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Transcript of Board Conference Call

Date: September 19, 2025

Case: Cirrus Logic, Inc., et al. -v- Greenthread, LLC (PTAB)

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1 UNITED STATES PATENT AND TRADEMARK OFFICE
2 BEFORE THE PATENT TRIAL AND APPEAL BOARD
3

4 CIRRUS LOGIC, INC., and
5 OMNIVISION TECHNOLOGIES, INC.,
6 Petitioner,
7 v.
8 GREENTHREAD LLC,
9 Patent Owner.
10

11 IPR2024-00001 (Patent 10,734,481 B2)
12 IPR2024-00016 (Patent 10,510,842 B2)
13 IPR2024-00017 (Patent 8,421,195 B2)
14 IPR2024-00018 (Patent 9,190,502 B2)
15 IPR2024-00019 (Patent 11,316,014 B2)
16 IPR2024-00020 (Patent 11,121,222 B2)
17 IPR2024-00021 (Patent 11,121,222 B2)
18
19
20
21
22

Before Administrative Patent Judges:

KRISTEN L. DROESCH

GRACE KARAFFA OBERMANN

DONNA M. PRAISS

MONICA S. ULLAGADDI

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TELEPHONIC CONFERENCE CALL

Friday, September 19, 2025

1:31 p.m. CST

Job No.: 601223

Pages: 1 - 46

Reported By: Michelle M. Yohler, CSR, RMR, CRR

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22 (Continued)

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22 (Continued)

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1 A P P E A R A N C E S C O N T I N U E D

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15 ALSO PRESENT:

16 Mr. Emre Yuzak, GlobalFoundries

17 Mr. Mike LeStrange, GlobalFoundries

18

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22

I N D E X

CONFIDENTIAL PAGES: 36-38

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1 P R O C E E D I N G S

2 JUDGE DROESCH: This is Judge Droesch.

3 I'm joined by Judges Obermann, Praiss, and
4 Ullagaddi.

5 We are here for a telephonic hearing in
6 IPR2024-00001, 16, 17, 18, 19, 20, and 21.

7 And IPR2024-00771, 772, 773, and 774 have
8 been joined with IPR2024-17, 1, 18, and 19
9 respectively.

10 I'd like to start with asking who is on
11 the line for Patent Owner.

12 MR. WHITEHURST: Good afternoon, your
13 Honor. Alan Whitehurst, McKool Smith, for Patent
14 Owner, Greenthread.

15 JUDGE DROESCH: And is anybody else on the
16 line for Patent Owner, Counsel?

17 MR. WHITEHURST: I'm going to be the only
18 one speaking, but with me here today is my
19 colleague, Arvind Jairam.

20 JUDGE DROESCH: Okay. Thank you.

21 All right. Who is on the line for
22 Petitioner?

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1 MR. WEIDENFELLER: Hello, your Honor.
2 This is Scott Weidenfeller from Covington &
3 Burling on behalf of Petitioner.

4 JUDGE DROESCH: And you'll be speaking on
5 behalf of Petitioner today?

6 MR. WEIDENFELLER: Yes, your Honor.

7 JUDGE DROESCH: Okay. Are there any other
8 folks on the line for Petitioner today with you?

9 MR. WEIDENFELLER: Yes --

10 MR. GREENE: This is Bert Greene from
11 Duane Morris, also for Petitioner.

12 MR. BLUESTONE: This is David Bluestone
13 from the Benesch Law Firm for Petitioner as well.

14 JUDGE DROESCH: Okay. Anybody else?

15 MR. GRISWOLD: Yes, your Honor. This is
16 Josh Griswold with Fish & Richardson on behalf of
17 Texas Instruments, the joint Petitioner.

18 JUDGE DROESCH: Okay. Great.

19 All right. Last call for parties for
20 Petitioner.

21 MR. WEIDENFELLER: Also with me from
22 Covington is Anupam Sharma. And I understand that

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1 Mike LeStrange and Emre Yuzak from GlobalFoundries
2 are on the call as well.

3 JUDGE DROESCH: Great.

4 Does that sound like we have everybody,
5 Counsel?

6 MR. WEIDENFELLER: Yes, your Honor.

7 MR. OZARKAR: Sorry. I didn't get to
8 announce earlier. This is Neil Ozarkar for Patent
9 Owner.

10 JUDGE DROESCH: Great. All right.
11 Hopefully we have everybody here now.

12 All right. So today we have a telephonic
13 hearing. We've got one hour. Each side will get
14 30 minutes, but we may allocate more time if the
15 questions cut significantly into either party's
16 arguments.

