

Filed on behalf of Patent Owner by:

Paper No. \_\_\_\_

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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.

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IPR2017-01843<sup>1</sup>  
Patent 7,893,501

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**PATENT OWNER'S IDENTIFICATION OF IMPROPER NEW  
ARGUMENT IN PETITIONER'S REPLY  
PURSUANT TO JULY 20, 2018 ORDER (PAPER NO. 26)**

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<sup>1</sup> Case IPR2017-01844 has been consolidated with this proceeding.

1. Petitioner’s Reply and supporting papers (Reply, p. 2, l. 7 to p. 3, l. 2 and Section II (*i.e.*, p. 4, l. 1 to p. 6, l. 4); Ex. 1232, p. 4, l. 6 to p. 5, l. 3, and p. 5, l. 16 to p. 8, l. 6)) ***change Petitioner’s theory of unpatentability*** based on a new argument that Misra’s spacers 23 are allegedly ***not*** formed of silicon nitride. *Compare* Petition at 51-52 (arguing spacers 23 are formed when “silicon nitride is deposited ... to form silicon nitride spacers 23”); the testimony of Petitioner’s expert submitted with the Petition (Ex. 1202 at ¶ 139 (“Misra discloses a sidewall (spacer 23) ... Silicon nitride is deposited and reactive ion etched to form silicon nitride spacers 23.”); and the deposition testimony of Petitioner’s expert (Ex. 2210 at 287:21-288:4 (responding “I don’t think I did” when asked “Did you opine in your declaration that a POSA would modify element 23 in Misra to be a material other than silicon nitride?”), 374:23-375:12 (“**Q:** You testified that element 23 is not a film. Is there any other reason that it would not satisfy [a silicon nitride film] limitation?” “**A:** I’d have to give that some thought. I can’t answer on the spot ...”), and 375:13-376:12 (testifying that he opined that Misra’s element 23 was not a silicon nitride film only because it was a spacer (allegedly not a film) and that it was “not sensical to try and select other aspects of the phrase that it doesn’t fit”)).

2. Petitioner’s Reply and supporting papers (at the pages and line numbers cited in #1) support the new argument identified in #1 with citation to a ***portion of Misra (Ex. 1204 (6:54-58))*** that is ***nowhere cited in the Petition*** and purports to

disclose that the spacers 23 can be formed of a material other than silicon nitride.  
*Ariosa Diagnostics v. Verinata Health, Inc.*, 805 F.3d 1359, 1367 (Fed. Cir. 2015)  
(affirming the Board’s rejection of “[Petitioner’s] reliance, in its Reply  
submissions, on previously unidentified portions of a prior-art reference to make a  
meaningfully distinct contention.”).

Dated: July 24, 2018

Respectfully submitted,  
By /Gerald B. Hrycyszyn/  
Gerald B. Hrycyszyn, Reg. No. 50,474

**CERTIFICATE OF SERVICE UNDER 37 C.F.R. §42.6 (e)(4)**

I certify that on July 24, 2018 I will cause a copy of the foregoing document, including any exhibits referred to therein, to be served via electronic mail, as previously consented to by Petitioner, upon the following:

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Date: July 24, 2018

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