Trials@uspto.gov
571-272-7822

Paper 7
Entered: June 23, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRON TECHNOLOGY, INC., MICRON SEMICONDUCTOR PRODUCTS, INC., and MICRON TECHNOLOGY TEXAS LLC,
Petitioner,

v.

NETLIST, INC.,
Patent Owner.

IPR2023-00406
Patent 11,016,918 B2

Before PATRICK M. BOUCHER, JON M. JURGOVAN, and DANIEL J. GALLIGAN, *Administrative Patent Judges.*

JURGOVAN, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314
Granting Motion for Joinder
35 U.S.C. § 315(c); 37 C.F.R. § 42.122

I. DISCUSSION

Inter partes review of U.S. Patent 11,016,918 B2 ("'918 patent") was instituted in IPR2022-00996 ("996 IPR") based on a petition filed by Samsung Electronics Co., Ltd. ("Samsung"). 996 IPR, Papers 1, 10. In this proceeding, Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC (collectively "Petitioner") concurrently filed a Petition (Paper 1) and a Motion for Joinder (Paper 3) seeking to be joined as a petitioner in the 996 IPR. Petitioner represents that Samsung, the petitioner in the 996 IPR, does not oppose joinder. Motion 2. Patent Owner did not file an opposition to the Motion.

The statute governing *inter partes* review joinder states the following:

> JOINDER.—If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter parties review under section 314.

35 U.S.C. § 315(c).

The time for filing a preliminary response to the Petition has expired, and Patent Owner did not file one. *See* 37 C.F.R. 42.107(b) ("The preliminary response must be filed no later than three months after the date of a notice indicating that the request to institute an *inter partes* review has been granted a filing date."); Paper 4 (filing date notice entered on January 23, 2023).

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides that an *inter partes* review may not be instituted unless the information presented in the Petition and any preliminary response shows "there is a reasonable likelihood that the

petitioner would prevail with respect to at least 1 of the claims challenged in the petition."

The patentability challenges in the 996 IPR met the "reasonable likelihood" standard of § 314(a). 996 IPR, Paper 10 at 55. Petitioner represents that the Petition "is substantively identical to" the petition in the 996 IPR. Motion 1. Petitioner presents the following grounds in this Petition, which are identical to the instituted grounds in the 996 IPR:

Claim(s) Challenged	35 U.S.C. §	Reference(s)/Basis
1–3, 8, 14, 15, 23	103(a)[1]	Harris[2], FBDIMM Standards[3]
1–30	103(a)	Harris, FBDIMM Standards, Amidi[4]
1–30	103(a)	Harris, FBDIMM Standards, Amidi, Hajeck[5]
1–30	103(a)	Spiers[6], Amidi
1–30	103(a)	Spiers, Amidi, Hajeck

Pet. 3; *see* 996 IPR, Paper 10 at 8, 55 (identifying same grounds and instituting *inter partes* review).

[1] The Leahy-Smith America Invents Act ("AIA"), Pub. L. No. 112-29, 125 Stat. 284, 287–88 (2011), amended 35 U.S.C. § 103 and became effective March 16, 2013. For this proceeding, Petitioner assumes that the '918 patent has an effective priority date before this date (Pet. 3–4) and applies the pre-AIA version of § 103.
[2] US 2006/0174140 A1, published Aug. 3, 2006 (Ex. 1023).
[3] JESD82-20 and JESD205 standards published March 2007 (Ex. 1027, Ex. 1028).
[4] US Patent No. 7,724,604 B2, issued May 25, 2010 (Ex. 1024).
[5] US Patent No. 6,856,556 B1, published Apr. 13, 2006 (Ex. 1038).
[6] US 2006/0080515 A1, published Apr. 13, 2006 (Ex. 1025).

We determine that Petitioner has demonstrated a reasonable likelihood of prevailing with respect to at least one challenged claim of the '918 patent for the reasons given in the institution decision in the 996 IPR and that the Petition warrants institution. *See* 996 IPR, Paper 10 at 8–55.

As discussed above, Petitioner's Motion is unopposed by Samsung or Patent Owner. We have reviewed the Motion, and we determine that it is appropriate under these circumstances to join Petitioner as a party to the 996 IPR.

II. ORDER

Accordingly, it is

ORDERED that, pursuant to 35 U.S.C. § 314(a) and 37 C.F.R. § 42.4, an *inter partes* review is hereby instituted on the challenge raised in the Petition;

FURTHER ORDERED that Petitioner's Motion for Joinder with IPR2022-00996 is *granted*, and Petitioner is hereby joined as a petitioner in IPR2022-00996;

FURTHER ORDERED that the grounds on which trial in IPR2022-00996 was instituted are unchanged, and no other grounds are added in IPR2022-00996;

FURTHER ORDERED that the Scheduling Order entered in IPR2022-00996 (Paper 11) and the Parties' stipulation to modify Dates 1, 2, and 3 (Paper 15) shall govern the trial schedule in IPR2022-00996;

FURTHER ORDERED that Petitioner's role in IPR2022-00996 shall be limited as stated by Petitioner in the Motion for Joinder (Paper 3 at 5–9) unless and until Samsung is terminated from that proceeding;

FURTHER ORDERED that the case caption in IPR2022-00996 shall be changed to reflect joinder of Petitioner in accordance with the attached example;

FURTHER ORDERED that a copy of this Decision be entered into the record of IPR2022-00996; and

FURTHER ORDERED that all further filings shall be made in IPR2022-00996.

PETITIONER:

Eliot D. Williams
Theodore W. Chandler
Ferenc Pazmandi
Mark A. Speegle
Brianna L. Potter
BAKER BOTTS L.L.P.
eliot.williams@bakerbotts.com
ted.chandler@bakerbotts.com
ferenc.pazmandi@bakerbotts.com
aashish.kapadia@bakerbotts.com
brianna.potter@bakerbotts.com

Juan C. Yaquian
Michael R. Rueckheim (pro hac vice to be submitted)
WINSTON & STRAWN LLP
jyaquian@winston.com
mrueckheim@winston.com

PATENT OWNER:

Hong Annita Zhong
Jonathan M. Lindsay
IRELL & MANELLA LLP
hzhong@irell.com
jlindsayg@irell.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD, MICRON TECHNOLOGY, INC., MICRON SEMICONDUCTOR PRODUCTS, INC., and MICRON TECHNOLOGY TEXAS LLC,[7]
Petitioner,

v.

NETLIST, INC.,
Patent Owner.

IPR2022-00996
Patent 11,016,918 B2

---

[7] Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC filed a motion for joinder and a petition in IPR2023-00406 and have been joined as petitioners in this proceeding.