17 So Petitioner will go first and present
18 the briefing, and then Patent Owner will go
19 afterwards. Petitioner may respond with rebuttal
20 after that, and then Patent Owner may close with a
21 surrebuttal. Each party may reserve some time for
22 a rebuttal and surrebuttal, but in no case may

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1 that side exceed 15 minutes.

2 And then, as far as administration, we'd
3 like to have the transcript filed as soon as
4 possible, just because we have some approaching
5 deadlines. So whichever party obtained the court
6 reporter, please make sure that the transcript is
7 filed as soon as possible, and we would greatly
8 appreciate it.

9 As far as another housekeeping matter, I'd
10 like to confirm with Petitioner's counsel that the
11 entities comprising Petitioner are Cirrus Logic,
12 OmniVision, and Texas Instruments Incorporated.
13 And the undisputed real parties in interest are
14 Cirrus Logic, OmniVision, Texas Instruments, and
15 GlobalFoundries.

16 Is that correct, counsel for Petitioner?

17 MR. WEIDENFELLER: That's correct, your
18 Honor.

19 JUDGE DROESCH: Okay. Great.

20 I'd also like to confirm that ams-OSRAM
21 Incorporated, Heptagon Holdings Incorporated, AMS
22 Sensors U.S.A. have all been terminated; is that

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1 correct?

2 MR. WEIDENFELLER: Yes, your Honor, that
3 is correct.

4 JUDGE DROESCH: Okay. And counsel for
5 Patent Owner, do you agree with this
6 identification of Petitioner entities and the
7 undisputed real parties in interest?

8 MR. WHITEHURST: Yes, your Honor.

9 JUDGE DROESCH: Okay. All right. Thank
10 you very much.

11 All right. So, Petitioner, when you are
12 ready, you may begin on your argument. Would you
13 like to reserve any time for rebuttal?

14 MR. WEIDENFELLER: Yes, your Honor, I'd
15 like to reserve ten minutes for rebuttal, please.

16 JUDGE DROESCH: Great. Thank you. Begin
17 whenever you are ready.

18 MR. WEIDENFELLER: Thank you, your Honor.
19 And may it please the Board.

20 Greenthread continues to press arguments
21 here that it already lost on director review. It
22 argues that Petitioner has not met its burden

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1 under Worlds v. Bungie and it argues, therefore,
2 that these IPRs must be terminated.

3 It raised exactly that argument in its
4 director review request, both in these IPRs and in
5 the onsemi IPRs. But it did not win on that
6 argument. Instead, the acting director remanded
7 for additional discovery.

8 Greenthread asserted here that it did not
9 need additional discovery. The Board ordered it
10 anyway, and Petitioner provided it.

11 Nothing in that discovery undermines
12 Petitioner's assertion that it is not estopped
13 under Section 315(b), and Greenthread does not
14 argue to the contrary. Instead, it complains that
15 Petitioners did not go farther than the Board
16 provided in its order.

17 But, again, Greenthread said, and
18 continues to say in its reply brief at 12 to 13 --
19 that's Paper 100 in the 0001 case -- that it needs
20 no discovery under Worlds.

21 Again, it lost that argument, both before
22 the Board and on director review, and it should

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1 continue to lose that argument.

2 That should end the inquiry here, but I'll
3 raise three additional points.

4 First, this case is about privity, not
5 real parties in interest. Greenthread's filings
6 make this clear. Again it's POPR, Paper 15 in the
7 0001 case; and it's Patent Owner response, which
8 is Paper 45; and in its director review request,
9 which is paper 83, all refer to privity, not real
10 parties of interest.

11 Worlds, on the other hand, is about RPI,
12 not privity. The Federal Circuit decision in
13 Worlds does not include the words "privity,"
14 "privy," "privies" at all. And the Board's
15 decision on remand, which is Paper 64 in that
16 proceeding, addresses two substantive issues,
17 neither of which involves privity.

18 First, it addresses collateral estoppel
19 and issue preclusion -- and that's at Pages 15 to
20 23 of its decision on remand -- and it addresses,
21 quote, the real party in interest issue, close
22 quote. Pages 23 to 45 of that decision.

