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Sent: Monday, September 30, 2024 10:44 AM
To: Lang, Jason; Trials
Cc: Davis, James L., Jr.; Davis, James L., Jr.; Bobrow, Jared; Jensen, Travis
Subject: RE: IPR2024-00910: Request to Submit Briefing from IPR2024-00789

[EXTERNAL]

Counsel, the parties are authorized to file briefing responsive to the Preliminary Response that is substantively identical to the Reply and Sur-reply filed in IPR2024-00789, altered only to reflect the details of this proceeding.

Best regards,
Eric W. Hawthorne
Supervisory Paralegal Specialist
Patent Trial and Appeal Board

From: Lang, Jason <jlang@orrick.com>
Sent: Friday, September 27, 2024 11:05 AM
To: Trials <Trials@USPTO.GOV>
Cc: Davis, James L., Jr. <James.L.Davis@ropesgray.com>; Davis, James L., Jr. <James.L.Davis@ropesgray.com>; Bobrow, Jared <jbobrow@orrick.com>; Jensen, Travis <tjensen@orrick.com>
Subject: IPR2024-00910: Request to Submit Briefing from IPR2024-00789

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RE: IPR2024-00910

Your Honors:

Petitioner requests authorization in IPR2024-00910 to file the preliminary reply (Paper 13) and sur-reply (Paper 14) from IPR2024-00789 in this proceeding. The IPR2024-00789 (filed on April 18, 2024) and IPR2024-00910 (filed on May 17, 2024) challenge different claims of the same patent (U.S. Pat. No. 10,861,872). In the first proceeding (IPR2024-00789), the Board granted authorization for the parties to file a preliminary reply and sur-reply to address two issues, one being the construction of “dummy source structure.” IPR2024-00789, Paper 12. Petitioner had argued that good cause for a preliminary reply existed because Petitioner could not reasonably anticipate, *inter alia*, that Patent Owner would propose a construction that is limited to particular embodiments, while excluding other embodiments. IPR2024-00789, Ex. 3001. In its POPR for IPR2024-00910, Patent Owner raises the same claim construction argument regarding “dummy source structure.” IPR2024-00910, Paper 10, 18-22. The same good cause exists as in the first proceeding (IPR2024-00789), because the Petition in second proceeding (IPR2024-00910) was filed before Patent Owner filed its POPR in the

first proceeding. Petitioner believes that because Patent Owner raises the same claim construction arguments, the briefing from the first proceeding adequately addresses the dispute, and the parties do not need to provide any unique briefing to the second proceeding.

Petitioner and Patent Owner met and conferred regarding this request, and Patent Owner indicated that: While Patent Owner again objects to and disagrees with the arguments Petitioner includes above for the same reasons explained in IPR2024-00789, Patent Owner does not oppose refiling the same briefing (IPR2024-00789 Papers 13 and 14) in this proceeding.

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

Respectfully submitted,
J. Jason Lang
Lead Counsel for Micron

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