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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding no.	91288844
Party	Defendant Amber Semiconductor, Inc.
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Attachments	motion_to_amend_91288844.pdf(210881 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

MaxLinear, Inc., Opposer, v. Amber Semiconductor, Inc., Applicant.	Opposition No. ___91288844_____ Application No. 97/451335  Mark:
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UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Motion to Amend Description of Mark and to include a Disclaimer

Applicant, Amber Semiconductor, Inc. hereby amends the Description of the Mark in application 97451335 as follows:
CURRENT VERSION

The mark consists of THE CHARACTERS AMBERSEMI WITH THE A and S in larger font than other characters and with a sine wave ribbon extending upward from the A, down through the R and up to bottom of the I.

(TSDR

https://tsdr.uspto.gov/#caseNumber=97451335&caseType=SERIAL_NO&searchType=statusSearch, visited 26 July 2024).

ANNOTATED AMENDED VERSION

The mark consists of ~~THE CHARACTERS~~ the characters AMBERSEMI ~~WITH THE~~ with the A and S in larger font than other characters and with a twisted sine wave ribbon extending upward from the right edge of the A, through an apex that shows a twist as a narrowing and darkened shading, down through the R and through a minima that shows a similar twist as a narrowing and darkened shading and up to bottom of the I.

And further adds the following disclaimer to the Application file:

No claim is made to the use of sine wave shaped ribbons apart from the mark as shown and described. In particular, Applicant expressly disclaims any rights to sine wave shaped ribbons as they appear in U.S. trademark applications 97657383, 97657389, 98265391, and, 98265383 and as used in the IEEE Standard 315-1975, Graphic Symbols for Electrical and Electronics Diagrams as shown in the Quick Reference guide, in particular, item 2.7, shown below:

**2.7 Oscillator
Generalized Alternating-Current
Source**



CLEAN VERSIONS

AMENDED DESCRIPTION

The mark consists of THE CHARACTERS AMBERSEMI WITH THE A and S in larger font than other characters and with a twisted sine wave ribbon extending upward from the right edge of the A, through an apex that shows a twist as a narrowing and darkened shading, down through the R and through a minima that shows a similar twist as a narrowing and darkened shading and up to bottom of the I.

DISCLAIMER

No claim is made to the use of sine wave shaped ribbons apart from the mark as shown and described. In particular, Applicant expressly disclaims any rights to sine wave shaped ribbons as they appear in U.S. trademark applications 97657383, 97657389, 98265391, and, 98265383 and as used in the IEEE Standard 315-1975, Graphic Symbols for Electrical and Electronics Diagrams as shown in the Quick Reference guide, in particular, item 2.7, shown below:

**2.7 Oscillator
Generalized Alternating-Current
Source**



PENDING RESPONSE FROM OPPOSER REGARDING CONSENT

This amendment, at the time of submission, and, as submitted, is made without prior consent of Opposer. Applicant, through service, requests approval of this change from Opposer.

APPROVAL WITHOUT CONSENT

If such consent is not granted by Opposer, Applicant, In the alternative, requests Board grant this requested motion to amend, without consent, per TBMP 514.03 and 37 CFR 2.133(a).

BRIEF IN SUPPORT OF THE MOTION

The primary issue in this proceeding, 91288844, is the alleged similarity, and plead as “identical”, and potential for confusion under 1052(d) as related to the ribbon design element. Applicant asserts that the wording included in the marks is not identical or even confusingly similar. “MXL” and “MaxLinear” in Opposer’s marks is neither identical nor confusingly similar to the wording included in Applicant’s mark: “AmberSemi”. USPTO trademark Examiners have, in effect, through examinations and notices of allowances, opined similarly.

The description as amended is a more accurate representation of the graphics included in Applicant’s mark. Opposer’s plead marks and the well-known symbol for an AC power source, owned by IEEE, do not include the narrowing and shading as seen in Applicant’s mark and now more accurately described.

At the time of Applicant’s filing none of the plead trademark applications of Opposer were filed. All were filed after Applicant’s mark was filed and approved by Trademark Examiner. Applicant’s search of the Trademark database could not possibly have discovered Opposer’s applications. Regardless, the graphic symbol of a sine wave shaped ribbon in Applicant’s mark is distinguishable from that in Opposer’s marks in appearance and in the now amended description of the mark.

At the time of filing Applicant believed his mark to be sufficiently different from the commonly used IEEE symbol for an AC power source, as shown above, to not require a disclaimer. None was required by the Trademark Examiner. The proceedings have revealed a need for more specificity, now included in the amended description and the added disclaimer.

The graphic element of the ribbon as used in Opposer’s marks and trademark applications 97657383, 97657389, 98265391, and, 98265383 appear in Applicant’s opinion, to overlap exactly the sine wave as depicted in the IEEE symbol for a Generalized AC Source as shown below. Applicant’s graphics element does not, also as shown below. Applicant does not claim any rights to the IEEE symbol nor to the sine wave graphics as used in Opposer’s plead applications. This is made clear in the updated description and, now included, disclaimer.



Applicant is not asserting any violation of IEEE copyrights. The IEEE standard 315-715 provides copyright statements that include a right to use individual symbols:

Copyright © 1975 by the Institute of Electrical and Electronics Engineers, Inc. No part of this publication may be reproduced in any form, in an electronic retrieval system or otherwise, without the prior written permission of the publisher. However, individual symbols contained in this standard may be utilized without further permission of the IEEE. Any statement that the symbols used are in conformance with this standard shall be on the user's own responsibility.

Respectfully Submitted

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CERTIFICATE OF SERVICE

Applicant, Amber Semiconductor, Inc. hereby certifies that a copy of this MOTION TO AMEND has been served upon Applicant via email on this 2nd day of September 2024 using the email address of record at the following address:

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