1 On the other hand, WesternGeco is about
2 privity. Part 1(a) of the Federal Circuit's
3 decision addresses, quote, the legal standard for
4 privity, close quote. And it goes on to address
5 that in full at Pages 889 F.3d 1316 to 19 of its
6 decision.

7 Why do these points matter? Although, the
8 RPI and privity inquiries can be similar, they are
9 different in an important way. RPI is about
10 privities that have an interest in the current
11 proceeding. Intel is not a real party in interest
12 in this proceeding, it is a licensee. It has no
13 interest in establishing the unpatentability of
14 these patents in these IPRs. And, again,
15 Greenthread did not argue that Intel is an RPI.

16 Privity, on the other hand, is about a
17 party having interest in a previous proceeding.
18 Under WesternGeco, the relevant inquiry is, quote,
19 whether the Petitioner and a prior litigant's
20 relationship as it relates to the lawsuit is
21 sufficiently close that it can be fairly said that
22 the Petitioner had a full and fair opportunity to

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1 litigate the validity of the patent in that
2 lawsuit. And that's at Page 1319 of that
3 decision.

4 Here, the prior litigant is Intel. In the
5 lawsuit in question is Greenthread for Intel, not
6 any of the current proceedings.

7 Petitioner did not have a full and fair
8 opportunity to litigate the validity of the
9 patents in the Intel lawsuit. In fact, Petitioner
10 has established that it did not even know about
11 that lawsuit until the relevant parties were sued
12 and the Intel lawsuit was settled -- that's
13 Exhibit 2080, Paragraph 11 for GlobalFoundries;
14 Exhibit 2081, Paragraph 8 for Cirrus;
15 Exhibit 2082, Paragraph 10 for OmniVision -- all
16 establishing dates on or around the date of the
17 settlement and no understanding or knowledge of
18 the Intel lawsuit before they were sued
19 themselves.

20 Moreover, Greenthread settled that
21 proceeding with Intel, and it still sued Cirrus
22 and OmniVision. That alone should dispose of any

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1 burden on Petitioner.

2 Greenthread sued us and presumably thinks
3 we have an interest separate from Intel's and not
4 governed by the license. Greenthread argues that
5 a Petitioner may make certain components of the
6 Intel-accused devices in that proceeding, but it
7 has never explained how those components may
8 infringe or why they are not covered by Intel's
9 license even if they do.

10 It also never identifies any such
11 component. The only pertinent products made by
12 Petitioner that Greenthread identifies are
13 separate chips made by Petitioner, not parts of
14 the accused Intel processors and flash memory
15 products that are accused in Exhibit 2021.

16 OmniVision is alleged to make image sensor
17 chips. Those sensor chips would not be in a
18 processor underneath an encapsulation that does
19 not allow light to reach the image sensor. Cirrus
20 makes audio chips that may be used with Intel
21 processors, but also would not be part of the
22 processor.

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1 And GlobalFoundries here is an RPI because
2 of the accused Cirrus products.

3 At bottom, Greenthread has not shown any
4 interest in the Intel proceeding of any
5 petitioner. And that is the relevant inquiry
6 here, and that is all that results in this entire
7 dispute.

8 Unless the Board has questions, I'll
9 reserve the remainder of my time.

10 JUDGE DROESCH: Okay. Counsel, it looks
11 like there are no questions from the panel at this
12 point in time.

13 Counsel for Patent Owner, you may begin.

14 MR. WHITEHURST: I'm going to do the same
15 as Petitioner and use 20 minutes and reserve 10
16 minutes, if that's okay?

17 JUDGE DROESCH: That sounds great. Thank
18 you.

19 MR. WHITEHURST: May it please the Board.
20 While my points today also apply to Cirrus and
21 OmniVision, I'm going to focus on GlobalFoundries,
22 and I'm go show four things today: One, that

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1 Patent Owner presented more than some evidence
2 before institution that GlobalFoundries is in
3 privity with Intel.

4 Second, I'm going to show that
5 GlobalFoundries made and sold to Intel a component
6 of the products accused in the Intel litigation.

7 Third, I'm going to show that
8 GlobalFoundries did not comply with its discovery
9 obligations.

10 And, four, I'm going to show that
11 GlobalFoundries did not produce actual evidence to
12 meet its burden that there was not a substantial
13 legal relationship and ultimately no privity
14 between GlobalFoundries and Intel.

