Clifford Atkinson

From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]
Sent: Friday, March 18, 2011 6:10 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: RE: STC v. Intel - Protective Order

Steve:

As I mentioned in my previous email, we are willing to search for and produce public presentations concerning potential future Intel processes. If you already have confidential information about the 14nm and 11nm processes, please let me know what it is and how you acquired it.

As I have also said repeatedly, we are actively investigating the status of those processes and potentially responsive materials. We remain willing to meet and confer about them as our investigation continues. Your email demands that we make a blanket reprsentation today that we will produce all internal memoranda and presentations regarding lithographic process for those processes. We are not in a position to do so. If you feel you absolutely have to have the issue resolved immediately, then file your motion and we will oppose. However, I think it would make more sense for you to wait a couple of weeks, rather than rushing into court on an issue of no urgency, when the facts have yet to be uncovered and when we are still willing to meet and confer further.

Tim

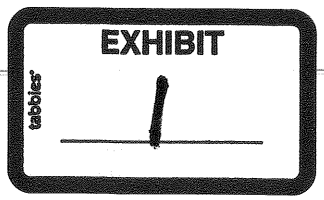
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Thursday, March 17, 2011 11:33 AM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: RE: STC v. Intel - Protective Order

Tim,

I'll take your points one at a time: 1) the literature that we have identified in this proceeding provides direct evidence that Intel is using the accused technology in its research and development, so responsive documents regarding such use do indeed exist; 2) the literature shows that the subject technology has been used; 3) we are not interested in lithography processes unless they involve double patterning, but, the subject literature does indeed reference double patterning; and 4) as long the processes are being used by Intel, documents showing those processes are relevant to STC's infringement claim, whether they will ever be used in "commercial products" or not.

Finally, unless you agree to produce the documents in question, Intel will be the party "burdening the court" on discovery issues without justification. In any event, I believe that we are now simply repeating ourselves, and we intend to file a motion to compel unless we get your representation by the end of the week that Intel will be producing documents responsive to our very reasonable requests regarding the 15 nm and 11 nm processes. This has really gone on long enough.

Steve



From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]

Sent: Tuesday, March 15, 2011 2:51 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: RE: STC v. Intel - Protective Order

Steve,

Your email suggests you still may not understand the issues associated with your discovery requests, or our proposal about how to work through this. Absent some compromise, your requests seek a blanket commitment from Intel to produce all internal memoranda and presentations regarding lithographic processes for Intel's 15 nm and 11 nm processes without regard to (1) whether such processes exist; (2) whether they have ever been used; (3) whether they involve double patterning; and (4) whether they will ever be used for commercial products, much less commercial products during the life of the patent. Your requests are overly broad, and beyond the scope of Rule 26. Moreover, responding would be extremely burdensome, requiring a wide-ranging search effort throughout the course of the discovery period, of the most highly sensitive Intel R&D that would almost certainly encompass mostly irrelevant methods and processes that have nothing to do with double patterning, or are never implemented, or both. This is our problem with your discovery, and why we cannot agree simply to produce responsive documents.

Given the facts, we believe your threatened motion to compel is both premature and unsupported.

To repeat our proposal: we are providing you the information you requested for 45 nm and 32 nm. With regard to 22 nm, since that is not yet in production, we are still researching what to provide, but will make equivalent information available for that process also. 15 nm does not exist at Intel. Nevertheless, we are in the process of investigating 14 nm R&D. We will not commit to provide what you ask for, but we will commit to meeting and conferring with you once we learn what exists to see if we can reach some compromise. The same goes for 11 nm, except that, not surprisingly, even less exists.

We are aware that there have been public presentations about potential future Intel processes. Intel is willing to locate and produce such materials, without however representing in any way that what is contained in them bears any relation to the R&D technology Intel is actually pursuing internally for those future process nodes, and without waiver of Intel's position that what you request is beyond the scope of Rule 26. Indeed, it would obviously be highly unusual for Intel to present publicly its most closely guarded trade secrets on non-commercialized process nodes. As such, we believe this material will end up being not at all relevant to the case, but if it will help resolve the dispute we offer this compromise as well.

In all of your heated explanations about this discovery, I have never once heard you explain why you need to have this resolved immediately, or why you would not be satisfied in the first instance receiving the information about the only products actually sold to date. That is why we are concerned that your client may view this as a strategic pressure point, and that your client's true objective is to achieve purposes not recognized by Rule 26. In any event, such tactics will not work. If you think that filing a motion now, before we can fully investigate and then talk about an acceptable compromise, is to your tactical advantage, we are more than prepared to present our position to the Court and defend it.

