

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

XILINX, INC. and
TAIWAN SEMICONDUCTOR MANUFACTURING CO. LTD.,¹
Petitioner,

v.

ARBOR GLOBAL STRATEGIES LLC,
Patent Owner.

IPR2020-01567, Patent 7,126,214 B2
IPR2020-01568, Patent 7,282,951 B2
IPR2020-01570, Patent RE42,035 E
IPR2020-01571, Patent 6,781,226 B2

Before KARL D. EASTHOM, BARBARA A. BENOIT, and
SHARON FENICK, *Administrative Patent Judges*.

BENOIT, *Administrative Patent Judge*.

ORDER²

Granting Petitioner and Patent Owner Requests for Oral Argument
35 U.S.C. § 316(a)(10); 37 C.F.R. § 42.70

¹ Taiwan Semiconductor Manufacturing Co. Ltd. filed a separate petition in each of IPR2021-00735, IPR2021-00736, IPR2021-00737, and IPR2021-00738. The Board joined them as a party to IPR2020-01567, IPR2020-01568, IPR2020-01570, and IPR2020-01571, respectively.

² This Order applies to each case. The parties must obtain prior Board authorization to employ this heading style and grouping of issues across the cases.

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The parties request oral argument in all four cases. Paper 28 (Patent Owner); Paper 29 (Petitioner).³ The Board grants the requests.

Date and Time of Hearing

The Oral Hearing will commence at **9:00 AM EST, on Friday, December 3, 2021, by video.** See Paper 15 (Amended Scheduling Order).

The parties request that the argument in all four proceedings be consolidated into a single hearing based on the relationship of the patents, overlapping prior art references, and substantially similar issues. Paper 29, 2; Paper 28, 2. Petitioner indicates a “consolidated hearing would minimize repetitive argument and lead to an efficient presentation of the evidence and argument.” Paper 29, 2. The parties request is reasonable here because the four cases overlap to a large extent as outlined by Petitioner and Patent Owner. The parties are free to point out any similarities or differences that exist.

The parties must contact the Board at least 10 days before the hearing to address any concerns about disclosing confidential information. The Board will provide a court reporter for the Oral Hearing, and the reporter’s transcript will constitute the official record of the Oral Hearing. Under the format contemplated, one transcript will include all four cases and be entered into the record of each case. **To ensure a clear record, each party must specify during the hearing when it intends any statement not to**

³ The citations refer to Papers filed in IPR2020-01567. The parties filed materially the same Papers in all four cases.

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apply to all four cases, otherwise the Board may assume that any statement by a party applies to all four cases.

No live testimony is permitted at the Oral Hearing unless expressly authorized. If either party wishes to present live testimony at the Oral Hearing, that party shall meet and confer with the other party, and the parties shall jointly request a conference call with the Board to make the request within 3 business days from date of this Order.

During the Oral Hearing, if technical or other difficulties fundamentally undermine a party's ability to adequately represent the party's client, the party should immediately inform the panel and adjustments will be made.⁴

To facilitate the Oral Hearing, each party must contact PTAB Hearings at PTABHearings@uspto.gov not less than 5 business days prior to the Oral Hearing date to receive video set-up information. All arrangements and the expenses involved with appearing by video, such as the selection of the facility to be used from which a party will attend by video, must be borne by that party. If a video connection cannot be established, the parties will be provided with dial-in connection information, and the Oral Hearing will be conducted telephonically.

Direct any special requests for audio-visual equipment to PTABHearings@uspto.gov. A party may indicate any special requests related to appearing at a video Oral Hearing, such as a request to

⁴ For example, if a party experiences poor video or audio quality, the Board may provide alternate dial-in information.

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accommodate visual or hearing impairments, and indicate how the PTAB may accommodate the special request. Any special requests must be presented in a separate communication not less than 5 days before the Oral Hearing.

If one or both parties prefers to participate in the Oral Hearing by telephone, they must notify PTAB Hearings at the above email address not less than 5 business days prior to the hearing to receive dial-in connection information.

The Oral Hearing will be open to the public.

Allotted Argument Time

Petitioner and Patent Owner “have agreed to request that each side be allowed a total of 105 minutes for each side’s combined arguments addressing the four patents, with the opportunity to reserve a portion of that time for rebuttal.” Paper 29, 2; *see* Paper 28, 2.

Based on the similarity and overlap of issues and the parties’ request, **each party will have a total of 105 minutes to present arguments relating to the four cases, for a total hearing time of 3.5 hours.** Petitioner bears the ultimate burden of proof that the claims at issue in these reviews are unpatentable. Therefore, during the Oral Hearing, Petitioner will proceed first to present its case on its challenges to patentability. Thereafter, Patent Owner will argue its opposition to Petitioner’s case. Then, Petitioner may use any reserved time to rebut Patent Owner’s opposition. Absent special circumstances, Petitioner may use no more than half of its total allotted time. Finally, Patent Owner may request a brief sur-rebuttal.

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Request for Pre-hearing Conference

Either party may request a pre-hearing conference to occur no later than 3 business days before the Oral Hearing. Such a pre-hearing conference affords the parties the opportunity to preview (but not argue) issues to be discussed at the Oral Hearing, and to seek the panel's guidance as to particular issues that the panel would like the parties to address at the Oral Hearing. The parties may also discuss any unresolved issues with demonstrative exhibits or other issues. The Board may rule on objections and disputed exhibits during or after the pre-hearing conference or Oral Hearing.

Prior to requesting a pre-hearing conference, the parties should meet and confer and, when possible, send a joint request to the Board with an agreed upon set of limited issues for discussion. A request for a pre-hearing conference may be made by e-mail and shall include a list of issues to be discussed, including but not limited to, identification of a limited number of objections for early resolution.

Demonstrative Exhibits

Demonstratives must be served 7 business days before the Oral Hearing. 37 C.F.R. § 42.70(b). Each set of demonstratives must be filed as an exhibit at the Board no later than 5 business days before the Oral Hearing. The panel will access electronic copies of the demonstratives prior to and during the Oral Hearing.

Demonstratives constitute Oral Hearing aids and not evidence. Each slide must be marked with the words "DEMONSTRATIVE EXHIBIT – NOT EVIDENCE" in a footer. Demonstrative exhibits also must cite to the

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