15 The issues today are similar to the
16 Monolithic hearing last week and the onsemi
17 hearing yesterday.

18 GlobalFoundries made and sold the
19 controller for Intel CPUs that were accused in the
20 Intel litigation. GlobalFoundries admits this on
21 Pages 4 and 8 of their post-remand response.

22 If you look at Paper 120 in the 01 IPR,

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1 and more specifically Page 4, [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 But if you look at our director review
5 request for the onsemi IPRs, we relied on an
6 onsemi data sheet to show how the onsemi
7 controller is part of Intel's CPUs.
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED] And we know that in the onsemi IPRs,
12 the director remanded for further discovery on the
13 chips that onsemi sold to Intel.
14 And then in these proceedings, or at least
15 two of them, the director remanded the Cirrus IPRs
16 to put them on -- and I'm quoting -- similar
17 footing.
18 Now, it doesn't make sense that the
19 director would remand the IPRs for additional
20 discovery on chips sold to Intel and then
21 GlobalFoundries would not provide discovery on the
22 controller chips that are in Intel's CPUs, but

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1 that is exactly what they did.

2 Now, I am going to go through it quickly
3 for sake of completeness, but as I discussed
4 yesterday in the context of the onsemi IPRs, if
5 you look at the infringement contentions from the
6 Intel litigation -- which are Exhibit 2021 in the
7 01 IPR -- you can see that Greenthread explicitly
8 mentioned that it was accusing both chips made by
9 Intel and third parties. On Page 3 it says:
10 Intel-accused CPUs include all CPUs designed or
11 manufactured in whole or in part by Intel.

12 So Greenthread was accusing both chips
13 made by Intel and not made by Intel.

14 And if you look at the definition of
15 Intel-accused CPUs, it says it includes the
16 products and processors labeled as Alder Lake,
17 Tiger Lake and Atom. You can see that they're
18 called processors or products. So the accused
19 CPUs were more than just Intel chips.

20 And, as I explained yesterday, in order
21 for the processor to work, there had to be a
22 controller or some other chip that regulates the

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1 power and clock signal. So the accused CPUs
2 included both the Intel chips and other chips.

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED] You can see the
21 relevant testimony on Pages 18 and 19 of the
22 deposition transcript.

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5 And these are the same products that they mention
6 on Pages 4 and 8 of their brief.

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And these are the same products that they mention
on Pages 4 and 8 of their brief.

Now, as I discussed yesterday, we know
that the discovery order in all of these cases
contains similar language. And under the
discovery order, there's a Part A and a Part B.
And for Part B, the Petitioners and
GlobalFoundries were supposed to produce documents
or a declaration that no documents exist for
components of the accused products.

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1 And you can see that on Pages 38, 39, and 40, he
2 confirmed that he never investigated them, but, he
3 never said that the documents don't exist.

4 Now, if you go back and look at our POPR,
5 you'll see that we cited evidence that

6 [REDACTED] We
7 cited to Page 24 of Exhibit 2033.

8 And then a year later, Mr. Ng admitted
9 during his deposition that what we said was true.
10 And you can see that on Pages 37 and 38 of his
11 deposition.

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 And he provided a similar answer later on
21 Page 38.

22 So you can see the situation here. It's

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1 very similar to what we saw yesterday. We have a
2 situation where there's more than some evidence
3 that GlobalFoundries fabricated a component of the
4 CPUs that were accused in the Intel litigation.

5 We also have some evidence that [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED] And GlobalFoundries has not produced any
12 actual evidence to prove that there's not a
13 substantial legal relationship, and they've not
14 produced any actual evidence to prove that they're
15 not in privity with Intel.

16 Now, I want to turn --

17 JUDGE OBERMANN: This is Judge Obermann.

18 You keep referring to --

19 MR. WHITEHURST: Yes, your Honor.

20 JUDGE OBERMANN: -- substantial -- a
21 substantial legal relationship. Is that really a
22 standard here? Don't we need to have some

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1 evidence that they were in a position to control
2 the litigation? Or an opportunity --

3 MR. WHITEHURST: I'm glad you asked that
4 question because after I address the RPX license,
5 I was going to turn to the control issue.

6 And, your Honor, I believe it goes back to
7 Taylor. When you look at Taylor, we heard today
8 arguments by Petitioner that it goes to control.
9 But if you look at what Taylor actually says, it
10 mentions that privity can come in lots of
11 different flavors, and it specifically mentions
12 preceding and succeeding owners of property.