I hope, however, that you will think better of rushing to court with a motion that is neither ripe nor urgent. We offer to discuss this issue with you and to meet and confer in good faith to avoid unnecessary motion practice.

Tim

From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Sunday, March 13, 2011 5:39 PM
To: Franks, Tim (Perkins Coie)
Cc: Franks, Tim (Perkins Coie); Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: Re: STC v. Intel - Protective Order

Tim,

Let me start by saying we have never understood Intel to asserting that research and development activities are not properly the subject of an infringement charge. We are thus at a loss regarding the basis for Intel's relevance objection regarding the 14 nm and 11 nm processes. If I have misunderstood Intel's position, and you indeed believe that research and development activities are somehow immune, *per se*, from an infringement charge, then we simply have a disagreement about the law, and Intel's refusal to produce any of the subject documents should be addressed to the Court to resolve that disagreement.

As for Intel's burdensome objection, it sounds as if you are contending that, contrary to the Federal Rules of Civil Procedure, Intel should not obliged to supplement its discovery responses simply because Intel will have to exert effort in determining whether such supplementation is required.

Regarding your offer to "investigate the status of the development of the 14 nm and 11 nm processes," unless you can assure us that such investigation is with the aim toward producing responsive documents, such offer is effectively meaningless.

Finally, your accusations of harrassment and improper purpose are nonesense, especially coming from a party that arrogantly asserts that it should not be required to supplement discovery simply because it would require work to do so.

Steve

On Mar 11, 2011, at 8:38 PM, "Steve Pedersen" <pedersen@stadheimgrear.com> wrote:

Tim, I was not in the office today, and all of your emailing killed the battery in my phone. We will continue this next week. In the meantime certainly disagree with your relevancy remarks. Steve

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From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]
Sent: Friday, March 11, 2011 5:58 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: RE: STC v. Intel - Protective Order

Steve:

Intel is not withdrawing its burden and relevancy objections, but it is willing to investigate the status of the development of the 14nm and 11nm processes. One of the problems with your request that we "look for documents" is that those processes are not static--they are in preliminary development stages. You seem to want us to monitor ongoing R&D efforts in real time for processes that don't yet exist. It would be an undue burden to require us to search for responsive documents now while things are in flux, and then have to search again, and then yet again, and yet

again, as the development progresses. Particularly when no products manufactured on these processes will even be sold during the life of the patent. The relevancy of these processes is minimal, if it exists at all.

Meanwhile, we will be producing documents for the 45nm and 32nm processes, which have been used to manufacture tens of billions of dollars of products, as well as for the 22nm process (even though Intel won't be selling any products manufactured on it until the end of the year). The 14nm and 11nm processes are a sideshow in comparison. We can only assume that you are pressing this issue for harassment or some other improper purpose.

Tim

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Friday, March 11, 2011 3:25 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: Re: STC v. Intel - Protective Order

Tim,

Activites conducted during R&D are infrigements.

We also disagree with much of what you say below, especially "premature" motion practice.

Your email below leads me to ask if Intel is now representing it is going to look for documents for it's 15 and 11nm processes, is it withdrawing its objections (relevancy and burdensome)?

Thanks,
Steve

On Mar 11, 2011, at 4:47 PM, "Franks, Tim (Perkins Coie)" <TFranks@perkinscoie.com wrote:

Steve:

I strongly disagree with your characterization of Intel's position. And it is unfortunate that STC appears to be relying on that mischaracterization in running off to court prematurely. We are willing to provide you discovery on developed processes (45nm, 32nm, and 22nm) while we investigate what, if any, responsive material might exist for the more advanced processes (14nm and 11nm) that are still in development and will not be commercialized until well after the patent in suit has expired. Are you rejecting that proposal and demanding that Intel make a final binding representation to you today to produce all documents you say are necessary concerning processes that are several years away from commercialization and that have not yet even been fully defined within Intel?

Tim

-----Original Message-----

From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Friday, March 11, 2011 1:29 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: Re: STC v. Intel - Protective Order

Tim,

I disagree the motion is not ripe. We requested a meet and confer five days ago, and we discussed this at length yesterday. As I said below, we are not interested in a horse trade on the inclusion of 22nm for the exclusion of 15 and 11nm. Unless you can represent to us by 4:00CT that Intel is withdrawing its objections, STC will have to get a motion on file.

