

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APTIV SERVICES US, LLC
Petitioner,

v.

MICROCHIP TECHNOLOGY INC.,
Patent Owner.

Case No. PGR2024-00646
U.S. Patent No. 9,471,074

PATENT OWNER'S OBJECTIONS TO SUPPLEMENTAL EVIDENCE

Pursuant to 37 C.F.R. §42.64(b)(1), Petitioner submits the following objections to Petitioner's Supplemental Evidence served on October 24, 2024 in this proceeding.

- Exhibit 1022 (First Supplemental Declaration of Dr. of Dr. Michael S. Chen): Patent Owner objects to Exhibit 1022 as irrelevant, cursory, incomplete, misleading, confusing the issues and wasting the parties' and the Board's resources/time, and as far more prejudicial than probative (F.R.E. 403). Dr. Chen's original declaration (EX1002) recites an incorrect claim construction standard in ¶14. But Petitioner led the Board to conclude that "it appears at this stage that Petitioner relies on Dr. Chen's expertise to interpret the prior art and the '074 specification, but not to interpret the claim language." Paper 11, 10-13. And the Petition lacked a claim construction section at all. *See generally* Paper 1. Petitioner and its expert have attempted to cloak whether they are conducting claim construction of various terms, such as "current buffer." If Petitioner's expert has no opinion on claim construction, as indicated in the Board's institution decision, EX1022 is irrelevant. If, on the other hand, Petitioner contends that its expert is conducting claim construction, EX1022 does not cure of the deficiencies of his original declaration by simply changing what

Petitioner now admits was in incorrect and fundamentally flawed claim construction approach. For example, Dr. Houh offers no claim construction analysis in his 4-paragraph first supplemental declaration for any terms, or even an identification of terms subject to claim construction. Nor does he explain why he believes his opinions should not be affected. Dr. Houh's original declaration and first supplemental declaration are fundamentally at odds with each other because, for example, Dr. Chen states in his original declaration that "[w]hat the '074 patent calls a 'current buffer' is something a POSITA would have recognized as a *voltage buffer*." EX1002, ¶54 (emphasis in original). Thus, Dr. Houh admitted that he is not applying the plain and ordinary meaning of the claim term "current buffer." But Dr. Houh's supplemental declaration asserts he is applying the plain meaning (with no analysis or explanation), making his original opinion irrelevant, confusing, and prejudicial. EX1022, ¶¶3-4. Petitioner's attempted *ex post facto* self-help and shifting sands hide-the-ball approach is confusing and highly prejudicial to Patent Owner. Patent Owner maintains its objections to the entirety of both Dr. Chen's original declaration (for the reasons stated in Paper 13) and his first supplemental declaration.

Dated: October 31, 2024

Respectfully submitted,

/Travis Jensen/

Travis Jensen

Reg. No. 60,087

ORRICK, HERRINGTON &
SUTCLIFFE, LLP

1000 Marsh Road

Menlo Park, CA 94025

Telephone: (650) 614-7400

Facsimile: (650) 614-7401

Email: T61PTABDocket@orrick.com

Attorney for Patent Owner

CERTIFICATE OF SERVICE

The undersigned certifies that on October 31, 2024, a copy of the following was served in its entirety via electronic mail, upon the following attorneys of record for the Petitioner:

Alex S. Yap Mehran Arjomand MORRISON & FOERSTER LLP 707 Wilshire Boulevard, Suite 6000 Los Angeles, CA 90017	ayap@mofo.com marjormand@mofo.com Microchip-Aptiv-PTAB@mofo.com
Timothy Chen Saulsbury Eric C. Wiener Andrew L. Perito MORRISON & FOERSTER LLP 425 Market Street San Francisco, CA 94105	tsaulsbury@mofo.com ewiener@mofo.com aperito@mofo.com
Andrew T. Jones MORRISON & FOERSTER LLP 2100 L Street, NW, Suite 900 Washington, D.C. 20037	andrewjones@mofo.com

/Karen Johnson/

Karen Johnson