

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

INTEL CORPORATION,

Petitioner,

v.

FG SRC LLC,

Patent Owner.

---

IPR2020-01449  
Patent No. 7,149,867

---

**PATENT OWNER'S OPPOSITION TO  
PETITIONER'S MOTION TO SUBMIT SUPPLEMENTAL INFORMATION**

## LIST OF EXHIBITS

<b>Exhibit No.</b>	<b>Descriptions</b>
2001	Declaration of Dr. Vojin Oklobdzija
2002	Cray, Britannica Online Encyclopedia
2003	Declaration of Brandon Freeman dated 10/25/18 <i>SRC Labs LLC and Saint Regis Mohawk Tribe v. Microsoft Corporation</i> , No. 2:18-cv-00321-JLR, Dkt. 125 (W.D. Wash. Oct. 25, 2018)
2004	Plaintiff's Original Complaint For Patent Infringement in <i>FG SRC LLC v. Intel Corp.</i> , No. 6:20-cv-00315-ADA (W.D. Texas), filed April 24, 2020
2005	Plaintiff's First Amended Complaint For Patent Infringement in <i>FG SRC LLC v. Intel Corp.</i> , No. 6:20-cv-00315-ADA (W.D. Texas), filed April 24, 2020
2006	Declaration of Mark Wollgast dated 09/10/18 <i>Xilinx, Inc. v. Saint Regis Mohawk Tribe</i> , IPR2018-0195
2007	COTS Journal, UAVs Lead Push for Embedded Supercomputing
2008	Press Release: SRC Computers Chosen by Lockheed Martin for U.S. Army Program
2009	Declaration of Henning Schmidt
2009-1	Declaration of Henning Schmidt, Exhibit A, IEEE Xplore: Advanced Search
2009-2	Declaration of Henning Schmidt, Exhibit B, IEEE Xplore: Advanced Search Results
2010	Declaration Of Ryan Kastner, Ph.D. In Support Of FG SRC LLC's Opening Claim Construction Brief in <i>FG SRC LLC v. Intel Corp.</i> , No. 6:20-cv-00315-ADA (W.D. Texas), filed April 24, 2020
2011	Peter McMahon, High Performance Reconfigurable Computing for Science and Engineering Applications (Thesis Oct. 2006).
2012	Caliga, Delivering Acceleration: The Potential for Increased HPC Application Performance Using Reconfigurable Logic
2013	D. A. Buell, D. Caliga, J. P. Davis, G. Quan, "The DARPA boolean equation benchmark on a reconfigurable computer,"

<b>Exhibit No.</b>	<b>Descriptions</b>
	Proceedings of the Military and Aerospace Programmable Logic Devices (MAPLD) Conference, Washington, DC, 8-10 September 2004
2014	El-Araby, The Promise of High-Performance Reconfigurable Computing
2015	FG SRC LLC's Opening Claim Construction Brief in <i>FG SRC LLC v. Intel Corp.</i> , No. 6:20-cv-00315-ADA (W.D. Texas), filed April 24, 2020
2016	<i>Kerr Machine Co. d/b/a Kerr Pumps v. Vulcan Industrial Holdings, LLC</i> , No. 6:20-cv-00200, Text Order dated Aug. 2, 2020 (W.D. Tex.)
2017	<i>MultiMedia Content Mgmt LLC v. Dish Network L.L.C.</i> , No. 6:18-cv-00207, Dkt. 73 (W.D. Tex.)
2018	<i>Solas OLED v. Dell Techs. Inc.</i> , No. 6:19-cv-00514, Text Order dated June 23, 2020
2019	<i>Kerr Machine Co. v. Vulcan Indus. Holdings, LLC</i> , No. 6:20-cv-200, Dkt. 28 (W.D. Tex. July 31, 2020)
2020	<i>Kerr Machine Co. v. Vulcan Indus. Holdings, LLC</i> , No. 6:20-cv-200, Dkt. 24 (W.D. Tex. June 14, 2020)
2021	<i>Kerr Machine Co. v. Vulcan Indus. Holdings, LLC</i> , No. 6:20-cv-200, Dkt. 12 (W.D. Tex., June 14, 2020)
2022	Email from J. Yi to Counsel (Aug. 3, 2020)
2023	FG SRC LLC v. Intel Corp., No. 1:20-cv-00834, Dkt. 48 (W.D. Tex. Nov. 23, 2020) (Amended Schedule)
2024	<i>Continental Intermodal Group - Trucking LLC v. Sand Revolution LLC</i> , No. 7:18-cv-00147, Text Order dated July 22, 2020 (W.D. Tex.)
2025	<i>Solas OLED v. Dell Techs. Inc.</i> , No. 6:19-cv-00515, Text Order dated Jun. 23, 2020
2026	2019-07-11 - DirectStream MSFT - Huppenthal Declaration

..

Pursuant to the Board’s April 14, 2021 Order (Paper 18), Patent Owner hereby submits its opposition to *Petitioner’s Motion to Submit Supplemental Information Pursuant to 37 C.F.R. § 42.123(a)* (Paper 21).

**I. PETITIONER MISCHARACTERIZES THE CONTROLLING LAW**

Petitioner suggests that the only consideration for a request under 37 C.F.R. § 42.123(a) is whether the submission is timely and relevant. Paper 21 at 12-13. The Federal Circuit, however, has flatly rejected that position in a precedential opinion: “Requiring admission of supplemental information so long as it was timely submitted and relevant to the IPR would cut against this mandate [to assure efficient and timely administration of IPRs] and alter the intended purpose of IPR proceedings.” *See Redline Detection, LLC, v. Star Environtech, Inc.*, 811 F.3d 435, 443-445 (Fed. Cir. 2015). Indeed, concerns such as a petitioner intentionally holding back evidence, and promoting the goal of having petitioners “set forth their best grounds of unpatentability and supporting evidence in their petitions” must be taken into account. *Id.* It is a question of fundamental fairness. Here, Petitioner does not even try to prove the evidence was unavailable, and even a cursory review demonstrates it is comprised of opinions and evidence that was indisputably available to a diligent Petitioner.

The supplemental information must, of course, be relevant. 37 CFR § 42.123(a). Petitioner ignores, however, that information that does nothing more

than demonstrate circumstances after the applicable date is not relevant. *Clearone, Inc. v. Shure Acquisition Holdings, Inc.*, IPR2019-00683, Paper 32 at 5 (PTAB Nov. 6, 2019).

Moreover, the information must not merely substitute new evidence to bolster deficiencies in the timely presented evidence. “Permitting a petitioner to supplement the record in a manner that effectively changes the evidence originally presented in a petition is not in accord with the statutory requirement that the petition identify ‘with particularity ... the evidence that supports the grounds for the challenge to each claim.’” *Yamaha Golf Car Co. v. Club Car, LLC*, IPR2017-02141, 2018 WL 6428205 at \*3 (PTAB Dec. 4, 2018). Thus, even where the request is timely and the information is relevant, voluminous additional submissions and declarations that alter positions are properly rejected. *Id.*

All of these factors must be considered, and here their consideration requires denial.

## **II. PETITIONER MISCHARACTERIZES THE SUPPLEMENTAL EVIDENCE**

To properly adjudicate Petitioner’s motion, its mischaracterizations of its proposed supplemental evidence must first be corrected.

### **A. Exhibit 1027: MacPherson Declaration**

Petitioner proffers Mr. MacPherson’s testimony to support its allegations that the *Zhang*, *Gupta*, and *Chien* references on which it bases its petition were

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.