Regards,
Steve

On Mar 11, 2011, at 2:36 PM, "Franks, Tim (Perkins Coie)" <TFranks@perkinscoie.com wrote:

Steve:

Sorry not to respond earlier, but I've been in back-to-back calls all morning. I'm afraid I don't see a basis for STC to burden the court with a motion to compel at this time. First, we have agreed to and are working cooperatively with you to produce the materials you've requested on all of the commercialized accused products to date: those manufactured on 45nm and 32nm. Second, during yesterday's meet-and-confer, I explained that Intel's noncommercialized 14nm and 11nm process nodes are undeveloped and years away from implementation (in fact, as we discussed, neither will be sold before the '998 patent expires in September 2012). As a result, we're not sure that many of the documents you are seeking even exist, or if they do, what form they are in or where they are kept. Until we are able to identify what documents actually exist and whether they are responsive, the issue of whether they should be produced is academic and premature, particularly given the agreement of the parties as to 45nm and 32nm discovery.

Moreover, as you and I had previously discussed, information about Intel's 14nm and 11nm processes falls among Intel's most valuable and highly-guarded trade secrets. Intel's innovation and implementation of its process technologies are years ahead of any competitors worldwide and are among its greatest competitive advantages. For that reason, access to such information is subject to extremely tight restrictions, even within Intel and the TMG business unit. As I had told you, the terms we have agreed on for a protective order governing the discovery of confidential information are not strict enough when it comes to the 14nm and 11nm processes. Because you and I were unable to agree on terms governing such materials, we had agreed to put the issue off for now.

Given that the 14nm and 11nm processes are so undeveloped and information about them will require severe restrictions to protect

their secrecy, I suggested yesterday that we provide you the discovery on the current processes that already have been commercialized (45nm and 32nm) while we investigate what if any responsive material might exist at more advanced processes that are still in development. By staging discovery in this way, we can move the case forward while continuing to discuss if there's a mutually-agreeable way to provide you the information you believe is necessary on Intel's undeveloped technology. Are you rejecting that proposal and demanding that Intel make a final binding representation to you today to produce all documents you say are necessary concerning processes that are several years away from commercialization and that have not yet even been fully defined within Intel?

I also made an alternative proposal that Intel would produce responsive materials concerning the 22nm process (which is slated to be commercialized at the end of 2011), with the understanding that you would agree that we could leave the 14nm and 11nm processes out of discovery for now. Our investigation may confirm that discovery produced on the 22nm process node may be representative of the discovery you seek on the 14nm and 11nm nodes, which would further reduce the potential probative value versus potential harm to Intel of further discovery on those extremely commercially-sensitive nodes. Am I correct from your email that you are rejecting that proposal as well?

In sum, we believe a motion by STC is premature and an undue burden on the court, given that Intel hasn't refused to produce anything at this point. All we've said is that we ought to focus now on what is clearly in the case and responsive, and table discovery on undefined processes until we can figure out where things stand.

Tim

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Friday, March 11, 2011 8:50 AM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: Re: STC v. Intel - Protective Order

Tim,

Following up to our teleco from yesterday. We are not interested in the proposed trade of putting 22nm in the case, and keeping 15 and 11nm out. We'll be filing a motion on this issue later today.

Steve.

On Mar 10, 2011, at 1:04 PM, "Franks, Tim (Perkins Coie)" <TFranks@perkinscoie.com wrote:

That works.

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Thursday, March 10, 2011 12:04 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall; Keith Vogt
Subject: RE: STC v. Intel - Protective Order

Tim: When do you want to talk this afternoon? 4PM CT again? We can use this number: 1 (877) 373-9846; Guest Code: 2200 -Steve

-----Original Message-----
From: Steve Pedersen
Sent: Tuesday, March 08, 2011 12:01 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

Tim,

I suppose that makes two disappointed lawyers -- I don't think we'll be receiving any sympathy from anyone. Your proposed language raises a good point that appears to have been lost when we ditched the stip I was working on with Paven -- STC will require at least two copies of the GDS printouts and process flows; one for S&G, and at least one for STC's technical expert (who most likely will not reside in Chicago). Some proposed edits are attached.

Steve

From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]
Sent: Tuesday, March 08, 2011 11:19 AM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

Steve:

Thank you for your quick response. I am disappointed, however, by your accusation that we are being "obstructionist," particularly given your apparent misunderstanding of our concern about producing process flow materials in paper format.

