
From: Trials <Trials@USPTO.GOV>
Sent: Thursday, October 24, 2024 12:55 PM
To: Lang, Jason; YMTC-Micron-IPRs-Ropes-Service; Davis, James L., Jr.; Radsch, Andrew; Bobrow, Jared; Jensen, Travis
Cc: Trials
Subject: RE: IPR2024-00911: Request for Preliminary Reply

[EXTERNAL]

Counsel,

Petitioner is authorized to file a preliminary reply of no more than five pages to address construction of the claim term “an etch stop plug interposed between each local contact of the local contacts and each channel structure of the first and second channel structures” raised in Patent Owner’s Preliminary Reply. The reply is due 5 business days from today. Patent Owner is authorized to file a preliminary sur-reply, also limited to 5 pages and due 5 business days thereafter.

Regards,

Tina

From: Lang, Jason <jlang@orrick.com>
Sent: Monday, October 21, 2024 4:39 PM
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>; Bobrow, Jared <jbobrow@orrick.com>; Jensen, Travis <tjensen@orrick.com>
Subject: RE: IPR2024-00911: Request for Preliminary Reply

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Hi Andrew,

Sorry about that, there was an error in the number somehow. The subject line and the below is now corrected.

Your Honors:

Petitioner requests authorization in IPR2024-00911 to file a 2-page preliminary reply limited to one topic: Patent Owner’s implicit construction of “an etch stop plug interposed between each local contact of the local contacts and each channel structure of the first and second channel structures” (*see, e.g.*, Preliminary Response, 36-38). See 37 C.F.R. 42.108(c). There is good cause for a preliminary reply as Petitioner could not reasonably anticipate, *inter alia*, that Patent Owner would propose an implicit construction, while unclear, is either (1) “an etch stop plug interposed between each local contact of the local contacts and each channel structure of the first and second channel structures [and each slit structure]” or (2) requires an impossibility in which there is an etch

stop plug between a slit local contact and a channel structure. Moreover, Petitioner could not reasonably anticipate that Patent Owner would propose an interpretation that reads out every single embodiment of the 806 patent. 806 patent, 9:36-52.

Petitioner and Patent Owner met and conferred regarding this request, and Patent Owner objects to Petitioner's email as an improper attempt to raise substantive arguments with the Board via email. The issue raised by Petitioner is not one of claim construction but rather an attempt to address a claim requirement that its petition failed to address. The sole challenged claim requires "local contacts disposed on the first and second channel structures and the slit structures," and "an etch stop plug interposed between each local contact of the local contacts and each channel structure of the first and second channel structures." Petitioner failed to and indeed cannot identify "an etch stop plug interposed between [a] local contact," which is "disposed on ... [a] slit structure," "and [a] channel structure." There is no claim construction issue—Petitioner's grounds simply fail to meet the claim. Petitioner's request for a preliminary reply should thus be denied. Nevertheless, if Petitioner is granted leave to submit a reply, Patent Owner requests that the Board prohibit the submission of new evidence and grant Patent Owner a sur-reply of the same length.

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

Respectfully submitted,
J. Jason Lang (Lead Counsel for Micron)

J. Jason Lang
Partner

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