Paper No. __

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TAIWAN SEMICONDUCTOR MANUFACTURING CO., LTD,
Petitioner,

v.

GODO KAISHA IP BRIDGE 1,
Patent Owner.

_____

IPR2017-01841[1]
Patent 7,893,501

_____

PATENT OWNER'S REPLY IN SUPPORT OF ITS MOTION TO EXCLUDE EVIDENCE

[1] Case IPR2017-01842 has been consolidated with this proceeding. *See* Paper 10 at 3.

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I. OFFERED AS PRIOR ART, RASHED MUST BE EXCLUDED

In response to Patent Owner ("PO")'s motion, Petitioner purports to ***rewrite*** its Reply (Paper No. 22) and ***now*** argues that "Shanfield does not testify that Rashed (Ex. 1026) is itself prior art." Opp. at 4. But the Reply and Shanfield ***unambiguously*** misidentified Rashed as one of the "examples in the prior art." Petitioner offered Rashed as an "example in the prior art" but it fails to qualify as prior art ***by more than 9 years***. Rashed and Ex. 1027 ¶¶ 18, 29 must be excluded.[2]

PO did not "mischaracterize[]" the Reply and Shanfield's declaration. Opp. at 4. As can be seen below, Petitioner and Shanfield referenced "***examples [(plural)]*** in the prior art" before introducing the first example, Agata, ***and the purported second example***, Rashed. Further, Petitioner and Shanfield asserted, ***without any evidence***, that Rashed's reference to an undated, unidentified device that was "prior art" to Rashed in 2012 describes a device that was prior art in 2003. Tellingly, Petitioner's Opposition ***does not address these statements***.

Reply at 11-13	Ex. 1027 at ¶¶ 17-18
[A]dditional ***examples in the prior art*** * * * ***For example***, U.S. Patent No. 5,389,810	Other ***examples in the prior art*** * * * ***For example***, U.S. Patent No. 5,389,810

[2] PO objected to all the evidence it seeks to exclude and the objections to Rashed necessarily extend to citations to Rashed. Paper No. 23.

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to Agata ("Agata") describes … * * * ***For example***, when observing a plan view … U.S. Patent No. 8,618,607 to Rashed et al. ("Rashed") illustrates. * * * Rashed ***even acknowledges [w]hat the prior art*** teaches.	to Agata ("Agata") describes… * * * ***For example***, when observing a plan view … U.S. Patent No. 8,618,607 to Rashed et al. ("Rashed") illustrates. * * * Rashed ***even acknowledges [w]hat the prior art*** teaches.

Petitioner's cited cases (*Apple* and *Thomas & Betts Corp.*) merely confirm that non-prior art documents ***can*** be admissible when ***not*** offered as prior art. That proposition is inapposite because Petitioner offers Rashed as prior art.

PO's expert testified (Opp. at 5) that active region "as used in the '501 patent," i.e., the MISFET includes it, "has one transistor." Ex. 1029 at 31:11-19.

II. SHANFIELD'S IMPROPERLY COACHED DEPOSITION TESTIMONY SHOULD BE EXCLUDED

Petitioner's assertion that Shanfield "offered consistent technical testimony throughout the deposition" and "***consistently*** testified" that "the claim language doesn't require stress" (*see* Opp. 7-11) is belied by Shanfield's repeated testimony that while the language does not literally require it, the "***silicon nitride being discussed in this claim is a stress-inducing film***." Ex. 2026 at 52:3-19; *see also* 56:13-16, 56:17-58:2; 160:20-23. Shanfield's testimony at 51:22-53:6 provides a clear example of this. Shanfield provided opinions on the claim language in a

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