As I explained during our first call, I was unwilling to agree upfront to producing such materials in paper form because I didn't (and don't yet) know exactly what they will be and how burdensome it will be to convert them into paper. But I don't have a problem if STC wants to assume that burden by making a paper copy for itself. The attached draft adds some suggested language to that effect.

I assume that change is acceptable to you. If so, we can file the proposed order today.

I'm not available tomorrow. We had already scheduled a call for

Thursday afternoon to talk about the PO. Let's change the agenda of that call to cover discovery issues.

Tim

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Tuesday, March 08, 2011 8:07 AM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

Tim,

We obviously have very different recollections of these teleconferences. I don't know that it does much good to point them out here.

In any event, I've inserted a few sentences in the "prosecution bar" paragraph in the attached draft PO.

Also, I'd prefer not to stipulate to meet and confer at a later date for issues we can finalize now. In this regard, what is the holdup on producing paper versions of the process flows? We can agree to copying/travel restrictions. I can only view this demand as an obstructionist tactic as it will be almost certain that our experts will have to travel the secure site. Paper copies would be protected by the PO, and we can agree to further safeguards, e.g., no travel, limited copying, lock in safe, log access, etc. If you can't agree to such protections, we will likely move to compel on this.

I'm not available Friday. How about 2:00 CT tomorrow?

-Steve

From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]
Sent: Monday, March 07, 2011 8:37 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

Steve:

Thanks for your email, but I am a bit confused about it.

First, contrary to your suggestion, we did move the ball forward last Thursday. We proposed (and you agreed to) a definition of the scope of the prosecution bar (subject to potential expansion depending on the nature of discovery sought by STC and ordered by the Court).

Second, when we spoke the week before last, I advised you that I did not know when I would have sufficient information to determine if

the prosecution bar would need to be expanded in light of the process flow information you are seeking. I did tell you, however, that I believed it would take at least two weeks. You nevertheless wanted to have a call last week, and I agreed to do so at your request. I am sorry you were apparently surprised that I did not have a definitive answer for you by then.

Third, we discussed that STC's demand to inspect Intel fabs was motivated largely as a defensive measure to avoid having its expert impeached on the ground that he had never been inside an Intel fab. We discussed that STC might withdraw its inspection demand if the parties can reach an agreeable stipulation. Doing so would moot the need to expand the prosecution bar to take into account all of the confidential information that might be disclosed in such an inspection. You said that you would prepare a proposed stipulation. Please let me know when you expect to have it ready.

We are agreeable to submitting a "placeholder" protective order while we finalize the scope and duration of the prosecution bar. Your proposed order, however, eliminates a prosecution bar althogether, subject to future agreement of the parties or order of the Court. Intel is not willing to disclose its GDS files without a prosecution bar in place. Accordingly, the attached draft includes a prosecution bar on those terms to which we have agreed thus far. It expressly notes that Intel may request an expansion of the scope and/or duration of the bar depending on the nature of the discovery sought by STC and ordered by the Court. It also includes a few other minor changes that I don't think you'll find controversial. Let me know if this form is agreeable.

Finally, Brian forwarded your email requesting a meet and confer on Intel's discovery responses. I think it makes sense to cover both parties' responses on such a call. To give us a chance to review and digest STC's responses, I'd suggest we have a call on Friday. Please let me know if 11 am Chicago time works for you.

Tim

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Friday, March 04, 2011 10:29 AM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

Tim:

While nice speaking with you, yesterday's call moved the ball backwards. Even though a week's time lapsed since we last conferred, you had no information on the how the format of Intel's process flow production will affect Intel's proposed prosecution bar, and you alerted me for the first time that STC's inspection of Intel's fabs

may require an undefined expansion of the proposed prosecution bar. I asked to confer again early next week, but you said you could not until late in the week. Again, this is taking too long.

We have previously discussed entering into a series POs. I believe we are at those crossroads. We'd like to meet and confer re submitting the agreed to portions of the PO to the judge for entry. It seems as if we are in agreement on everything except for Definition L and Paragraph 10. I've attached a redline for your review. If you would like to discuss via the phone, I'm available up to 3PM today. I can take the oar on drafting the motion for entry; we'd appreciate receiving Intel's position on whether it will join the motion by Monday.

