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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY LTD.,
Petitioner,

v.

MARLIN SEMICONDUCTOR LIMITED,
Patent Owner.

IPR2025-01082
Patent 6,888,181 B1

Before DAVID C. MCKONE, GEORGE R. HOSKINS,
and GARTH D. BAER, *Administrative Patent Judges.*

MCKONE, Administrative Patent Judge.

SCHEDULING ORDER

A. GENERAL INSTRUCTIONS

1. Initial and Additional Conference Calls

The parties are directed to contact the Board within a month of this Order if there is a need to discuss proposed changes to this Scheduling Order or proposed motions that have not been authorized in this Order or other prior Order or Notice. *See* Consolidated Trial Practice Guide ("Consolidated Practice Guide")[1] at I.A.2., II.E; *see also* 84 Fed. Reg. 64,280 (Nov. 21, 2019). A request for an initial conference call shall include a list of proposed motions, if any, to be discussed during the call.

The parties may request additional conference calls as needed. Any email requesting a conference call with the Board should: (a) copy all parties, (b) indicate generally the relief being requested or the subject matter of the conference call, (c) include multiple times when all parties are available, (d) state whether the opposing party opposes any relief requested, and (e) if opposed, either certify that the parties have met and conferred telephonically or in person to attempt to reach agreement, or explain why such meet and confer did not occur. The email may not contain substantive argument and, unless otherwise authorized, may not include attachments. *See* Consolidated Practice Guide at I.A.2.

2. Related Matters Updates

The parties must keep the Board apprised of developments regarding adjudication of validity or patentability of the challenged patent claims, or substantially similar patent claims, such as claim construction, findings of fact, or conclusions of law, in "any other judicial or administrative matter

[1] Available at www.uspto.gov/patents/ptab/trial-practice-guide

that would affect, or be affected by, a decision in the proceeding" and is identified as a related matter under 37 C.F.R. § 42.8(b)(2). The parties must alert the Board to any such developments within five business days, by sending an email to Trials@uspto.gov, and file in the docket of this proceeding relevant materials from the related matter(s).

3. Protective Order

No protective order shall apply to this proceeding until the Board enters one. If either party files a motion to seal before entry of a protective order, a jointly proposed protective order shall be filed as an exhibit with the motion. It is the responsibility of the party whose confidential information is at issue, not necessarily the proffering party, to file the motion to seal.[2] The Board encourages the parties to adopt the Board's default protective order if they conclude that a protective order is necessary. *See* Consolidated Practice Guide, App. B (Protective Order Guidelines and Default Protective Order). If the parties choose to propose a protective order deviating from the default protective order, they must submit the proposed protective order jointly along with a marked-up comparison of the proposed and default protective orders showing the differences between the two and explain why good cause exists to deviate from the default protective order.

The Board has a strong interest in the public availability of trial proceedings. Redactions to documents filed in this proceeding should be limited to the minimum amount necessary to protect confidential information, and the thrust of the underlying argument or evidence must be

[2] If the entity whose confidential information is at issue is not a party to the proceeding, please contact the Board.

clearly discernible from the redacted versions. We also advise the parties that information subject to a protective order may become public if identified in a final written decision in this proceeding, and that a motion to expunge the information will not necessarily prevail over the public interest in maintaining a complete and understandable file history. *See* Consolidated Practice Guide at I.E.6.

4. Discovery Disputes

The Board encourages parties to resolve disputes relating to discovery on their own. To the extent that a dispute arises between the parties relating to discovery, the parties must meet and confer to resolve such a dispute before contacting the Board. If attempts to resolve the dispute fail, a party may request a conference call with the Board.

5. Testimony

The parties are reminded that the Testimony Guidelines appended to the Consolidated Practice Guide, App. D (Testimony Guidelines) apply to this proceeding. The Board may impose an appropriate sanction for failure to adhere to the Testimony Guidelines. 37 C.F.R. § 42.12. For example, reasonable expenses and attorneys' fees incurred by any party may be levied on a person who impedes, delays, or frustrates the fair examination of a witness.

6. Cross-Examination

Except as the parties might otherwise agree, for each due date: Cross-examination ordinarily takes place after any supplemental evidence is due. 37 C.F.R. § 42.53(d)(2).

Cross-examination ordinarily ends no later than a week before the filing date for any paper in which the cross-examination testimony is expected to be used. *Id.*

7. Pre-Hearing Conference

The Board will hold a pre-hearing conference call with both parties. The purpose of the pre-hearing conference is for the Board panel to provide guidance as to particular issues that the panel would like the parties to address at the oral hearing, for example, claim construction issues, reason to combine prior art teachings, or objective indicia of nonobviousness. The pre-hearing conference also provides the parties the opportunity to identify (but not argue) any issues the parties would like to address at the oral hearing. The parties may also discuss with the Board any pending motions, request an early decision on the admissibility of a limited number of exhibits subject to a motion to exclude, and discuss any unresolved issues with demonstrative exhibits.

8. Oral Argument

Requests for oral argument must comply with 37 C.F.R. § 42.70(a). To permit the Board sufficient time to schedule the oral argument, the parties may not stipulate to an extension of the request for oral argument beyond the date set forth in the Due Date Appendix.

All oral arguments will be held in person, and both parties are expected to be physically present, absent a showing of good cause. Good cause will generally be limited to circumstances such as financial hardship, medical emergencies, or other comparable obstacles to in-person attendance. Approval for virtual appearance is determined on a party-by-party basis. An

approved request for one party does not constitute good cause for others; each party must independently demonstrate good cause.

