

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO. LTD.,
Petitioner,

v.

PROMOS TECHNOLOGIES, INC.,
Patent Owner.

Case IPR2017-01418
Patent 6,559,044 B1

Record of Oral Hearing
Held: August 16, 2018

Before JAMESON LEE, KEVIN F. TURNER, and JOHN A. HUDALLA,
Administrative Patent Judges.

Case IPR2017-01418
Patent 6,559,044 B1

APPEARANCES:

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The above-entitled matter came on for hearing on Thursday, August 16, 2018, commencing at 2:03 p.m., at the U.S. Patent and Trademark Office, 600 Dulany Street, Alexandria, Virginia.

P R O C E E D I N G S

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JUDGE LEE: Welcome to the Board. This is the oral hearing for IPR2017-01418, petitioner, Samsung Electronics Company, LTD, and patent owner is ProMOS Technologies, Inc. For the record, let's begin with counsel introduction, first with petitioner, followed with patent owner.

MR. BANSAL: Your Honor, this is Chetan Bansal for petitioner, Samsung. Along with me I have lead counsel, Naveen Modi, and Paul Anderson.

JUDGE LEE: Thank you.

MR. KAUFMAN: Good afternoon, Your Honor. Craig Kaufman from the Tech Knowledge Law Group. I'll be arguing this one. With me, of course, are Mr. Ting and Mr. Chen.

JUDGE LEE: Thank you. Each side has 30 minutes. Let me know when you are ready and I'll start the timer, Mr. Bansal.

MR. BANSAL: Your Honor, before I get started, can I approach the bench with physical copies of the demonstratives?

JUDGE LEE: Please. Would you like to reserve some time for rebuttal?

MR. BANSAL: Yes, Your Honor, 10 minutes, please.

Good afternoon, Your Honors. May it please the Board, based on the petition and the supporting evidence, the Board instituted trial in this matter. The record includes even more evidence now that supports the

1 Board's institution decision. The Board should therefore, confirm its initial
2 findings and find all challenged claims unpatentable. Let me explain why.

3 Can you please turn to slide number 2. On this slide, we have
4 summarized the grounds of which trial was instituted. For purposes of
5 today, I plan on addressing only a subset of the grounds, but of course, I'm
6 happy to take any questions the Board may have.

7 I'll begin by addressing the first ground and specifically claim 1.
8 Can we please turn to slide 3. On this slide, I have reproduced claim 1 of the
9 '044 patent. The claim includes quite a few limitations, but there's really
10 only one aspect of claim 1 that is disputed between the two parties. And this
11 aspect concerns the limitation of providing a mask over a dielectric layer and
12 then providing a photoresist over that mask. There's no dispute that the prior
13 art discloses this feature. The dispute is only whether a person of ordinary
14 skill in the art would have found it obvious to combine the teachings of the
15 prior art in the manner proposed by petitioner.

16 Let me turn to slide 4. Slide 4 reproduces a figure from one of our
17 primary references, Fujimoto. If you see this figure, etching mask 24 is
18 provided over a dielectric 15. But Fujimoto is silent on what the etching
19 mask 24 is. And in fact, it is undisputed that etching mask 24 can only be
20 one of two things. It can either be a photoresist or it can be a hard mask
21 structure.

22 Petitioner explained that a person of ordinary skill in the art
23 starting with Fujimoto would know that -- or would be motivated to use a
24 hard mask for etching mask 24. The hard mask --

1 JUDGE LEE: But why do you need a hard mask? Because the
2 claim doesn't recite a hard mask.

3 MR. BANSAL: The claim doesn't recite a hard mask, you are
4 right. But 24 -- sorry, the claim also requires providing a photoresist hard
5 mask. And if you look at just Fujimoto, you do not have an explicit
6 disclosure of photoresist hard mask. So what petitioner did was, we
7 combined Fujimoto with Ho and said it would have been obvious to use a
8 hard mask structure which includes hard mask --

9 JUDGE LEE: I understand that. So Fujimoto has a mask but it
10 doesn't have the photoresist. So what the petitioner did is to substitute a
11 multi-tiered structure from Ho into Fujimoto to account for both the mask
12 and the photoresist.

13 MR. BANSAL: That's correct, Your Honor.

14 JUDGE LEE: Okay. That's what I thought happened, but if you
15 look at claim 16, it requires just providing a mask. It doesn't have the
16 additional requirement of putting a second photoresist over that mask. So
17 for claim 16 at least, I can't figure out why the petitioner is going to Ho.

18 MR. BANSAL: Your Honor, for claim 16, you don't necessarily
19 have to go to Ho. But what we did was in order to be concise in our
20 explanation, we were relying on the same explanation that we gave for claim
21 1 for claim 16. So, yes, if you look at claim 16, there is a mask as recited in
22 claim 16.

23 JUDGE LEE: And you accounted for 16 essentially by piggy-
24 backing that on top of the arguments made for 1 because 1 actually requires

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