From: Lang, Jason <jlang@orrick.com>
Sent: Wednesday, August 7, 2024 11:34 AM
To: Trials <Trials@USPTO.GOV>
Cc: YMTC-Micron-IPRs-Ropes-Service <YMTC-Micron-IPRs-Ropes-Service@ropesgray.com>; Davis, James L., Jr. <James.L.Davis@ropesgray.com>; Radsch, Andrew <Andrew.Radsch@ropesgray.com>; Bonny, Christopher M. <Christopher.Bonny@ropesgray.com>; Cross, Allen <Allen.Cross@ropesgray.com>; Bobrow, Jared <jbobrow@orrick.com>; Herman, K. Patrick <pherman@orrick.com>; Sun, Rose <rsun@orrick.com>
Subject: IPR2024-00789 (872 patent): Authorization for Preliminary Reply

CAUTION: This email has originated from a source outside of USPTO. **PLEASE CONSIDER THE SOURCE** before responding, clicking on links, or opening attachments.

RE: IPR2024-00789

Your Honors:

Petitioner requests authorization in IPR2024-00789 to file a 7-page preliminary reply limited to two topics: Patent Owner's proposed construction of "dummy source structure" (*see* Preliminary Response, 15-21) and Patent Owner's implicit construction of "conductive contact" (*see* Preliminary Response, 39-44). *See* 37 C.F.R. 42.108(c). There is good cause for a preliminary reply as Petitioner could not reasonably anticipate, *inter alia*, (1) that Patent Owner would propose a construction that is limited to particular embodiments, while excluding other embodiments (*Compare* Preliminary Response, 16 *with* 872 Patent, 16:36-40), and (2) that Patent Owner would argue that "conductive contact" is "functional" in direct contrast to the specification's description (*Compare* Preliminary Response, 41 *with* 872 Patent, 11:37-39). Petitioner does not seek to submit any additional testimony or exhibits.

Petitioner and Patent Owner met and conferred regarding this request. Patent Owner objects to Petitioner's email as an improper attempt to raise substantive arguments with the Board via email. To the extent the Board intends to consider any of these arguments, Petitioner's citations and arguments regarding purportedly excluded embodiments do not support its positions. Patent Owner opposes Petitioner's request for leave to submit a reply because 1) both parties have been heard on the issue of the construction of "dummy source structure," and Petitioner's desire to reargue the issue does not merit a reply, and 2) with respect to "conductive contact," Petitioner's request is merely an attempt to reframe its arguments on the merits into a claim construction issue. If Petitioner is granted leave to submit a reply, Patent Owner submits that it should be no longer than four (4) pages given the limited nature of the issues included in the email and requests a sur-reply of the same length.

The parties are available for a telephone conference at the Board's convenience.

Respectfully submitted,
Jason Lang (Lead Counsel for Micron)

J. Jason Lang
Partner

Orrick
Silicon Valley
T 650-614-7427
M 415-601-3949
jlang@orrick.com



NOTICE TO RECIPIENT | This e-mail is meant for only the intended recipient of the transmission, and may be a communication privileged by law. If you received this e-mail in error, any review, use, dissemination, distribution, or copying of this e-mail is strictly prohibited. Please notify us immediately of the error by return e-mail and please delete this message from your system. Thank you in advance for your cooperation.

For more information about Orrick, please visit *http://www.orrick.com*.

In the course of our business relationship, we may collect, store and transfer information about you. Please see our privacy policy at https://www.orrick.com/Privacy-Policy to learn about how we use this information.