Reorganization Claim Notification)

The filing was made after the due date (i.e., May 21, 2012) of the period for filing reorganization claims determined by your Court. However, the Petitioner concurrently submitted the explanation brief detailing the special circumstances which had prevented the filing of the reorganization claims until the October 10, 2012. Your Court accepted said series of documents as the filing of reorganization claims, and set up a special period for investigation as the period starting on November 20, 2012 and ending on November 22, 2012 inclusive (Exhibit Koh No. 2: Explanation of Reasons for Late Submission of Notification of Reorganization Claims).

On November 14, 2012, the trustees of the Corporate Reorganization Company notified the Petitioner that they fully disapproved the amount of the reorganization claims filed by the Petitioner (Exhibit Koh No. 3: Statement of Approval/Disapproval).

There was no reorganization creditor or the like that raised opposition during the mentioned special period for investigation.

Section 2: Procedures to be Selected to Fix the Reorganization Claims of this Case

1. Overview of the Reorganization Claim of this Case

The Petitioner claims the right to recover damages caused by the Corporate Reorganization Company, which infringed the following patent right (Exhibit Koh No. 4: Patent Gazette) (hereinafter "the Patent Right") co-owned by the Petitioner and the University of Maryland (hereinafter collectively referred to as "the Petitioners"), based upon Sections 284, 286, etc. of the United States Patent Act.

Detailed Information of the Patent

Country of Registration: United States of America

Patent Number: 6,057,221

Registration Date: May 2, 2000

Filing Date: April 3, 1997

Title of Invention: Laser-induced cutting of metal interconnect

The Number of Claims: 21

The patentee requested ex parte re-examination to the Patent Right on March 30, 2011, based upon Section 302 of the United States Patent Act. The claims of the Patent Right were re-examined without substantive change, re-examined with relatively minor changes, and added through the ex parte re-examination. After the correction through the ex parte re-examination, the number of claims of the Patent Right changed from 21 to 30 and the USPTO reconfirmed the patentability of the Patent Right (Exhibit Koh No. 5: Ex Parte Reexamination Certificate).

The Corporate Reorganization Company sold, since 2006 to date, dynamic random access memories (hereinafter "DRAM") using the invention relating to Claims 3, 14 and 17 of the Patent Right within the United States of America (hereinafter referred to as "the U.S.") and thereby infringed the Patent Right.

The DRAMs dealt with by the Corporate Reorganization Company within the U.S. used the invention of the Patent Right in their production process and the Petitioners are entitled with the claims to recover damages in the amount of USD 142 million or more against the Corporate Reorganization Company, based upon Sections 284, 286 and etc. of the U.S. Patent Act.

2. Governing Law of this Reorganization Claim Case

The claim to recover damages caused by infringement of a patent right is categorized as one of those claims caused by tort and the Act on General Rules concerning the Application of Law provides that, as for the case in which such claims are considered, the law of the country "in which the result of the wrongful act occurred" should be

applied (Art. 17, main text of the Act on General Rules concerning the Application of Law) to a tort case.

The reorganization claims in this case are those claims to recover damages incurred as a result of the Corporate Reorganization Company having sold DRAM using the invention of the Patent Right within the U.S. and thereby infringing the Patent Right. Therefore, the U.S. is "the place in which the result of the wrongful act occurred" in this case.

Consequently, existence or non-existence of reorganization claims and the amount thereof shall be determined by applying the United States Patent Act and its related orders and court precedents of the U.S.

3. Act Infringing the Patented Invention

(1) Interpretation of Act Infringing the Patented Invention under the U.S. Patent law

U.S. Patent law provides that "(w)hoever without authority imports into the United States or offers to sell, sells, or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, offer to sell, sale, or use of the product occurs during the term of such process patent." 35 U.S.C. 271(g). This means that a product made outside the U.S. using a process patented in the U.S. infringes the U.S. process patent, if the product is imported into or sold, offered for sale, or used within the U.S.

U.S. federal court rules, in order to decide whether the patented invention is infringed or not, that "an infringement analysis requires two separate steps. First, the court must construe the claims asserted to be infringed as a matter of law in order to establish their meaning and scope. Second, the claims as construed are compared to the allegedly infringing device. To literally infringed, the accused

device must contain every limitation of the asserted claim. Even if the accused device does not literally infringe, it may infringe under the doctrine of equivalents." Maxwell v. J. Baker, Inc., 86 F3d, 1098, 1105 (Fed. Cir. 1996).

The DRAM that the Corporate Reorganization Company sells in the U.S. fulfills all constituting elements of the claims of the Patented Invention, and thus, the Corporate Reorganization Company's acts of importing and selling the DRAMs in the U.S. without the petitioner's permission shall constitute the infringement of the Patent Right.

(2) Constituting Elements of the Patented Invention

The Patented Invention is related to a method for cutting interconnected, integrated circuits by using lasers (laser-induced cutting of metal interconnect).

According to the patent claims both before and after the ex parte re-examination, the constituting elements of the Patented Invention are as follows.

(i) The Patented Invention, Part 1 (Claim 3)

(A) A method for cutting a link between interconnected circuits, comprising the following steps:

(B) directing a laser upon an electrically-conductive cutlink pad conductively bonded between a first electrically-conductive line and a second electrically-conductive line on a substrate,

(D) the cut-link pad having substantially less thermal resistance per unit length than each of the first and second lines,

(E) wherein the width of the cut-link pad is at least ten percent greater than the width of each of the first and second electrically-conductive lines; and

(C) maintaining the laser upon the cut-link pad until the laser infuses sufficient energy into the cut-link pad to break the conductive link across the cut-link pad between the pair of electrically-conductive lines,

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