Thanks,
Steve

-----Original Message-----
From: Franks, Tim (Perkins Coie) [mailto:TFranks@perkinscoie.com]
Sent: Thursday, March 03, 2011 3:46 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

No need for a bridge today. You can just call me at 602-351-8390.

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Thursday, March 03, 2011 2:29 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

Tim,

In advance of our call today, here are our views on some of the outstanding items.

On the issue of Stadheim and Grear's participation in a re-exam, we cannot agree to the proposal that would bar our participation in a re-exam initiated by a third party. In this case, we do not understand Intel's concern. We cannot broaden the claims at this point, and narrowing the claims gives rise to intervening rights, which would pretty much absolve Intel at this point anyway, as reexamination would certainly not be completed by the expiration of the patent.

On the issue of a prolonged prosecution bar that could possibly extend out 5-6 years, we are unaware of any precedent that would support such a position that would so severely restrict a patent lawyer from practicing patent law for such an extended amount of time. Even without the protective order, Intel is protected by the first-to-invent patent laws of the U.S. Intel's proposed prohibition is not only redundant to patent laws, it is unduly restrictive upon recipients of Intel confidential information.

Again, this process is taking too long. We'd much rather resolve it without Court assistance, but if we can't reach agreement, perhaps we ought to focus this afternoon on how best to present the outstanding issues to the Court.

Steve

-----Original Message-----
From: Franks, Tim (Perkins Coie) [mailto:TFranks@perkinscoie.com]
Sent: Friday, February 25, 2011 1:14 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos; Brian Ferrall
Subject: RE: STC v. Intel - Protective Order

You can use this bridge:

(888) 433-2061 Participant Code: 602-351-8390

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Monday, February 21, 2011 7:42 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel - Protective Order

Tim, Friday at 3MST is confirmed. If you would like for us to consider anything in advance of the call please feel free to forward it to me. - Steve

Steve Pedersen
Stadheim and Grear, Ltd.
Wrigley Building Tower
400 North Michigan Avenue
Suite 2200
Chicago, IL 60611

312|755|4400

Pedersen@StadheimGrear.com

From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]
Sent: Monday, February 21, 2011 8:18 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel - Protective Order

I'm afraid not. I'm the one handling it, as I have done on numerous cases for Intel.

I was in NY last week for depositions. I have to be in Dallas on Wednesday and Thursday this week for another deposition. I have a three-day evidentiary hearing starting next Tuesday, for which motions in limine were filed today, and for which our responses and

pre-hearing brief are due Thursday.

I apologize for being so unavailable, but I'm not quite sure what is so urgent, given that our written responses to your document requests aren't even due until a week from Friday. Presumably we will have the protective order ironed out well before we are ready to produce documents.

-----Original Message-----
From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Monday, February 21, 2011 7:08 PM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel - Protective Order

Tim, During the 26(f), we understood that Intel would get back to us within a couple days re the below. Last week, we were told that we would hear from Intel on this issue by week's end. In light of the how this process has already taken, Friday seems too long. Is there someone else on your team that we talk with to move this forward? Thanks, Steve

---

From: Franks, Tim (Perkins Coie) [TFranks@perkinscoie.com]
Sent: Monday, February 21, 2011 7:51 PM
To: Steve Pedersen
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel - Protective Order

I'm afraid a number of things have come up, and tomorrow is now a mess for me. Are you available 3 MST on Friday?

From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Monday, February 21, 2011 7:24 AM
To: Franks, Tim (Perkins Coie)
Cc: Paven Malhotra; George Summerfield; Patricia Bazianos
Subject: Re: STC v. Intel - Protective Order

Tim, I'll take you up on your earliest offer on Tuesday. How about 9:30 your time? As far as your inquiry about the context of overall discovery, please consider my remarks in my below email of Feb 2 in advance of our call. Thanks, Steve.

On Feb 20, 2011, at 9:40 AM, "Franks, Tim (Perkins Coie)" <TFranks@perkinscoie.com <mailto:TFranks@perkinscoie.com>> wrote:
What's your availability for a call on Tuesday or Friday? As I believe Brian mentioned to you last week, it probably makes sense to take about the protective order in the context of overall discovery.

From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Friday, February 18, 2011 3:51 PM
To: Franks, Tim (Perkins Coie); 'Paven Malhotra'
Cc: George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel - Protective Order

Tim,

I believe the ball is still in your court on the below. Please let me know when we will hear back from Intel on the outstanding issues.

