

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.,
Petitioner,

v.

GODO KAISHA IP BRIDGE 1,
Patent Owner.

Case IPR2017-01843¹
Patent 7,893,501 B2

Before MELISSA A. HAAPALA, *Acting Vice Chief Administrative Patent Judge*, JUSTIN T. ARBES, and JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

CHAGNON, *Administrative Patent Judge*.

ORDER

Authorizing Patent Owner Sur-Reply
37 C.F.R. § 42.5; 37 C.F.R. § 42.20(d)

¹ Case IPR2017-01844 has been consolidated with Case IPR2017-01843.

The parties came before the Board for a regularly scheduled oral argument on September 6, 2018. *See* Paper 36 (trial hearing order). Oral argument was heard by Judges Haapala, Arbes, and Chagnon.² In the particular circumstances of this case, we exercise our discretion under 37 C.F.R. § 42.20(d) to authorize the following additional post-hearing briefing.

Patent Owner is authorized, but not required, to file a sur-reply brief, to Petitioner's Reply (Paper 22, "Reply") on or before October 5, 2018. Patent Owner's sur-reply is limited to addressing Petitioner's arguments regarding whether Misra³ teaches that its spacers 23 may be formed of a material other than silicon nitride, such as thermally grown silicon dioxide (*see* Reply 2, 4–6 (Section II)).⁴ Patent Owner's sur-reply shall be limited to four (4) pages, not including the cover sheet or certificate of service. Patent Owner is not authorized to introduce any new evidence. Any statements, explanations, or arguments presented in the brief may only be supported by citations to materials in the current record.

² The transcript for the oral hearing is not yet in the record.

³ U.S. Patent No. 5,960,270, issued Sept. 28, 1999 (Ex. 1204).

⁴ We recognize that Patent Owner asserts this argument in Petitioner's Reply is improper in that it allegedly "change[s] Petitioner's theory of unpatentability based on a new argument." *See* Paper 27 (Patent Owner's Identification of Improper New Argument in Petitioner's Reply). We have not yet made a determination in this regard, and will address this issue in the Final Written Decision. We, however, provide Patent Owner this opportunity to respond substantively to Petitioner's reply argument in the event we determine that the arguments presented by Petitioner are within the proper scope of reply.

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If Patent Owner elects not to timely file a brief, Patent Owner will be deemed to have waived the right to brief this issue or otherwise be heard on this issue before entry of a Final Written Decision.

No further briefing is authorized at this time.

It is SO ORDERED.

PETITIONER:

David L. Cavanaugh
Dominic E. Massa
Michael H. Smith
WILMER CUTLER PICKERING HALE AND DORR LLP
David.Cavanaugh@wilmerhale.com
Dominic.Massa@wilmerhale.com
MichaelH.Smith@wilmerhale.com

PATENT OWNER:

Gerald B. Hrycyszyn
Richard F. Giunta
Edmund J. Walsh
Joshua J. Miller
WOLF, GREENFIELD & SACKS, P.C.
GHrycyszyn-PTAB@wolfgreenfield.com
RGiunta-PTAB@wolfgreenfield.com
EWalsh-PTAB@wolfgreenfield.com
joshua.miller@wolfgreenfield.com