UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

AQUILA INNOVATIONS, INC., a Delaware corporation, Plaintiff, v. ADVANCED MICRO DEVICES, INC., a Delaware corporation Defendant.	§ § § § § § § § § § §	No. 1:18-cv-00554-LY

JOINT CLAIM CONSTRUCTION STATEMENT

Pursuant to the Court's Scheduling Order, Plaintiff Aquila Innovations, Inc. ("Aquila") and Defendant Advanced Micro Devices, Inc. ("AMD") submit this Joint Claim Construction Statement for U.S. Patent Nos. 6,895,519 ("the '519 Patent) and 6,239,614 ("the '614 Patent").

I.   '519 PATENT AGREED CONSTRUCTIONS

Term	Agreed Construction
Whether the preamble of claim 1 is limiting.	The preamble of claim 1 is limiting.

II.   '519 PATENT DISPUTED CONSTRUCTIONS

Exhibit A contains the parties' respective proposed constructions of disputed claim terms in the '519 Patent, together with an identification of supporting intrinsic and extrinsic evidence upon which they intend to rely. The proposed terms for construction are:

- "A system LSI having a plurality of ordinary operation modes and a plurality of special modes in response to clock frequencies supplied to a central processing unit" (claim 1)
- "system LSI" (claim 1)
- "plurality of standard clocks" (claim 1)
- "generates a clock" (claim 1)
- "[a first memory that stores] a clock control library for controlling a clock frequency transition between said ordinary operation modes"(claim 1)
- "user selectable" (claim 1)
- "[a second memory that stores] an application program [wherein calling of said clock control library and changing of said register value are programmably controlled] to enable user selectable clock frequency transitions"(claim 1)
- "halted" (claim 1, 7)
- "principal constituents of said central processing unit" (claim 1)
- "a main library which is called by said application program and selects any one of said libraries" (claim 2)
- "a status register that judges a state of said central processing unit immediately after being released from said third special mode" (claim 7)

III.   '614 PATENT DISPUTED CONSTRUCTIONS

Exhibit B contains the parties' respective proposed constructions of disputed claim terms in the '614 Patent, together with an identification of supporting intrinsic and extrinsic evidence upon which they intend to rely. The proposed terms for construction are:

- "unit cells" (claim 1)
- "unit cell array" (claims 1, 3)
- "a unit cell array comprised of first and second unit cells laid in array form" (claim 1)
- "a power switch" (claims 1, 2, 3)
- "a power switch disposed around said unit cell array and comprised of a plurality of third MOS transistors" (claim 1)
- "a plurality of input / output circuits disposed around said unit cell array" (claim 1)
- "parts of said power switch disposed within said unit cell array" (claim 3)

IV.   EXPERT IDENTIFICATION

Patent	Plaintiff's Expert	Defendant's Expert
'519 Patent	Dr. Vojin Oklobdzija	Dr. David Albonesi
'614 Patent	Dr. Vojin Oklobdzija	Dr. Douglas Holberg

Each party reserves the right to provide an expert declaration from the identified expert and to call the identified expert to provide expert testimony at the claim construction hearing as to the meaning of any term of the identified patent that is proposed for construction to a person of ordinary skill in the art, including testimony that a person of ordinary skill in the art would understand that the term has the meaning set out in the party's proposed constructions associated with the term and testimony to respond to whatever the opposing party's proposed expert might say during the course of these proceedings.

V.   STATEMENT REGARDING AMD'S OBJECTIONS

AMD's narrative does not fairly describe the relevant events. Aquila submits that the Joint Claim Construction Statement is not the proper place for arguments of this nature.

VI.   OBJECTIONS BY AMD

A.   AMD Objects to Aquila's Untimely and Improper Changes

AMD objects to Aquila's untimely and improper disclosure of positions and extrinsic evidence.

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AMD timely disclosed its positions and extrinsic evidence to Aquila on April 24, as required by the Court's scheduling order. AMD also provided its input, as agreed between the parties, on Thursday, May 2. On May 14, Aquila substantially changed its positions and, for the first time, disclosed extrinsic evidence to AMD. Despite receiving AMD's timely disclosures, including copies of the extrinsic evidence, Aquila failed to disclose its positions and evidence until the day before May 15, the deadline to file the Joint Claim Construction Statement.

AMD even agreed to not oppose Aquila's extension to the Joint Claim Construction Statement with the express requirement that Aquila send its input without further delay, but no later than the following Monday, May 6. Yet, Aquila failed to send its input until 8 days later on Tuesday, May 14. Ultimately, Aquila delayed disclosure of its positions and extrinsic evidence by nearly three weeks, until only one day before May 15.

AMD is prejudiced by Aquila's disregard of the court ordered schedule in a variety of ways, not the least of which is that AMD was afforded no meaningful period of time to adjust its positions or search for rebuttal evidence prior to the required filing date of the JCCS. Accordingly, Aquila should be precluded from relying on its untimely and wholly new introduction of extrinsic evidence (copies of which were provided to AMD less than one day before May 15).[1]

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[1] AMD sought to streamline the issues for the Court by offering that both parties to drop their objections in full. Plaintiff has rejected the offer.

B.   AMD Objects to Aquila's Mischaracterization of AMD's Invalidity Contentions and AMD's Proposed Constructions

Aquila's untimely and improper revisions to the Joint Claim Construction Statement include several statements in relation to AMD's invalidity contentions and AMD's proposed terms and/or constructions. As explained above, AMD objects to Aquila's statements as untimely and improper. *See supra*, Section VI.A (AMD Objects to Aquila's Untimely and Improper Changes). AMD also objects to Aquila's mischaracterization of AMD's invalidity contentions and AMD's proposals. Moreover, Aquila has had these proposed constructions for three weeks and has suffered no prejudice from their (timely) disclosure.

AMD's theories or proposals are not undisclosed or untimely. AMD disclosed the terms proposed for construction and the proposed constructions with identification of supporting evidence, *as required*, on April 10 and 24, respectively, including the one term that Aquila contends is untimely ("clock control library …"). This one term was timely identified in the April 10 exchange and proposed for construction under 35 U.S.C. § 112 in the April 24 exchange, but was not specifically identified in the initial invalidity contentions.[2] AMD realized that the term was indefinite during the claim construction process, and made that disclosure as part of its timely claim construction exchange. Thus, all theories of indefiniteness were disclosed as part of the claim construction exchange on April 24, there are no undisclosed theories.

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[2] Without admitting that AMD's prior disclosures were insufficient in any regard but out of an abundance of caution, this term has been identified as indefinite in AMD's first amended invalidity contentions served May 15, 2019, the next day after Collabo first explained the scope of its complaint on May 14, 2019.

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