Thanks,
-Steve

From: Steve Pedersen
Sent: Wednesday, February 02, 2011 10:00 AM
To: Franks, Tim (Perkins Coie); Paven Malhotra
Cc: George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel

Tim,
Nice speaking with you yesterday. I've attached a redline.
We propose adding the below red language to the definition of "Involved In The Prosecution Of Patents Or Patent Applications."
Also, as far as the scope is concerned I propose defining it as relating to "semiconductor lithography." The "manufacture of semiconductors" is simply far too broad. Having litigated several other chip cases before, and cases including this patent, I have an understanding of what we need and what we don't need as far as confidential technical information from Intel. Our discovery will focus solely on Intel's lithography practices for critical layers. While we will examine the overall process flows for where certain lithography steps are conducted, we will not need access to the "sub-
recipes" for various other aspects of the manufacturing process. In light of this, any concern of Intel should certainly be mitigated.
I've inserted some comments in the redline for the remaining issues.
-Steve

L. "Involved In The Prosecution Of Patents Or Patent Applications:" participation in any way on behalf of a patent owner/
patent applicant or other person or entity having ownership, license or other financial interest in the patent or in the patent or reissue application, in: (i) reexamination proceedings other than U.S. Patent No. 6,042,998 ('998 patent) or (ii) drafting, reviewing, approving or prosecuting any portion (e.g., any claim, any figure, or any specification language) of a patent application (including, but not limited to, provisional, non-provisional, original, continuation, continuation-in-part, divisional, reissue, and/or continued prosecution applications) or any portion of any amendment, response, reply, or other paper submitted to the United States Patent and Trademark Office (including the United States Board of Patent Appeals and Interferences) or any foreign agency responsible for examining or issuing patents. With respect to a reexamination of the '998 patent, participation in the reexamination process shall be limited to instances in which STC did not initiate the reexamination process.

From: Franks, Tim (Perkins Coie) [mailto:TFranks@perkinscoie.com]

Sent: Wednesday, January 26, 2011 2:42 PM
To: Steve Pedersen; Paven Malhotra
Cc: George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel

Limiting the prosecution bar to a reexamination initiated by Intel should address your concern that Intel might use the bar as a "tactical advantage" in "seeking reexamination of the patent in suit." Would that compromise be acceptable on your end?

From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Monday, January 24, 2011 12:43 PM
To: Franks, Tim (Perkins Coie); Paven Malhotra
Cc: George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel

Tim -

The one overarching concern that we have is the prohibition regarding participation in the reexamination of the patent in suit (especially by Stadheim & Grear) once an individual has had access to confidential materials. We know of no justification for this prohibition. On the other hand, Intel could seek to use this prohibition as a tactical advantage by seeking reexamination of the patent in suit, and then excluding Stadheim & Grear from that process. The prohibition is simply unacceptable, and we cannot agree to it. If Intel insists on its inclusion, then we should approach the Court forthwith. On the same topic, Intel's proposed scope of the subject matter - semiconductor manufacturing - is too broad.

As for the terms about which you inquired, GDS and Process Flow documents, those terms were utilized in the ITC Investigation in which your co-counsel, Paven Malhotra, was involved. He seemed to have a clear understanding of those terms, and perhaps you could consult with him regarding the information that comprises those categories of documents.

This morning's ECF set the initial status. Can you provide some available times to conduct the 26(f)? Since we seem to have differing views on the PO and the other proposed stips perhaps we ought to confer sooner than later.

Regards,

Steve

From: Franks, Tim (Perkins Coie) [mailto:TFranks@perkinscoie.com]
Sent: Friday, January 21, 2011 5:59 PM
To: Steve Pedersen; Paven Malhotra
Cc: George Summerfield; Patricia Bazianos
Subject: RE: STC v. Intel

Steve:

Attached are Intel's comments to your revisions to the PO. I

accepted all of your changes, and red-lined our new points.

Tim

From: Steve Pedersen [mailto:pedersen@stadheimgrear.com]
Sent: Tuesday, January 18, 2011 8:52 AM
To: Franks, Tim (Perkins Coie); Paven Malhotra
Cc: George Summerfield; Patricia Bazianos
Subject: STC v. Intel

Tim and Paven:

Attached are our edits to the PO that we received from Tim.

I've updated the draft stipulation re STC's ITC docs that we previously sent to Paven to gel with the provisions in the PO, which is also attached. I also added a few more standard discovery stips.

We'd like schedule the 26(f). Please advise of your availability.

Thanks,
Steve

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