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Reg. No. 42,557

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LAM RESEARCH CORP.,

Petitioner

v.

DANIEL L. FLAMM,

Patent Owner

CASE IPR2016-0468
U.S. Patent No. RE40,264 E

PATENT OWNER'S PRELIMINARY RESPONSE
UNDER 37 C.F.R. § 42.107
FIFTH PETITION

Mail Stop: PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent & Trademark Office
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Alexandria, VA 22313-1450

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EXHIBIT LIST

Ex. 2001	Lam Research Corp. v. Daniel L. Flamm, Case No. IPR2015-01759, DECISION Denying Institution of *Inter Partes* Review, Paper 7 (Feb. 24, 2016)

Daniel L. Flamm, Sc.D., the sole inventor and owner of the U.S. Patent No. RE40,264 ("the '264 patent"), through his counsel, submits this preliminary response pursuant to 37 C.F.R. § 42.107 and asks that the Patent Trial and Appeals Board decline to institute *inter partes* review on the instant petition because the petition fails to show a reasonable likelihood that any challenged claim is unpatentable.

I. Introduction

This is Lam's fifth petition for an IPR on Dr. Flamm's RE40,264 patent. It is followed by two more petitions, bringing the total to seven. Trials were instituted on two of the first four petitions (Case Nos. IPR2015-01764 and IPR2015-01766) and denied on the other two (Case Nos. IPR2015-01759 and IPR2015-01766). A scorecard reflecting the rulings on the various patent claims is attached hereto as Appendix A.

Lam's petition in Case No. IPR2015-01759 corresponds to the present petition in that it addressed independent claim 13 and all of its dependent claims, *i.e.*, claims 14-26 and 64-65. That petition was denied in its entirety. (*Lam Research Corp. v. Flamm*, IPR2015-01759, Paper 7 (Feb. 24, 2016), attached hereto as Exhibit 2001.)

In that denied petition, Lam relied primarily on Tegal with an assist from Matsumura, neither of which is mentioned in the present petition. Lam now relies on Kadomura (Ex. 1002) with an assist from Moslehi (Ex. 1003). As will be

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