The parties may request that the oral argument be held at the USPTO headquarters in Alexandria, Virginia, or the Detroit, Michigan, USPTO Regional Office. For the parties' information in making this decision, one judge will appear in-person from the USPTO headquarters in Alexandria, Virginia, and two judges will appear in-person from the Detroit, Michigan, USPTO Regional Office. The parties should state in the request for oral argument, DUE DATE 4, (1) which of the location(s) named above the parties would prefer or (2) whether good cause exists for a party to appear virtually. To the extent the parties disagree, they should meet and confer; if the dispute cannot be resolved by meeting and conferring, the parties should inform the Board of each party's individual preferences.

Note that the Board may not be able to honor the parties' preferences due to, among other things, the availability of hearing room resources, the needs of the panel, and USPTO policy at the time of the hearing. The Board will consider the parties' request and notify the parties of how and where the hearing will be conducted.

For in-person hearings, seating in the Board's hearing rooms may be limited, and will be available on a first-come, first-served basis. If either party anticipates that more than five (5) individuals will attend the argument on its behalf, the party should notify the Board as soon as possible, and no later than the request for oral argument. Parties should note that the earlier a request for accommodation is made, the more likely the Board will be able to accommodate additional individuals.

The Board has established the "Legal Experience and Advancement Program," or "LEAP," to encourage advocates before the Board to develop their skills and to aid in succession planning for the next generation. The Board defines a LEAP practitioner as a patent agent or attorney having three (3) or fewer substantive oral arguments in any federal tribunal, including PTAB. Parties are encouraged to participate in the Board's LEAP program.[3] The Board will grant up to fifteen (15) minutes of additional argument time to that party, depending on the length of the proceeding and the PTAB's hearing schedule. A party should submit a request, no later than at least five (5) business days before the oral hearing, by email to the Board at PTABHearings@uspto.gov.[4]

All practitioners appearing before the Board shall demonstrate the highest professional standards. All practitioners are expected to have a command of the factual record, the applicable law, and Board procedures, as well as the authority to commit the party they represent. The Board discerns that it is often LEAP practitioners who have the best understanding of the facts of the case and the evidence of record, and the Board encourages their participation.

B. DUE DATES

This Order sets due dates for the parties to take action after institution of the proceeding. The parties may stipulate different dates for DUE

[3] Information about the LEAP program can be found at www.uspto.gov/leap.
[4] Additionally, a LEAP Verification Form shall be submitted by the LEAP practitioner, confirming eligibility for the program. A combined LEAP Practitioner Request for Oral Hearing Participation and Verification Form is available at www.uspto.gov/leap.

DATES 1, 5, and 7, as well as the portion of DUE DATE 2 related to Petitioner's reply (earlier or later, but no later than DUE DATE 3 for Patent Owner's sur-reply) and the portion of DUE DATE 3 related to Patent Owner's sur-reply (earlier or later, but no later than DUE DATE 8). A notice of the stipulation, specifically identifying the changed due dates, must be promptly filed. The parties may not stipulate an extension of DUE DATES 4, 6, 8, and 9.

In stipulating different times, the parties should consider the effect of the stipulation on times to object to evidence (37 C.F.R. § 42.64(b)(1)), to supplement evidence (§ 42.64(b)(2)), to conduct cross-examination (§ 42.53(d)(2)), and to draft papers depending on the evidence and cross-examination testimony.

This Scheduling Order does not include dates for a motion to amend because the challenged patent is expired.

1. DUE DATE 1

Patent Owner may file a response to the petition (37 C.F.R. § 42.120). If Patent Owner elects not to file a response, Patent Owner must arrange a conference call with the parties and the Board. Patent Owner is cautioned that any arguments not raised in the response may be deemed waived.

2. DUE DATE 2

Petitioner may file a reply to the Patent Owner's response.

3. DUE DATE 3

Patent Owner may file a sur-reply to Petitioner's reply.

4. DUE DATE 4

Either party may file a request for oral argument (may not be extended by stipulation).

A party seeking to appear virtually at the oral hearing must submit a request and include a showing of good cause. Approval for one party to appear virtually does not establish good cause for other parties; each party must make a separate showing. The Board may consider untimely requests where the circumstances giving rise to request could not have been reasonably anticipated.

5. DUE DATE 5

Either party may file a motion to exclude evidence (37 C.F.R. § 42.64(c)).

6. DUE DATE 6

The parties will have a pre-hearing conference with the Board panel.

7. DUE DATE 7

Either party may file an opposition to a motion to exclude evidence.

8. DUE DATE 8

Either party may file a reply to an opposition to a motion to exclude evidence.

9. DUE DATE 9

The oral argument (if requested by either party) shall be held on this date. Approximately one month prior to the argument, the Board will issue an order setting the start time of the hearing and the procedures that will govern the parties' arguments.

DUE DATE APPENDIX

DUE DATE 1 ..... April 28, 2026

Patent Owner's response to the petition

DUE DATE 2 ..... July 21, 2026

Petitioner's reply to Patent Owner's response to petition

DUE DATE 3 ..... September 1, 2026

Patent Owner's sur-reply to reply

DUE DATE 4 ..... September 22, 2026

Request for oral argument (may not be extended by stipulation)

DUE DATE 5 ..... October 13, 2026

Motion to exclude evidence

DUE DATE 6 …… October 19, 2026

Pre-hearing conference with Board panel

DUE DATE 7..... October 20 2026

Opposition to motion to exclude

DUE DATE 8 ..... October 27, 2026

Reply to opposition to motion to exclude

DUE DATE 9 ..... November 3, 2026

Oral argument (if requested)

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