

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

REALTEK SEMICONDUCTOR CORP.,

Petitioners

v.

ATI TECHNOLOGIES ULC

Patent Owner.

Case No.: IPR2023-00922

U.S. Patent No. 8,760,454

**PETITIONERS' OBJECTIONS TO
EVIDENCE UNDER 37 C.F.R. §42.64(B)(1)**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1) and the Federal Rules of Evidence (“FRE”), Petitioners REALTEK SEMICONDUCTOR CORP. (“Petitioners”) hereby object to the exhibits cited and relied upon in Patent Owner’s February 23, 2024 Response on the following grounds. For each objected-to exhibit, the pertinent Federal Rule of Evidence (“FRE”) or other rule that gives rise to the objection is provided, along with a brief summary of the basis for the objection.

II. IDENTIFICATION OF CHALLENGED EVIDENCE AND GROUNDS FOR OBJECTIONS

1. Exhibits 2009-2053, 2055-2079, 2083-2100, 2104-2112, 2114-2120

37 C.F.R. § 42.61: The exhibits are not admissible under any applicable rule of the Patent Trial and Appeal Board.

F.R.E. 401/402: The exhibits are not relevant to any ground upon which trial was instituted. For example, the exhibits have no bearing on whether the challenged claims are patentable under 35 U.S.C. §§ 102 and 103, the grounds of institution in this proceeding.

F.R.E. 403: The exhibits include information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

F.R.E. 801/802/803: The exhibits constitute hearsay, which are not statements made by a declarant testifying in the current proceeding, that are offered to prove the truth of the matter asserted in the documents, and Patent Owner has not sufficiently established that the exhibits fall within any of the exceptions to the hearsay rule set forth in F.R.E. 803.

F.R.E. 901: The exhibits are inadmissible because Patent Owner has not submitted sufficient evidence to support that the exhibits are what Patent Owner claims they are.

2. Exhibits 2081, 2082, 2128, 2141, 2143

37 C.F.R. § 42.61: The exhibits are not admissible under any applicable rule of the Patent Trial and Appeal Board.

F.R.E. 401/402: The exhibits are not relevant to any ground upon which trial was instituted. For example, the exhibits have no bearing on whether the challenged claims are patentable under 35 U.S.C. §§ 102 and 103, the grounds of institution in this proceeding.

F.R.E. 403: The exhibits include information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

F.R.E. 801/802/803: The exhibits constitute hearsay, which are not statements made by a declarant testifying in the current proceeding, that are offered to prove the truth of the matter asserted in the documents, and Patent Owner has not sufficiently established that the exhibits fall within any of the exceptions to the hearsay rule set forth in F.R.E. 803.

F.R.E. 901: The exhibits are inadmissible because Patent Owner has not submitted sufficient evidence to support that the exhibits are what Patent Owner claims they are.

3. Exhibits 2004, 2103, 2118 (Declaration of Laurent Lefebvre from IPR2015-00325)

37 C.F.R. § 42.61: The exhibits are not admissible under any applicable rule of the Patent Trial and Appeal Board.

37 C.F.R. § 42.65: The declaration includes expert testimony that does not disclose the underlying facts or data on which the opinion is based.

F.R.E. 403: The declaration includes information whose probative value to any ground upon which trial was instituted is substantially outweighed by the danger of unfair prejudice, confusing the issues, undue delay, wasting time, or needlessly presenting cumulative evidence.

F.R.E. 602: The declaration includes statements and testimony made without any personal knowledge, including and not limited to, the source and content of

technical specifications (*e.g.*, Ex. 2004 ¶¶ 7-33), source code (*e.g.*, Ex. 2004 ¶¶ 6, 34, 38, 52), presentations (*e.g.*, Ex. 2004 ¶¶ 4, 49), document logs and file histories (*e.g.*, Ex. 2004 ¶¶ 39-52), and work on various aspects of the R400 project including design and testing (*e.g.*, Ex. 2004 ¶¶ 34, 38-52).

F.R.E. 701/702/703: The declaration includes statements and testimony of a lay witness on conception (*e.g.*, Ex. 2004 ¶¶ 7-33) and diligence (*e.g.*, Ex. 2004 ¶¶ 34-43) not based on scientific, technical, or other specialized knowledge. These statements and testimony are based on insufficient facts or data, and is not the product of reliable principles and methods. Further, the relied upon facts and data are not those on which experts in this field would reasonably rely.

F.R.E. 801/802/805: The declaration includes inadmissible hearsay and/or double hearsay with no applicable exceptions.

F.R.E. 804: The declaration includes inadmissible hearsay and Patent Owner has not established that the declarant is unavailable as a witness and none of the exceptions of Rule 804(b) apply.

F.R.E. 1006: The declaration includes improper summary evidence of certain presentations (*e.g.*, Ex. 2004 ¶¶ 4, 49) and file histories (*e.g.*, Ex. 2004 ¶¶ 39-52).

4. Exhibits 2002, 2115 (Declaration of Andrew Wolfe from IPR2015-00325)

37 C.F.R. § 42.61: The declaration is not admissible under any applicable rule of the Patent Trial and Appeal Board.

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.