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**Sent:** Saturday, July 29, 2023 11:09 AM

**To:** Trials <Trials@USPTO.GOV>

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**Subject:** IPR2023-00195 - Request for Conference Call

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Your Honors:

Petitioner Xilinx, Inc. in IPR2023-00195 respectfully requests a telephone conference with the Board to seek guidance on filing a motion to strike Patent Owner's "Confidential" Exhibits 2001, 2016, and 2017 and to disregard reference to those exhibits in the Patent Owner Preliminary Response.

**Petitioner states:** Exhibits 2001, 2016, and 2017 were improperly filed under seal. There is no Protective Order in this case. Patent Owner did not file a Motion to Seal as to these exhibits. Patent Owner has not filed redacted public copies of the exhibits. Patent Owner did not comply with 37 C.F.R. § 42.14 or Patent Trial and Appeal Board Consolidated Practice Guide § I.E. Petitioner has raised these issues to the Patent Owner but the Patent Owner has not corrected these issues. Patent Owner's non-compliance is prejudicial to Petitioner for multiple reasons that can be addressed on a Board call.

**Patent Owner states:** Exhibits 2001 and 2017 are confidential documents created by the United States Air Force Research Laboratory regarding the development of the '177 patent. See '177 patent col. 1 ll. 1-30 referring to the CRADA and Lyke. EX2001 has been produced to counsel for Petitioner by Patent Owner in multiple litigations including the current litigation against Xilinx and a previous litigation against Cypress Semiconductor. In both instances, it was designated *Highly Confidential* without objection from counsel for Petitioner. When produced, EX. 2017 will receive a similar designation in the Xilinx litigation given its similar origin.

In response to Petitioner's newly found concerns regarding public disclosure of Patent Owner's confidential information, including the Motion to Seal and Protective Order, and to comply the intent of 37 C.F.R. § 42.14, Patent Owner has, on its own accord, timely reached out to the Air Force seeking consent to make the documents public or be given other instructions, such as the involvement of government counsel, and/or redaction instructions. Accordingly, Patent Owner respectfully requests Petitioner's concerns about these exhibits be stayed until the Air Force has responded, as no material disagreement may exist, and because Patent Owner has no authority to unilaterally de-designate or redact them. Petitioner was aware of Patent Owner's constraints in this regard and about the request to the Air Force before this email. To the extent the Air Force wishes to maintain the confidentiality of the documents, Patent owner is willing to file a motion to seal and negotiate an appropriate protective order. It is unclear how Petitioner is prejudiced by whether or not Patent Owner's information remains confidential or public, and Petitioner provides no legal authority for its position that a confidentiality designation may serve as the basis for striking an exhibit.

With respect to Exhibit 2016, Patent Owner has already agreed to file an unredacted copy showing the other identities of the individuals who are the minority investors and is in the process of updating its filings. Petitioner has been provided an unredacted copy of the exhibit and was aware this was in process prior to this email. Accordingly, Patent Owner believes there is no dispute on this issue.

The parties are available on Tuesday, Aug. 1 between 11-2 ET and Thursday, Aug. 3 after 3 ET. Patent Owner reported no availability on Monday afternoon or Wednesday.

Best regards,

Craig

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