

United States District Court,  
D. Delaware.

**MOSEL VITELIC CORP,**  
Plaintiff.

v.

**MICRON TECHNOLOGY, INC,**  
Defendant.

**Micron Technology, Inc,**  
Counter-Plaintiff.

v.

**Mosel Vitelic Corp. and Mosel Vitelic, Inc,**  
Counter-Defendants.

Civil Action No. 98-449-GMS

**March 9, 2000.**

Named Expert: N. Elton Dry

Lewis H. Lazarus, Morris James LLP, Richard D. Kirk, Bayard, P.A., Wilmington, DE, for Plaintiff.

Richard K. Herrmann, Morris James LLP, Wilmington, DE, for Defendant/Counter-Plaintiff.

***ORDER CONSTRUING AN ADDITIONAL DISPUTED TERM OF*** U.S. Patent No. 5,700,580

On December 16, 1999, the court approved a stipulation that was submitted by the parties which set forth the meaning of several terms contained within the claims of the patents in suit. The court approved this stipulation because, apparently, the parties were able to agree on the meanings that a person of ordinarily skill in the art would ascribe to these terms. Most relevant to this ruling, the parties stipulated that the term "nitride spacers," as used in claims 6 through 9 of what has been coined the '580 patent, meant "silicon nitride sidewall structures, formed adjacent to gate structures or other semiconductor features, that protect underlying areas during subsequent processing steps."

Now, it seems that the parties are not able to agree on what this stipulated definition means. Although the court is somewhat confused by Micron's position on this issue, it seems as if the computer company is arguing that this definition "cannot be understood in a vacuum." According to Micron, this definition "was never intended to be read inconsistently with the disclosure of the '580 patent, the other intrinsic evidence, or its commonly understood meaning." Thus, Micron appears to be arguing that the stipulated definition of the term "nitride spacers" must be interpreted in light of the '580 patent specification and other relevant evidence.

However, by stipulating to the meaning of this term, Micron was agreeing that its definition was "commonly understood" by those of ordinary skill in the art. Now, it appears that Micron has reneged on this agreement. At a minimum, it seems as if the computer company is attempting to put a finer point on the

meaning of this now-disputed term.

Initially, the court considered estopping Micron from arguing that any other definition of "nitride spacers" should be advanced at trial. However, claim construction is an issue of law for the court to decide. Thus, the court would be remiss if it allowed a possibly inaccurate construction to be given to the jury. For this reason, the court has elected to review the intrinsic evidence to determine the meaning of this term.

However, before the court undertakes this analysis, it feels compelled to note that this is not the first time that a dispute like this one has arisen between the parties. In a recent motion for summary judgment concerning what has been termed the '376 patent, the parties disputed the meaning of the term "data lines." Although they had submitted their claim construction briefs two months before this dispositive motion was filed and one month after the court held a day-long hearing to assist it in construing the meaning of the disputed terms, it seems that the parties either failed to discuss this particular term leading up to the submission of their claim charts or could no longer agree on what this term meant. As a result, the court was required to review the record before it in order to resolve one more dispute between the parties (in addition to the nearly one hundred claim terms which the parties had previously disputed).

This example epitomizes the ongoing problems which have plagued this litigation. For whatever reason, counsel seems either unwilling or unable to cooperate. As a result, the court has been called upon to intervene at virtually every turn. For example, the parties have filed at least ten motions to compel during preceding thirteen months. They have also had a minimum of three disputes over the amendment of the pleadings and the effect that these amendments would have on the schedule of this case. To date, the court has been required to hold at least ten conferences with the parties in order to resolve these disputes. As a consequence, the parties have already been put on notice that they will have to account for their litigious conduct after trial.

The court makes these comments because it is unfortunate to find counsel of such skill and expertise dedicating their efforts to *creating* disputes instead of finding ways to *resolve* the ones that exist. With this said, the court turns to an analysis of the intrinsic evidence to determine the meaning of the term "nitride spaces."

The specification of the '580 patent begins by stating that "[s]pacers" are "frequently used in semi-conductor manufacturing as protective structures against subsequent processing steps. In particular, spacers are used to protect underlying source/drain areas during doping or implementing steps." The specification continues by noting that "[t]he present invention provides a process for forming nitride spacers by forming features on a substrate, the features having horizontal and vertical surfaces, and growing an oxide layer super-adjacent [to] the features." Although the specification provides a detailed description of how these nitride spacers are created, which includes forming a re-oxidation layer over transistor gate structures that cover the source/drain regions, the specification concludes by stating that this example (along with the others disclosed in the '580 patent) are "merely illustrative of the presently preferred embodiments and that no limitations are intended to the details of construction or design herein shown, other than as described in the appended claims."

The claims in question, numbers six through nine, use the term "nitride spacers" only once (in the preamble) to describe the "process of forming nitride spacers." Nothing in claim six suggests that these nitride spacers must be located in any particular place on the substrate. The same holds true for the remaining dependent claims.

Thus, after considering the submissions of the parties and reviewing the intrinsic evidence, IT IS HEREBY ORDERED, ADJUDGED, and DECREED that, the term "nitride spaces," as used in claims 6 through 9 of U.S. Patent No. 5,700,580, means "silicon nitride structures that are used to protect underlying substrate features during subsequent processing steps." The parties shall not be allowed to advance any different or contrary meaning before the jury at trial.

D.Del.,2000.

Mosel Vitelic Corp. v. Micron Technology, Inc.

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