

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LTD.,
and GLOBALFOUNDRIES U.S. INC.,
Petitioners,

v.

GODO KAISHA IP BRIDGE 1,
Patent Owner.

Case IPR2016-01376¹

Patent 6,197,696 B1

Before JUSTIN T. ARBES, MICHAEL J. FITZPATRICK, and
JENNIFER MEYER CHAGNON, *Administrative Patent Judges*.

**PETITIONER’S MOTION TO EXCLUDE EVIDENCE
UNDER 37 C.F.R. § 42.64(c)**

¹ GlobalFoundries U.S. Inc.’s motion for joinder in IPR2017-00921 was granted.

Petitioner TSMC moves to exclude Exhibits 2015, 2018, and 2019 under 37 C.F.R. § 42.64(c) as irrelevant and non-probative under Fed. R. Evid. 401, 402, and 403. The Exhibits are:

| Exhibit | Description |
|---------|---|
| 2015 | <i>Handbook of VLSI Microlithography, Second Edition, Principles, Technology, and Applications</i> , edited by John N. Helbert, Noyes Publications, William Andrew Publishing, LLC, 2001 (excerpted). |
| 2018 | <i>Microlithography: Science and Technology, 2nd ed.</i> , by Kazuaki Suzuki and Bruce W. Smith, CRC Press, 2007 (Chapter 12) (excerpted) (Smith Deposition Exhibit 3). |
| 2019 | <i>Microlithography: Science and Technology, 2nd ed.</i> , by Kazuaki Suzuki and Bruce W. Smith, CRC Press, 2007 (Chapter 11) (excerpted) (Smith Deposition Exhibit 9). |

On April 29, 2017, Petitioner objected to Exhibits 2015, 2018, and 2019 as irrelevant to any material facts at issue in this proceeding, and because their tendency to confuse the issues, mislead the Board, waste time, and needlessly present cumulative evidence substantially outweighs any probative value Patent Owner may assign them. Paper 20, at 1–2.

Exhibit 2015, which bears a copyright date of 2001, was published after the date of invention, which is March 23, 1999. *See, e.g.*, Paper 11, at 19–26. Exhibits 2018 and 2019 both bear copyright dates of 2007, which also post-date the alleged invention. Patent Owner further provided excerpts from a 1991 edition of the

textbook from which Exhibit 2015 was taken (*see generally* EX2027²) and excerpts from a 1998 edition of the textbook from which Exhibits 2018 and 2019 were taken (*see generally* EX2017).

To the extent Patent Owner relies on Exhibits 2015, 2018, or 2019 for the information they contained in the earlier editions (Exhibits 2017 and 2027), those exhibits present “needlessly present[] cumulative evidence.” Fed. R. Evid. 403. To the extent Patent Owner relies on Exhibits 2015, 2018, or 2019 for information absent from the earlier editions, Patent Owner is citing “impermissible . . . later knowledge about later art-related facts.” *In re Hogan*, 559 F.2d 595, 605 (CCPA 1977). Exhibits 2015, 2018, and 2019 are therefore inadmissible under Fed. R. Evid. 401, 402, and 403, and Petitioner requests that the Board exclude them

Dated: August 15, 2017

Respectfully submitted,

By: /Darren M. Jiron/
Darren M. Jiron
Reg. No. 45,777

Lead Counsel for Petitioner

² Patent Owner served Exhibit 2027 in response to Petitioner’s objections filed on April 21, 2017 (*see generally* Paper 20), but EX2027 has not been filed.

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), this is to certify that I caused to be served a true and correct copy of the **PETITIONER'S MOTION TO EXCLUDE EVIDENCE UNDER 37 C.F.R. § 42.64(c)** by electronic mail, this 15th day of August, 2017, on counsel of record for the Patent Owner as follows:

Andrew N. Thomases
andrew.thomases@ropesgray.com

J. Steven Baughman
sbaughman@paulweiss.com

Jordan M. Rossen
jordan.rossen@ropesgray.com

James L. Davis, Jr.
james.l.davis@ropesgray.com

IPBridgeTSMCPTABService@ropesgray.com

Patent Owner has agreed to electronic service.

A true and correct copy of the **PETITIONER'S MOTION TO EXCLUDE EVIDENCE UNDER 37 C.F.R. § 42.64(c)** was also served on August 15, 2017, via email directed to counsel of record for Petitioner GlobalFoundries U.S. Inc. at the following:

David Tennant
dtennant@whitecase.com

Shamita Etienne-Cummings
setienne@whitecase.com

IPR2016-01376, IPR2017-00921

Patent No. 6,197,696

Allen Wang
allen.wang@whitecase.com

wcptab@whitecase.com

WCGlobalFoundriesIPR1Team@whitecase.com

Dated: August 15, 2017

By: /Lauren K. Young/
Lauren K. Young
Litigation Legal Assistant
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.