13 Now, when you look at the Worlds' remand
14 decision, I know that we heard argument yesterday
15 about footnote 10, and Petitioner has argued that
16 footnote 10 or Mr. -- Petitioner's counsel has
17 said that Worlds is limited to RPI as opposed to
18 privity.

19 But when you look at Worlds, even
20 Petitioner has applied it in the privity context
21 when saying that the Patent Owner must produce
22 some evidence. But I want to get to the control

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1 part.

2 If you look at footnote 10, the dictum in
3 footnote 10 never says that it -- control is
4 required for privity. If you look, what it does
5 say, it says control might pertain to privity.

6 And, your Honor, I would urge you to look
7 at the Ventex decision, which is IPR2017-651,
8 Paper 48.

9 And if you look at the Ventex decision,
10 you'll see that the Patent Owner, Columbia, never
11 proved that the Petitioner, Ventex, had any
12 control over the Cirrus litigation. If you look at
13 Page 7, it's very similar to what we just saw for
14 GlobalFoundries.

15 In Ventex, Columbia pointed to a standard
16 indemnification clause which gave Ventex the
17 opportunity to control the prior litigation, but
18 if you look closely at Ventex, you'll see there
19 was no evidence of actual control.

20 But in Ventex, under very similar
21 situation to what we see here, you'll see that the
22 Board still determined that Ventex did not meet

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1 its burden on both the RPI and privity issues due
2 to the pre-existing contractual relationship
3 between Ventex and Cirrus.

4 And, just to make it clear, when you look
5 at Ventex, the ultimate conclusion on RPI is on
6 Page 11; whereas, the conclusion on privity was on
7 Page 15.

8 So in the situation where there was no
9 proof of actual control, the Board in a
10 precedential decision still determined that
11 Petitioner had not prevailed and met its burden on
12 the privity issue.

13 And if you look at the Ventex decision,
14 what is also of import is that in Ventex, the
15 Board noted that Ventex and Cirrus' witnesses
16 could not answer key questions about the privity
17 issue. And this was a large part of why the Board
18 ultimately determined that the Petitioner, Ventex,
19 did not meet its burden on specifically the
20 privity issue.

21 If you look at Page 14 of Ventex, you can
22 see where the Board noted that Ventex and Cirrus

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1 produced witnesses largely unable to answer open
2 questions either due to lack of firsthand
3 knowledge or lack of preparation.

4 And that's exactly what we're seeing here
5 in these proceedings where Mr. Ng, and the
6 witnesses for Cirrus and OmniVision as well, were
7 unable to testify as to the agreements and the
8 business relationship and other aspects of the
9 sale of the chips to Intel.

10 Now, I also want to address WesternGeco
11 because we know that Petitioner mentioned
12 WesternGeco.

13 But if you look at Page 1320 of
14 WesternGeco, you'll see on Page 1320 that the
15 Federal Circuit expressly said that control is not
16 required for privity.

17 Now, the reason that in WesternGeco we see
18 the discussion about control is not because it was
19 a requirement for privity. And the Federal
20 Circuit made it clear the reason why it focused on
21 privity is because the Patent Owner had focused on
22 privity.

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1 When you look at WesternGeco, it never
2 said that control is required. What it does say
3 is that there is a variety of considerations, but,
4 in this instance, the Patent Owner, WesternGeco,
5 had focused -- and I quote -- from my
6 primarily-earned control.

7 So in an instance where the Patent Owner's
8 theory focuses on control, it makes sense that the
9 Federal Circuit would delve and dig deeper into
10 control, but it never ever said that control is
11 required for privity.

12 JUDGE OBERMANN: I'm more interested in
13 the opportunity to control. Because I don't
14 understand how an entity that has no opportunity
15 to control the prior litigation should be excluded
16 from bringing an IPR in our forum --

17 MR. WHITEHURST: My --

18 JUDGE OBERMANN: -- what's the reasoning?

19 MR. WHITEHURST: Yes, your Honor.

20 So in the situation here, we are focusing
21 on the substantial legal relation, what is at
22 issue here. We have --

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1 JUDGE OBERMANN: I'm sorry to interrupt
2 again. This is Judge Obermann. Where do you get
3 that standard? You keep talking about a
4 substantial legal relationship. What is that from
5 and what law are you relying on there? What
6 statute and --

7 MR. WHITEHURST: I'm going back to Taylor
8 and the law of privity, that it can become -- rely
9 on a variety of considerations.

