

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

TSMC TECHNOLOGY, INC., TAIWAN SEMICONDUCTOR MANUFACTURING COMPANY, LIMITED and TSMC NORTH AMERICA CORP.,)	
)	
Plaintiffs,)	Civil Action No. _____
)	
v.)	
)	
ZOND, LLC,)	
)	
Defendant.)	

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs TSMC Technology, Inc. (“TTI”), Taiwan Semiconductor Manufacturing Company, Limited (“TSMC Ltd.”) and TSMC North America Corp. (“TSMC North America” and collectively with TTI and TSMC Ltd. “TSMC”), by and through their undersigned counsel, file this Complaint against defendant Zond, LLC (“Zond”) seeking declaratory relief with respect to U.S. Patent Nos. 6,806,651 (the “651 Patent”); 6,896,773 (the “773 Patent”); 6,896,775 (the “775 Patent”); 6,903,511 (the “511 Patent”); 7,095,179 (“179 Patent”); and 7,446,479 (“479 Patent”) (collectively referred to as the “Patents-in-Suit”). In support of this Complaint for Declaratory Judgment, TSMC alleges as follows:

The Parties

1. TSMC Technology, Inc. is a Delaware corporation with a place of business located at 2585 Junction Avenue, San Jose, California and is an indirect subsidiary of Taiwan Semiconductor Manufacturing Company, Limited.

2. Taiwan Semiconductor Manufacturing Company, Limited is a company organized under the laws of Taiwan having its headquarters at No. 8, Li-Hsin Road 6, Hsinchu Science Park, Hsinchu, 300-78, Hsinchu, Taiwan.

3. TSMC North America Corp. is a California corporation with a place of business located at 2585 Junction Avenue, San Jose, California and is a subsidiary of Taiwan Semiconductor Manufacturing Company, Limited.

4. Zond is a Delaware limited liability company having the following registered agent in this judicial district: National Registered Agents, Inc., 160 Greentree Drive, Suite 101, Dover, Delaware 19904.

5. Zond purports to be the owner of each of the Patents-in-Suit, copies of which are attached hereto as Exhibits A-F.

6. TSMC brings this declaratory judgment action to protect itself from the most recent recurring plague on this country's patent system. Zond is a company that, on information and belief, monetizes its patents by filing strike suits against end users of magnetron sputter equipment, equipment common in the manufacture of semiconductor products, among other products that require metal layering, for the purpose of obtaining settlement money to which it is not entitled.

7. On information and belief, Zond is pursuing a litigation strategy of suing end users of magnetron sputtering equipment, as opposed to the actual manufacturers of such equipment, in order to leverage the cost of litigation against its targets and obtain licenses and settlements that bear no reasonable relation to the value, if any, or scope of the patents-in-suit.

8. In July of 2013, Zond began initiating patent infringement suits in the District of Massachusetts. In all Zond filed seven actions against nine groups of defendants, including

TSMC Ltd. and TSMC North America. Six of the seven cases were filed against companies in the semiconductor industry; in each of those six cases, Zond alleged infringement of the same patents, using a “one-size-fits-all” complaint that prompted one judge to say: “in terms of pleading, I think this, and I mean no disrespect, this is about the weakest patent case I’ve ever seen.” *See Zond, LLC v. Fujitsu Semiconductor Limited et al.*, 1:13- 11634-WGY (D. Mass. Nov. 26, 2014) (Hearing Trans. at 6:9-11). However, the courts in the District of Massachusetts have recently stayed or closed four of the seven actions from this initial volley of litigations, pending *inter partes* review before the Patent Trial and Appeal Board of the patents at issue in those cases. Zond’s litigation against TSMC Ltd. and TSMC North America was ordered administratively closed until “the conclusion of the proceedings before the Patent and Trademark Appeals Board or upon May 9, 2016, whichever shall first occur.” *See Zond, LLC v. Fujitsu Semiconductor Limited et al.*, 1:13-cv-11634-WGY (D. Mass. June 2, 2014) (Dkt. 124).

9. On June 5, 2014, Zond sent TSMC Ltd. and TSMC North America a letter threatening to bring a new lawsuit against TSMC Ltd. and TSMC North America alleging infringement of the Patents-in-Suit, none of which have ever been asserted against TSMC Ltd. and TSMC North America. A copy of that letter is attached hereto as Exhibit G. Accordingly, given the immediate and real threat of harm posed by Zond, TSMC brings this Declaratory Judgment action.

Jurisdiction and Venue

10. This Court has subject matter jurisdiction over TSMC’s request for a declaratory judgment under 28 U.S.C. §§ 2201 and 2202. This action arises under the patent laws of the United States, 35 U.S.C. §§ 100 et seq., which are within the subject matter jurisdiction of this Court under 28 U.S.C. §§ 1331 and 1338(a).

11. Zond's threat letter and prior litigation against TSMC Ltd. and TSMC North America, and others in the semiconductor industry, give rise to an actual and justiciable controversy between TSMC and Zond as to the non-infringement of the Patents-in-Suit. Absent a declaration of non-infringement, Zond's continued wrongful assertions of infringement related to equipment used in the manufacture of semiconductor products will cause TSMC harm.

12. Zond is subject to general and specific personal jurisdiction in this judicial district because it is incorporated under the laws of Delaware, and maintains a registered agent in this judicial district.

13. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

Count I: Declaration of Non-infringement of the '651 Patent

14. TSMC restates and incorporates by reference each of the allegations of paragraphs 1-13 above.

15. Zond claims to be the owner of all legal rights, title and interests in the '651 Patent, including the right to enforce the '651 Patent.

16. TSMC has not infringed and does not infringe – directly, contributorily, or by inducement – any claim of the '651 Patent.

17. TSMC seeks and is entitled to a declaration of non-infringement of the '651 Patent pursuant to Title 35 of the United States Code.

Count II: Declaration of Non-infringement of the '773 Patent

18. TSMC restates and incorporates by reference each of the allegations of paragraphs 1-17 above.

19. Zond claims to be the owner of all legal rights, title and interests in the '773 Patent, including the right to enforce the '773 Patent.

20. TSMC has not infringed and does not infringe – directly, contributorily, or by inducement – any claim of the ‘773 Patent.

21. TSMC seeks and is entitled to a declaration of non-infringement of the ‘773 Patent pursuant to Title 35 of the United States Code.

Count III: Declaration of Non-infringement of the ‘775 Patent

22. TSMC restates and incorporates by reference each of the allegations of paragraphs 1-21 above.

23. Zond claims to be the owner of all legal rights, title and interests in the ‘775 Patent, including the right to enforce the ‘775 Patent.

24. TSMC has not infringed and does not infringe – directly, contributorily, or by inducement – any claim of the ‘775 Patent.

25. TSMC seeks and is entitled to a declaration of non-infringement of the ‘775 Patent pursuant to Title 35 of the United States Code.

Count IV: Declaration of Non-infringement of the ‘511 Patent

26. TSMC restates and incorporates by reference each of the allegations of paragraphs 1-25 above.

27. Zond claims to be the owner of all legal rights, title and interests in the ‘511 Patent, including the right to enforce the ‘511 Patent.

28. TSMC has not infringed and does not infringe – directly, contributorily, or by inducement – any claim of the ‘511 Patent.

29. TSMC seeks and is entitled to a declaration of non-infringement of the ‘511 Patent pursuant to Title 35 of the United States Code.

Count V: Declaration of Non-infringement of the '179 Patent

30. TSMC restates and incorporates by reference each of the allegations of paragraphs 1-29 above.

31. Zond claims to be the owner of all legal rights, title and interests in the '179 Patent, including the right to enforce the '179 Patent.

32. TSMC has not infringed and does not infringe – directly, contributorily, or by inducement – any claim of the '179 Patent.

33. TSMC seeks and is entitled to a declaration of non-infringement of the '179 Patent pursuant to Title 35 of the United States Code.

Count VI: Declaration of Non-infringement of the '479 Patent

34. TSMC restates and incorporates by reference each of the allegations of paragraphs 1-33 above.

35. Zond claims to be the owner of all legal rights, title and interests in the '479 Patent, including the right to enforce the '479 Patent.

36. TSMC has not infringed and does not infringe – directly, contributorily, or by inducement – any claim of the '479 Patent.

37. TSMC seeks and is entitled to a declaration of non-infringement of the '479 Patent pursuant to Title 35 of the United States Code.

Prayer for Relief

WHEREFORE, TSMC prays:

- A. That this Court find and declare that TSMC does not infringe and has not infringed, in any manner, the Patents-in-Suit pursuant to Title 35 of the United States Code;
- B. That this Court award TSMC all of its costs of this action;

- C. That this Court find that this is an exceptional case and award TSMC its attorneys' fees pursuant to 35 U.S.C. § 285 or otherwise; and
- D. That this Court grant TSMC such other and further relief as the Court deems just and proper.

Jury Demand

TSMC demands a trial by jury on all issues so triable.

DUANE MORRIS LLP

/s/ Richard L. Renck _____

Richard L. Renck (#3893)
222 Delaware Avenue, Suite 1600
Wilmington, DE 19801-1659
Phone: 302-657-4900
Fax: 302 657 4901
Email: rlnrenck@duanemorris.com

OF COUNSEL:

L. Norwood Jameson
David Dotson

DUANE MORRIS LLP

1180 W. Peachtree Street
Suite 700
Atlanta, GA 30309
Phone: (404) 253-6900
Fax: (404) 253-6901
Email: wjameson@duanemorris.com
Email: dcdotson@duanemorris.com

Anthony J. Fitzpatrick (BBO No. 564324)

Patricia R. Rich (BBO No. 640578)

DUANE MORRIS LLP

100 High Street, Suite 2400
Boston, MA 02110-1724
Telephone (857) 488-4200
Facsimile: (857) 401-3018
Email: ajfitzpatrick@duanemorris.com
Email: prrich@duanemorris.com

Richard C Kim
DUANE MORRIS LLP
750 B Street, Suite 2900
San Diego, CA 92101-4681
Telephone: (619) 744-2200
Facsimile: (619) 744-2201
Email: rckim@duanemorris.com

R. Terry Parker
DUANE MORRIS LLP
1540 Broadway
New York, NY 1036-4086
Telephone: (212) 692 1000
Facsimile: (212) 692 1020
Email: tparker@duanemorris.cim

*Attorneys for Plaintiffs TSMC Technology,
Inc., Taiwan Semiconductor Manufacturing
Company, Limited and TSMC North
America Corp.*

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