

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SPTS TECHNOLOGIES LTD.,
Petitioner,

v.

PLASMA-THERM LLC,
Patent Owner.

Case IPR2017-01674
Patent 8,802,545 B2

Record of Oral Hearing
Held: October 10, 2018

Before WILLIAM V. SAINDON, ELIZABETH M. ROESEL, and AMANDA F.
WIEKER, *Administrative Patent Judges*.

IPR2017-01674
Patent 8,802,545 B2

APPEARANCES:

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The above-entitled matter came on for hearing on Wednesday, October 10, 2018, commencing at 10:00 AM ET, 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 WIEKER: Good morning, everyone. Please be seated.

This is an oral hearing for case number IPR2017-01674 between Petitioner, SPTS Technologies, and Patent Owner, Plasma-Therm, LLC. The proceeding concerns U.S. Patent Number 8,802,545. I'm Judge Wieker. I'm accompanied today by Judge Saindon and Judge Roesel. I would like to ask Petitioner's counsel to please introduce yourself for the record.

MR. VOLENTINE: Adam Volentine of Volentine, Whitt and Francos representing the Petitioner, SPTS Technologies, Limited.

JUDGE WIEKER: Thank you, Mr. Volentine. And for Patent Owner?

MR. CORBETT: Ryan Corbett from the Burr & Forman law firm representing Patent Owner, Plasma-Therm, LLC. And with me -- he can introduce himself.

MR. KAUGET: Harvey Kauget of Burr & Forman on behalf of Patent Owner.

JUDGE WIEKER: Good morning. Thank you for being here today. Each party will have a total of 45 minutes to present their argument. Petitioner will proceed first. Patent Owner will then respond to Petitioner's case. Using any reserved rebuttal time, Petitioner may then respond to Patent Owner's case. Finally, using any reserved sur-rebuttal time, Patent Owner may respond to Petitioner's rebuttal argument. I would like to

1 remind the parties to please identify any demonstrative exhibit into the
2 record by either slide number or screen number.

3 With that, Mr. Volentine, would you like to reserve any rebuttal
4 time from your 45 minutes?

5 MR. VOLENTINE: I expect 15 minutes of rebuttal.

6 JUDGE WIEKER: Okay. And you may begin when you are
7 ready.

8 MR. VOLENTINE: I'm at slide 2. I would first like to point out
9 that we think our Petition and Dr. Spencer's, our expert's, declaration and
10 our Reply are sufficient to establish the invalidity of the claims. What I
11 want to do here is address the major issues that have come up over the past
12 eight months or so and in depositions. So I won't be rehashing claim charts
13 or anything of that nature.

14 So let's go to slide 2, then. As you know, Petitioner relies on two
15 references. One is Fischer, which unfortunately is misspelled throughout
16 these demonstratives. And it's issued to Robert Bosch GmbH, which is a
17 German company credited with inventing the Bosch process. The second
18 reference is Donohue. That was issued to Plasma-Therm, Inc., which we
19 believe to be a predecessor of Patent Owner in this case, Plasma-Therm,
20 Limited.

21 Fischer -- just briefly, Fischer is directed to plasma dicing of a
22 wafer, meaning separating the wafer into chips using plasma. There are
23 many, many references out there that teach plasma dicing. This is one of
24 them.

1 Donohue is directed to plasma etching the silicon layer of a silicon
2 on insulating layer substrate, SOI substrate. The intention of Donohue is as
3 you etch through the silicon, you want to avoid notching at the interface
4 between the underlying oxide layer and the silicon. That's the -- what
5 Donohue is about, for the most part. It is admittedly not a dicing case.

6 In paragraph 75 of his original declaration, our expert, Dr. Spencer,
7 opined that the '545 patent in its description is describing the Patent Owner's
8 previous patent to Donohue. And after going through all this discovery and
9 so forth, we stand by that. We think that's pretty clear. That is described in
10 detail at pages -- beginning at page 43 of our Petition. So those are the
11 references at play here.

12 Moving on to slide 4, one of the primary issues that came up was
13 whether the POSITA would even want to avoid undercut when dicing a
14 wafer. This goes, I guess, to motivation to combine. Not surprisingly, the
15 Patent Owner says, no, that wouldn't be the case. We disagree. We say the
16 record shows that the POSITA would indeed find undercut during dicing to
17 be undesirable at the least.

18 So what evidence do we have, the evidence of the desire to avoid
19 undercut? We have our expert's testimony. I'm going to, if you'll indulge
20 me, I'll read most of that. He says, "Initially, I agree with both the '545
21 patent," which is the patent under review, "and Donohue that undercutting of
22 silicon at the etch stop interface is 'undesirable.'" So we have Dr. Spencer,
23 an expert in the art, agreeing with the '545 observation on that point and
24 agreeing with Donohue on that point. Spencer goes forward to say this is

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