10 And when you look at Taylor in the Supreme
11 Court, you'll see enumerated that it's broader
12 than just an indemnification obligation where
13 somebody actually participated and exercised
14 control. The indemnification obligation can be an
15 indicator of the substantial relationship between
16 the parties and --

17 JUDGE OBERMANN: Mr. Whitehurst, we're
18 talking over each other. I don't care about
19 actual control. I still think that all of this
20 goes to whether there would have been an
21 opportunity to step in and control, and you
22 haven't convinced me otherwise.

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1 Can you please point me to something in
2 Taylor that says lacking any opportunity to
3 control -- and I'm not talking about actual
4 control, I'm talking about a relationship that
5 gives that privity an opportunity to control the
6 litigation, that they should be precluded from
7 bringing a subsequent action.

8 MR. WHITEHURST: That would be Ventex,
9 your Honor. And if I can go back, the relevant
10 portion of Ventex is on Page 7. There was no
11 evidence of actual control; it was merely the
12 opportunity to control that they considered. But
13 in that --

14 JUDGE OBERMANN: (Inaudible) talking
15 about. We're talking over each other. It can be
16 one or the other.

17 Even if we don't have actual control, if
18 there's an opportunity to control, that justifies
19 excluding them from bringing a subsequent action
20 because they would have had a fair opportunity to
21 litigate because they had that opportunity.

22 MR. WHITEHURST: So I believe we're

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1 missing each other on the use of the word
2 "opportunity."

3 Here we're talking about the language that
4 was in the indemnification agreement itself. When
5 you look at Ventex and the analysis by the Board,
6 they were merely looking at the indemnification
7 agreement itself, and there there was language
8 about controlling the litigation.

9 That was the opportunity to control the
10 litigation, just what was in the agreement between
11 the parties. So I apologize if I did not make
12 that clear, but --

13 JUDGE OBERMANN: But you're still -- I'm
14 sorry, Mr. Whitehurst, you're still pointing out
15 to cases that show that what was really important
16 was that the privity -- that the entity or the
17 privy had an opportunity through indemnification.

18 I mean, I've done many of these cases. If
19 you are on the hook for indemnifying, you often
20 have the opportunity to step in and control that
21 litigation. Whether you do it or not isn't the
22 issue; it's the opportunity that establishes a

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1 privy relationship that justifies excluding that
2 privy from a second bite at the apple.

3 And I hear you -- I hear you trying to
4 argue that you can find a privity relationship
5 that justifies excluding a second bite at the
6 apple even where that privy had no opportunity to
7 control the prior litigation. Is that what you're
8 saying?

9 MR. WHITEHURST: What I'm saying is that,
10 under Taylor, when you look at the relationship in
11 succeeding and preceding owners of property,
12 Taylor was looking at the relationship between
13 them. And one indicator of the relationship
14 between the parties may be the indemnification
15 agreement.

16 [REDACTED]
17 [REDACTED]
18 [REDACTED] We've also produced evidence
19 that Intel negotiated and received have-made
20 rights for its suppliers. And if you look at
21 Page 3, it describes the license that was granted
22 to Intel. We've also introduced evidence on

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1 Page 5 that the license grant included have-made
2 vendors, suppliers, manufacturers, and OEMs.

3 And we also produced evidence that Intel
4 received a sublicense from RPX. On Page 16 of
5 Exhibit 2022, it lists Intel Corporation as an
6 initial licensee, and we submitted a declaration
7 from RPX, which is Exhibit 2028. And if you look
8 at Page 1, Paragraph 5 of that declaration, it
9 explains that Intel acquired the full scope of
10 sublicensable rights Greenthread granted to RPX,
11 and this agreement was executed in April of 2023.

12 So under Taylor and the other flavors of
13 privity that are described there, this license
14 agreement between Intel and Greenthread, which
15 would include suppliers to Intel, is part of the
16 consideration in addition to the indemnification
17 agreement and what those two parties negotiated.

18 But when you look at Ventex and you look
19 at other decisions that talk about a customer
20 supplier relationship, when you have a particular
21 customer supplier relationship, you can have
22 privity.

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1 To say that it only applies in situations
2 where a party either stepped into the litigation
3 or could, would undo the other examples of privity
4 that were in Taylor and would eradicate them.

5 And when you look at WesternGeco, you look
6 at Taylor, they made it clear that there can be a
7 variety of considerations beyond control. And
8 that's the point that I'm trying to make sure that
9 it's not limited just to control. While control
10 may be relevant to whether there is privity, it's
11 not dispositive and it's not required.

