UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LAM RESEARCH CORP.,

Petitioner

v.

DANIEL L. FLAMM,

Patent Owner

U.S. Patent No. RE40,264 E

Issued: April 29, 2008

Named Inventor: Daniel L. Flamm

Title: MULTI-TEMPERATURE PROCESSING

PETITION FOR *INTER PARTES* REVIEW
OF U.S. PATENT NO. RE40,264 E
FIFTH PETITION

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Hollmer v. Harari, 681 F.3d 1351 (Fed. Cir. 2012)	4
KSR Int'l. Co. v. Teleflex Inc., 550 U.S. 398 (2007)	1
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