



**JOINT STATEMENT OF THE 23<sup>rd</sup> MEETING OF  
THE WORLD SEMICONDUCTOR COUNCIL  
(WSC)**

**Xiamen, China**

**MAY 23<sup>rd</sup>, 2019**

## **Introduction**

The world's leading semiconductor industry associations – consisting of the Semiconductor Industry Associations in China, Chinese Taipei, Europe, Japan, Korea, and the United States – held the 23<sup>rd</sup> meeting of the World Semiconductor Council (WSC) today in Xiamen, China.

The meeting was chaired by Mr. Zhao, Haijun of Semiconductor Manufacturing International Corporation, and chair of the host delegation, the Semiconductor Industry Association in China, Mr. Wei, Shaojun. The other delegations attending the 23<sup>rd</sup> WSC meeting – Semiconductor Industry Associations in Chinese Taipei, Europe, Japan Korea, and US – are chaired, respectively, by Mr. Mark Liu of Taiwan Semiconductor Manufacturing Company, Mr. Jens Knut Fabrowsky of Robert Bosch GmbH, Mr. Yasuhiro UEDA of Sony Corporation, Mr. Chang Han KIM of Samsung Electronics, and Mr. Keith Jackson of ON Semiconductor.

The WSC meets annually to bring together industry leaders to address issues of global concern to the semiconductor industry. The WSC's mandate is to encourage cooperation to promote fair competition, open trade, protection of intellectual property, technological advancement, investment liberalization, market development, and sound environmental, health and safety practices. The WSC also supports expanding the global market for information technology products and services.

Established under the “Agreement Establishing a New World Semiconductor Council” signed on June 10, 1999, and amended on May 19, 2005, the WSC has the goal of promoting cooperative global semiconductor industry activities in order to facilitate the healthy growth of the industry from a long-term global perspective. This Agreement states, “the increasing globalisation of the semiconductor industry raises important issues that must be addressed effectively through international cooperation within the world semiconductor industry”, and that “the WSC activities . . . shall be guided by principle of fairness, respect for market principles, and consistency with WTO rules and with the laws of the respective countries or regions of each Member. The WSC recognizes that it is important to ensure that markets will be open without discrimination. The competitiveness of

[...]

## **I. Effective Protection of Intellectual Property**

Intellectual property (IP) is the lifeblood of the global semiconductor industry, and respecting and enforcing intellectual property rights is essential to the industry's global competitiveness. The global semiconductor industry invests over 10% of revenue into R&D, one of the highest proportions of any industry. The trend worldwide in the last decade, and in most WSC member countries, is for significant growth in patent applications and patent grants. Therefore, protection of the IP that results from this R&D (i.e. patents, trade secrets, source code, etc.) is essential to the industry's competitive position, and to preserving incentives for innovation. **The WSC encourages the GAMS to ensure that intellectual property is strongly protected and enforced in their domestic laws and regulations.**

### **A. Patent Quality**

One important precondition for effective protection of intellectual property is a system that ensures the granting of high-quality patents. The WSC continues to work to improve patent quality, including continuing cooperation with WIPO and the patent offices of GAMS members. The WSC commends WIPO for its efforts to collect and publish meaningful metrics bearing on patent quality across jurisdictions and encourages WIPO to continue and expand this effort. **The WSC appreciates the GAMS's recent reiteration of support for the WSC's efforts to improve patent quality.**

### **B. Abusive Patent Litigation (NPEs/PAEs)**

The WSC recognizes that abusive patent litigation seriously undermines innovation by redirecting research expenditures and other resources to unnecessary litigation expenses, and by making it more difficult to bring products to market. The WSC supports the continued focus on preventing abusive patent litigation.

In view of this, the WSC encourages a range of "best practices" in regard to the issue of abusive patent litigation, including NPEs/PAEs. As a result, the WSC adopted a set of "Abusive Patent Litigation (Including NPEs/PAEs): Best Practices to Combat Abusive Patent Litigation" as set forth in Annex 1 to the WSC's 2017 Joint

Statement. The WSC will continue to evaluate regional policies compared with the Best Practices.

**The WSC encourages GAMS to support these Best Practices in addressing abusive patent litigation practices.**

In this connection, the WSC notes that an important challenge in patent litigation analysis is the availability of data across jurisdictions. In its 2018 IP Indicators report, WIPO found that many jurisdictions lack systematic data on patent litigation, and that enhancing data availability of patent litigation systems would be helpful to effective policymaking and analysis. **The WSC encourages the GAMS to cooperate with WIPO to implement meaningful and consistent public access to patent litigation data in key jurisdictions.**

### **C. Trade Secrets**

The WSC continues to discuss how to better protect trade secrets in the industry. Given the rapid speed of innovation in the semiconductor industry, trade secret theft can cause a company to lose its competitive advantage and market share. Trade secret theft also impedes continued semiconductor research and development by reducing the incentive for companies to invest in building the next generation of semiconductors.

Trade secret theft is extremely difficult to protect against. Many cases in the semiconductor industry involve an employee leaving a company and taking trade secrets with them upon their departure. This theft is even more difficult to protect against when competitors are willing to offer high, non-market rates to employees.

The rapid growth of the internet has resulted in companies facing greater threats of trade secret theft from sophisticated actors, especially through cyber means. The threat to semiconductor companies is magnified given the critical role of semiconductors in emerging technologies, such as artificial intelligence and the internet of things. **The WSC urges GAMS to adopt strong trade secret protections in trade agreements and domestic laws. The WSC reiterates its encouragement, first stated in the 2015 WSC Joint Statement, for GAMS to support the WSC “Core Elements for Trade Secret Protection Legislation.”**

The protection of trade secrets can be facilitated, in addition to appropriate

legislative measures and enforcement, by the establishment of Corporate Compliance and Ethics programs (CEPs) by companies to discourage their employees from illegally taking others' trade secrets. A number of companies have adopted Codes of Business Conduct that require their employees to respect the intellectual property, including trade secrets, of other companies – including competitors. Many companies have also established internal Compliance and Ethics Programs (CEPs) to create an organizational culture of compliance with laws and ethics within the company. These programs include procedures to prevent and detect criminal conduct, explicit policies such as protection of trade secrets in a Code of Business Conduct, and mechanisms for employees to report suspected wrongdoing to the CEP. Building on its past recommendations to enhance the protection of trade secrets, the WSC recommends that GAMS utilize laws, policy directives, trade agreements, and other means to encourage companies to implement Compliance and Ethics Programs that protect trade secrets.