

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ASML NETHERLANDS B.V., EXCELITAS TECHNOLOGIES CORP.,
and QIOPTIQ PHOTONICS GMBH & CO. KG,
Petitioner,

v.

ENERGETIQ TECHNOLOGY, INC.,
Patent Owner.

Cases IPR2015-01300 and
IPR2015-01303
Patent 7,435,982 B2

Before SALLY C. MEDLEY, JONI Y. CHANG, and
BARBARA A. PARVIS, *Administrative Patent Judges*.

PARVIS, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

A. *Background*

Petitioner, ASML Netherlands B.V., Excelitas Technologies Corp.,
and Qioptiq Photonics GmbH & Co. KG, filed two Petitions including a
Petition in IPR2015-01300 (Paper 4, "Pet.") and a Petition in IPR2015-

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01303 (Paper 2, “IPR ’1303 Pet.”).¹ Petitioner requests that we institute an *inter partes* review of claims 1, 3, 4, 10, 16, 21, 24–27, 30, 31, 34, 37, 42, 43, 49, 55, 61–64, 67, 68, 71, 72, 74, and 78 (the “challenged claims”) of U.S. Patent No. 7,435,982 B2 (Ex. 1101, “the ’982 Patent”). Because the subject matter of the claims and the challenges significantly overlap, we consolidate the IPR2015-01300 and IPR2015-01303 *inter partes* reviews. We, however, note that although Petitioner filed a third Petition challenging claims 23 and 60 of the same ’982 Patent, we do not consolidate the third proceeding, i.e., IPR2015-01377, and will issue a separate decision in that *inter partes* review.

Patent Owner, Energetiq Technology, Inc., did not file a Preliminary Response in either IPR2015-01300 or IPR2015-01303. We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . 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.” 35 U.S.C. § 314(a).

¹ Unless otherwise noted, citations are to the Petition and other documents filed in IPR2015-01300.

Petitioner asserts the following grounds of unpatentability (Pet. 17, 37; IPR '1303 Pet. 14, 29):

References	Basis	Claims challenged
French Patent Publication No. FR2554302 A1 (“Gärtner”) (Ex. 1104) ²	§ 102	1, 3, 4, 10, 16, 21, 24, 25, 30, 31, 37, 42, 43, 49, 55, 61, 62, 67, 68, 71, 74, and 78
Gärtner	§ 103	26, 27, 34, 63, 64, and 72 ³

For the reasons that follow, we institute an *inter partes* review of the challenged claims of the '982 Patent.

B. Related Proceedings

Petitioner and Patent Owner identify, as related proceedings, a lawsuit in the United States District Court for the District of Massachusetts captioned *Energetiq Tech., Inc. v. ASML Netherlands B.V.*, Case Number 1:15-cv-10240-LTS. Pet. 1; Paper 7. Petitioner and Patent Owner also indicate that other *inter partes* review petitions have been filed for the '982 Patent or patents that relate to the '982 Patent as follows: IPR2015-01277, IPR2015-01279, IPR2015-01362, IPR2015-01368, IPR2015-01375, IPR2015-01377, IPR2016-00126, and IPR2016-00127. Pet. 1; Papers 7, 12.

² Unless otherwise noted, citations are to the certified English-language translation, submitted as part of Exhibit 1104.

³ Although claim 61 is included in the header of the section of the Petition discussing obviousness (Pet. 37), Petitioner's contentions regarding claim 61 are based on anticipation (Pet. 36), not obviousness (Pet. 38–42).

C. The '982 Patent

The '982 Patent relates to a laser-driven light source. Ex. 1101, 1:5–6. Figure 1 of the '982 Patent is reproduced below.

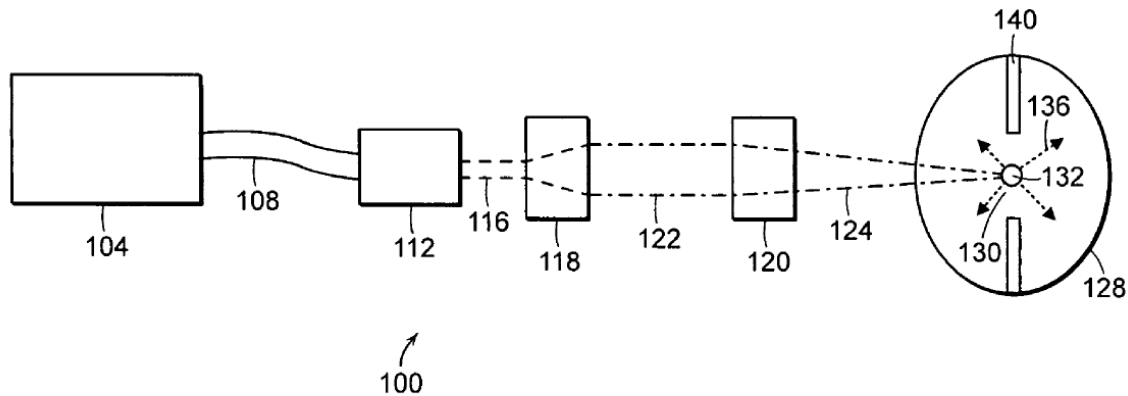


FIG. 1

Figure 1 illustrates a block diagram of a light source.

As shown in Figure 1, light source 100 includes laser 104 (*id.* at 4:36–37), chamber 128 that contains an ionizable medium (*id.* at 4:30–32), and ignition source 140 (*id.* at 5:28–29). Ignition source 140 generates an electrical discharge in region 130 of chamber 128 to ignite the ionizable medium (*id.* at 5:29–32), which creates plasma 132 (*id.* at 4:32–34). Laser 104 outputs laser beam 116 via fiber optic element 108. *Id.* at 5:15–16. Collimator 112 directs laser beam 116 to beam expander 118, which produces laser beam 122 and directs it to optical lens 120. *Id.* at 5:20–23. Optical lens 120 focuses the beam to produce smaller diameter laser beam 124 and directs it to region 130 (*id.* at 5:23–25) to emit high brightness light 136 (*id.* at 4:36–39).

D. Illustrative Claim

Of the challenged claims, claims 1, 30, 37, 67, 74, and 78 are independent. Each of claims 3, 4, 10, 16, 21, 24–27, 31, 34, 42, 43, 49, 55,

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61–64, 68, 71, and 72, depends, directly or indirectly, from claim 1, 30, 37 or 67, respectively. Independent claims 1 and 37 are illustrative and are reproduced below.

1. A light source, comprising:
a chamber;
an ignition source for ionizing a gas within the chamber;
and
at least one laser for providing energy to the ionized gas
within the chamber to produce a high brightness
light.

Ex. 1001, 8:64–9:2.

37. A light source, comprising:
a chamber;
an ignition source for ionizing an ionizable medium
within the chamber; and
at least one laser for providing substantially continuous
energy to the ionized medium within the chamber
to produce a high brightness light.

Id. at 10:36–42.

E. Claim Construction

1. Legal Standard

In an *inter partes* review, claim terms in an unexpired patent are given their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also In re Cuozzo Speed Techs., LLC.*, 793 F.3d 1268, 1277–1279 (Fed. Cir. 2015) (“Congress implicitly approved the broadest reasonable interpretation standard in enacting the AIA,”⁴ and “the standard was properly adopted by PTO regulation.”). Under the broadest reasonable construction standard, claim

⁴ Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”).

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