12

13

14

15 With that, unless there are any further
16 questions, I'm going to conclude and reserve the
17 rest of my time.

18 JUDGE DROESCH: Counsel, I have an
19 additional question regarding the [REDACTED] litigation.

20 Let's see. Can you explain to us why the
21 addition of [REDACTED] wouldn't make any sense if [REDACTED]
22 was served a complaint for infringement in January
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1 of 2023 and this petition was filed in October?
2 Wouldn't -- would that give rise to a time bar in
3 that case for [REDACTED]?

4 MR. WHITEHURST: Your Honor, with regard
5 to the other named parties in the Texas
6 litigation, which included Intel, [REDACTED] was served
7 with a complaint more than one year, and we've
8 always maintained that we should have been granted
9 discovery.

10 In certain instances, [REDACTED] sells [REDACTED]
11 products, so in the context of [REDACTED] where [REDACTED] was
12 served with a complaint more than one year before
13 the filing of the petitions, the [REDACTED] products may
14 be relevant to the extent that they were sold by
15 [REDACTED].

16 JUDGE DROESCH: Okay. This relates back
17 to the [REDACTED] and Intel litigation filed in 2022; is
18 that correct?

19 MR. WHITEHURST: I believe that's correct.
20 I don't have all the dates right in front of me,
21 but I do know that, in the context of the
22 Monolithic IPRs, which we discussed a couple weeks
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1 ago, there, [REDACTED] was served with a complaint more
2 than one year before all seven of the IPRs.

3 So in some instances, in the Monolithic,
4 it happens to be all seven; for some of the other
5 IPRs, the [REDACTED] may come into play because the [REDACTED]
6 second amended complaint was more than one year;
7 in other contexts it may be relevant to the extent
8 [REDACTED] was served with a complaint more than one
9 year before the filing of the IPR.

10 JUDGE DROESCH: Okay. Thank you, Counsel.

11 I just wanted to make a small note here
12 for the court reporter. Would you please indicate
13 these pages as confidential in your transcript,
14 these pages that mention [REDACTED] and [REDACTED]. Thank
15 you.

16 All right. Thank you, Counsel. I don't
17 believe there's any additional questions from my
18 colleagues at the moment.

19 We can change over to counsel for
20 Petitioner.

21 MR. WEIDENFELLER: Thank you, your Honor.
22 I just have a few points to make.

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1 First, we entirely agree that what is
2 important here is a full and fair opportunity to
3 litigate. That is the language from Taylor v.
4 Sturgell that controls. That is the inquiry that
5 is important in determining whether or not parties
6 are in privity with respect to the previous
7 litigation is whether they had a full and fair
8 opportunity to litigate it.

9 Second, I would point out that we entirely
10 disagree with Greenthread's characterization as
11 having included the Intel accused products
12 microcontrollers that control the products that
13 were accused of infringement. There are many
14 other components that can be connected to Intel
15 processors and flash memory devices, but that does
16 not make them all accused infringing products.

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

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1 And that is the relevant inquiry under the
2 Board's order, and that, frankly, is the relevant
3 inquiry under the privity analysis.

4 And I just would like to point out here
5 that my rebuttal to Greenthread's argument has
6 been quite narrow, and I would request that the
7 Board limit any response to this to the scope of
8 my rebuttal.

9 Unless the Board has further questions, I
10 will yield back my -- the remainder of my time.

11 JUDGE DROESCH: Thank you, counsel. I
12 don't believe there's any additional questions
13 from my colleagues.

14 Counsel for Patent Owner, you have ten
15 more minutes left, and you may begin when you're
16 ready.

17 MR. WHITEHURST: Yes, your Honor. I just
18 want to address the Taylor issue further, as it
19 was just mentioned.

20 I'm referring to the Supreme Court, what
21 the -- the non-exhaustive list of considerations.
22 When you look at WesternGeco, you'll see that they

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1 comment on the Supreme Court's decision in Taylor,
2 and they identified a non-exhaustive list of
3 considerations, and you'll see that they set forth
4 at least six.

5 And they talk about agreements to be
6 bound, a pre-existing substantial legal
7 relationship between the person to be bound and
8 the party to the judgment; e.g. preceding and
9 succeeding owners of property.

