

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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MICRON TECHNOLOGY, INC.,  
INTEL CORPORATION, GLOBALFOUNDRIES U.S., INC., and  
SAMSUNG ELECTRONICS COMPANY, LTD.,  
Petitioners,

v.

DANIEL L. FLAMM,  
Patent Owner.

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Case IPR2017-00392<sup>1</sup>  
Patent 5,711,849

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Before CHRISTOPHER L. CRUMBLEY, JO-ANNE M. KOKOSKI, and  
KIMBERLY McGRAW, *Administrative Patent Judges*.

KOKOSKI, *Administrative Patent Judge*.

ORDER  
Conduct of the Proceeding  
37 C.F.R. § 42.5

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<sup>1</sup> Samsung Electronics Company, Ltd. was joined as a party to this proceeding via a Motion for Joinder in IPR2017-01747.

On April 24, 2018, the Supreme Court held that a decision to institute under 35 U.S.C. § 314 may not institute on fewer than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, No. 16-969, 2018 WL 1914661, at \*10 (U.S. Apr. 24, 2018). In our Decision on Institution, we determined that Petitioner demonstrated a reasonable likelihood that it would establish that at least one of the challenged claims of the '849 patent is unpatentable, but did not institute trial on all grounds presented. Paper 10, 18–19. Pursuant to Office guidance, we modify our institution decision to institute on all of the challenged claims and all of the grounds presented in the Petition. *See* United States Patent and Trademark Office, *Guidance on the Impact of SAS on AIA Trial Proceedings*, PATENT TRIAL AND APPEAL BOARD TRIALS (April 26, 2018), <https://go.usa.gov/xQ93y>.

Petitioner and Patent Owner shall confer to discuss the impact, if any, of this Order on the proceeding. If, after conferring, the parties wish to submit additional briefing, the parties must, within one week of the date of this Order, request a conference call with the panel to seek authorization for such briefing.

In consideration of the foregoing, it is hereby:

ORDERED that our institution decision is modified to include review of all challenged claims and all grounds presented in the Petition; and

FURTHER ORDERED that Petitioner and Patent Owner shall confer to determine whether they desire any additional briefing, and, if so, shall request a conference call with the panel to seek authorization for such briefing within one week of the date of this Order.

IPR2017-00392  
Patent 5,711,849

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IPR2017-00392  
Patent 5,711,849

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