

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRON TECHNOLOGY, INC.,
Petitioner

v.

YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD.,
Patent Owner

Case No.: IPR2024-00910
U.S. Patent No. 10,861,872
Issue Date: December 8, 2020

Title: THREE-DIMENSIONAL MEMORY DEVICE AND METHOD FOR
FORMING THE SAME

**PETITIONER'S MOTION TO FILE CONFIDENTIAL DOCUMENTS
UNDER SEAL PURSUANT TO 37 C.F.R. §§42.14 & 42.55**

Pursuant to 37 C.F.R. §§42.14 and 42.55, Petitioner Micron Technology, Inc. (“Micron” or “Petitioner”) respectfully submits this Motion to Seal and to enter the Default Protective Order found in Appendix B of the Trial Practice Guide. Pursuant to the Default Protective Order, which is being filed concurrently with this Motion and Petitioner’s Petition for *Inter Partes* Review of U.S. Patent No. 10,861,872, Petitioner moves to seal Exhibits 1015 – 1017 and 1026 in their entirety.

I. GOOD CAUSE EXISTS FOR SEALING MICRON’S CONFIDENTIAL INFORMATION

“Under 35 U.S.C. §316(a)(1), the default rule is that all papers filed in an *inter partes* review are open and available for access by the public.” But a party may file a motion with the Board to seal confidential information that is protected from disclosure. *Garmin v. Cuozzo*, IPR2012-00001, Paper 37, at 3 (PTAB Apr. 5, 2013). Only “confidential information” is protected from public disclosure. 35 U.S.C. §316(a)(7); Office Trial Practice Guide, 77 Fed. Reg. 48756, 48760 (Aug. 14, 2012).

As detailed below, good cause exists for sealing Exhibits 1015 – 1017 and 1026 because they contain highly detailed, sensitive, confidential, and non-public information concerning the design, development, functionality, and operation of various Micron 128L, 176L, and 232L 3D NAND flash memory products (“Micron Accused Products”).

A. Exhibits 1015 – 1017 – Excerpts from YMTC’s Exemplary Infringement Claim Charts for U.S. Patent No. 10,861,872, dated Feb. 2, 2024

Exhibits 1015 – 1017 are documents that describe confidential technical information of Petitioner. Petitioner asserts that the entirety of these excerpted documents comprise confidential information, and as such, redacted public versions have not been submitted.

More specifically, Exhibits 1015 – 1017 are excerpts from Yangtze Memory Technologies Company, Ltd. (“Patent Owner” or “YMTC”) Exemplary Infringement Claim Charts attached to its First Amended Complaint for Patent Infringement in the co-pending district court action, in which Patent Owner purports to read claim limitations of U.S. Patent No. 10,861,872 against the Micron Accused Products. The excerpted exhibits contain highly detailed, sensitive, confidential, and non-public information concerning the design, development, functionality, and operation of Micron’s Accused Products. In particular, Exhibits 1015 – 1017 include TEM and/or SEM images of Micron’s Accused Products (*i.e.*, 128L, 176L, and 232L 3D NAND flash memory chips). In addition, Exhibits 1015 – 1017 have been filed under seal in the district court action *Yangtze Memory Technologies Co., Ltd. v. Micron Technology, Inc. & Micron Consumer Products Group, LLC*, Case No. 3:23-cv-05792-RFL (N.D. Cal., filed Nov. 9, 2023) (“Co-Pending Litigation”). Petitioner guards such information closely and has not made, and does not intend to make, this

information publicly available. Such information could be improperly used by competitors to gain unfair business and competitive advantage with customers in the marketplace, including using details of Petitioner's process for developing and manufacturing competitive commercial products.

In addition, YMTC has argued that these exhibits should not be made public because they are TechInsights confidential and proprietary information. Co-Pending Litigation, Dkt. No. 27 (Feb. 2, 2024).

Exhibits 1015 – 1017 accordingly should be sealed in their entirety pursuant to 37 C.F.R. §42.55.

B. Exhibit 1026 – YMTC's Exemplary Infringement Claim Chart for U.S. Patent No. 10,861,872, dated May 6, 2024

Exhibit 1026 is a document that describes confidential technical information of Petitioner. Petitioner asserts that the entirety of this document contains confidential information, and as such, a redacted public version has not been submitted.

More specifically, similar to Exhibits 1015 – 1017, Exhibit 1026 is YMTC's Exemplary Infringement Claim Chart from its Disclosure of Asserted Claims and Infringement Contentions in the Co-Pending Litigation, in which Patent Owner purports to read claim limitations of U.S. Patent No. 10,861,872 against the Micron Accused Products. The exhibit contains highly detailed, sensitive, confidential, and non-public information concerning the design, development, functionality, and

operation of Micron's Accused Products. In particular, Exhibit 1026 includes TEM and/or SEM images of Micron's 232L 3D NAND flash memory chip. In addition, Exhibit 1026 has been designated as HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY under the currently-governing protective order in the Co-Pending Litigation. Petitioner guards such information closely and has not made, and does not intend to make, this information publicly available. Such information could be improperly used by competitors to gain unfair business and competitive advantage with customers in the marketplace, including using details of Petitioner's process for developing and manufacturing competitive commercial products.

Exhibit 1026 accordingly should be sealed in its entirety pursuant to 37 C.F.R. §42.55.

II. CERTIFICATION OF NON-PUBLICATION

To the best of Petitioner's knowledge, the information sought to be sealed by this Motion has not been published or otherwise made publicly available.

III. PROPOSED PROTECTIVE ORDER

Petitioner respectfully requests entry of the Default Protective Order found in Appendix B of the Trial Practice Guide. Upon entry of the Default Protective Order, Petitioner designates Exhibits 1015 – 1017, and 1026 in their entirety, as **“PROTECTIVE ORDER MATERIAL.”**

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board enter the attached Default Protective Order and seal and protect Petitioner's confidential information contained in Exhibits 1015 – 1017, and 1026 for the duration of this proceeding (and thereafter). Petitioner further requests that the Board provisionally seal and protect the confidential information in these documents until such time as it receives and rules on this Motion.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: May 17, 2024

/Jeremy Jason Lang/

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CERTIFICATE OF SERVICE

The undersigned hereby confirms that the foregoing paper was caused to be served on May 17, 2024 via overnight courier on the Patent Owner at the correspondence address of record for U.S. Pat. No. 10,861,872:

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Copies were also served via electronic mail on Patent Owner's counsel of record for related PTAB proceeding IPR2024-00789 and in the related district court litigation – ROPES & GRAY LLP:

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