10 So in Ventex, the Board specifically
11 referenced consideration number two. And when I
12 mentioned substantive legal relationship, I was
13 referring to part two of the non-existing list of
14 considerations in the Taylor Supreme Court
15 decision. And that list of considerations goes on
16 3, 4, 5, and 6. So as I mentioned, there are at
17 least six factors there, and the Supreme Court
18 made it clear that it was a non-exhaustive list.

19 I do want to conclude with a just
20 procedural note on Ventex. When you look at
21 Ventex, when they looked at the lack of
22 preparation by the witnesses, they made it clear

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1 that the lack of testimony should not be construed
2 against the Patent Owner. They didn't go so far
3 as to enter an adverse inference, but they
4 ultimately determined that it's this lack of
5 investigation and testimony would be held against
6 the Petitioner.

7 And when they determined, looking at the
8 list of considerations in Taylor and they
9 specifically mentioned the pre-existing
10 substantive legal relationship, they ultimately
11 concluded that the Petitioner had not met its
12 burden on privity. And under that situation, the
13 Board dismissed the petition, vacated the
14 institution decision, and terminated the
15 proceedings.

16 And we believe the same should be done
17 here. If you look at what happened, we identify
18 in our POPR, if you go back and look at what we
19 said pre-institution, we specifically identified
20 exhibits showing that GlobalFoundries produced
21 custom-built chips for Intel, and we specifically
22 referenced that publicly available documents

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1 mention that GlobalFoundries agreed to indemnify
2 customers for products. That was the sum evidence
3 that we produced, much like what you see in
4 Ventex.

5 Now, in Ventex, they had additional
6 evidence that we did not have here, but ultimately
7 when you look at privity, even Petitioner has said
8 in its paper, whether you're talking about RPI or
9 here privity, the Worlds is still relevant to this
10 inquiry, whether Patent Owner produced some
11 evidence -- and we did -- and then whether
12 Petitioner produced actual evidence to meet its
13 burden.

14 What we've heard here went solely to
15 control of the litigation; it did not go to the
16 substantive legal relationship, the supply
17 agreements, the sales agreements, the
18 indemnification agreements, the other factors that
19 can go to establish privity.

20 That's where we were denied of the
21 discovery, we were denied of the relevant
22 documents, and, ultimately, that should not be

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1 used against us. When we've alleged privity based
2 on the relationship between Intel and
3 GlobalFoundries and produced evidence, the burden
4 is ultimately on GlobalFoundries and the other
5 petitioners to produce actual evidence to rebut
6 those allegations and ultimately meet their
7 burden.

8 And when you look at Mr. Ng's declaration
9 and you look at his deposition testimony, you'll
10 see that they never did this. We've heard much
11 about the control of the litigation, but as I
12 explain, when you look at Taylor, when you look at
13 what is said in WesternGeco, when they reiterate
14 and discuss the factors in Taylor, and then on
15 Page 1320, even WesternGeco said that ultimately
16 control is not dispositive on the privity issue,
17 the same would be true.

18 And, for that reason, the Board should do
19 the same thing that the Board did in Ventex and
20 dismiss the petition, vacate the institution
21 decision, and terminate the proceedings.

22 With that, I have no further comments,

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1 unless the Board has any questions.

2 JUDGE DROESCH: Thank you, Counsel. I
3 don't believe we have any questions at this point
4 in time. So this concludes our proceeding. We
5 are adjourned right now.

6 Please stay on the line to answer any
7 questions that the court reporter may have about
8 spellings or exhibits or case cites.

9 Thank you very much, and have a great rest
10 of the day, everybody.

11 (WHEREUPON, the proceedings were adjourned
12 at 2:19 p.m. CST.)
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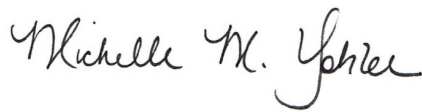
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I, MICHELLE M. YOHLER, a Certified
Shorthand Reporter of the State of Illinois, do
hereby certify that I reported in shorthand the
proceedings had at the hearing aforesaid, and that
the foregoing is a true, complete and correct
transcript of the proceedings of said hearing as
appears from my stenographic notes so taken and
transcribed under my personal direction.

IN WITNESS WHEREOF, I do hereunto set my
hand at Chicago, Illinois, this 19th day of
September, 2025.



Michelle M. Yohler, CSR, RMR, CRR
Certified Shorthand Reporter
CSR No.: 84-4531.

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