

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SK HYNIX INC., SK HYNIX AMERICA INC.,
SK HYNIX MEMORY SOLUTIONS INC., and
HYNIX SEMICONDUCTOR MANUFACTURING AMERICA INC.,
Petitioner,

v.

DSS TECHNOLOGY MANAGEMENT, INC.
Patent Owner.

Case IPR2016-00192
U.S. Patent No. 6,784,552

**PATENT OWNER DSS TECHNOLOGY MANAGEMENT, INC.'S
RESPONSE TO PETITION**

I. INTRODUCTION

On May 11, 2016, the Board instituted trial with respect to claims 1-10 of the U.S. Patent No. 6,784,552 (“the ‘552 Patent”) owned by DSS Technology Management, Inc., (“Patent Owner”). Patent Owner submits this Response in response to the ground for invalidity on the bases of which the Board instituted this trial.

II. SETTLEMENT NEGOTIATIONS

Petitioners and Patent Owner are engaged in ongoing settlement negotiations. To avoid unnecessary burden on Petitioner and the Board, the Patent Owner has foregone deposition of Petitioner’s expert witness and is not submitting substantive arguments against grounds for invalidity asserted against the ‘552 Patent.

III. THE BURDEN REMAINS WITH PETITIONER

It is well-established that “because of the ‘significant difference’ between the standards of proof at institution and trial during an IPR, it is inappropriate to shift the burden to the patentee after institution to prove that the patent is patentable.” *In Re: Magnum Oil Tools International, Ltd.*, No. 2015-1300 at 17 (Fed. Cir. 2016). Therefore, “the petitioner continues to bear the burden of proving unpatentability

after institution, and must do so by a preponderance of the evidence at trial.” *Id.* at 18 (*citing* 35 U.S.C. § 316(e)). Thus, Petitioner must prove by a preponderance of evidence that claims 1-10 of the ‘552 Patent are unpatentable. Patent Owner defers to the Board to make this determination based on its impartial analysis of the prior art and Petitioner’s arguments.

Respectfully submitted,

Date: August 11, 2016

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that, in accordance with 37 C.F.R. § 42.6(e), the above Patent Owner's Response was served via electronic mail on August 11, 2016, in its entirety upon the following:

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