

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

NETLIST, INC.,
Patent Owner

Case IPR2025-00001
U.S. Patent No. 11,386,024

**PATENT OWNER'S REPLY IN
SUPPORT OF MOTION TO SEAL**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	ARGUMENT.....	2
	A. Petitioner’s Arguments Contravene JEDEC’s Stated Request to Seal JEDEC-Related Documents.	2
	B. Most of Petitioner’s Arguments Improperly Address the Public Accessibility of the Draft JEDEC Proposal.	3
III.	CONCLUSION	4

PATENT OWNER'S UPDATED EXHIBIT LIST

Exhibit No.	Description
2001	JESD82-30, “LRDIMM DDR3 Memory Buffer (MB) Version 1.0,” JEDEC, October 2014,
2002	“Minutes of Meeting No. 160 JC-40 Digital Logic Committee,” December 10, 2009 [CONFIDENTIAL]
2003	<i>Samsung Elecs. Co. v. Netlist, Inc.</i> , IPR2020-00062, Exhibit 2026 (P.T.A.B. Aug. 15, 2022)
2004	<i>Samsung Elecs. Co. v. Netlist, Inc.</i> , IPR2020-00062, Paper 53 (P.T.A.B. Mar. 8, 2023)
2005	“Simplified File Naming: JEDEC Meeting Presentations,” JEDEC, December 2010 [CONFIDENTIAL]
2006	Email to JEDEC Request LRDIMM DDR3 Memory Initialization Chapter Proposal, January 2025
2007	Email From President of JEDEC Requesting Document Confidentiality

I. INTRODUCTION

Petitioner suggests that Patent Owner's motion is "merely a stunt" in support of its argument that the draft JEDEC proposal (EX1015) was not publicly accessible. Opp., 1. But correspondence between Patent Owner and JEDEC shows that the President of JEDEC himself requested that these types of documents be filed under seal. EX2007, 1-2. Petitioner's disregard for JEDEC's confidentiality norms is no basis to say that they do not exist.

Petitioner, on the other hand, uses its opposition to improperly argue the merits. In particular, rather than focusing on the limited issue of whether EX2002 and EX2005 should be sealed, Petitioner spends most of its opposition arguing (in Petitioner's own words) "why Exhibit 1015 was 'publicly accessible' before June 13, 2010[.]" Opp., 1 (citing Pet., 36-43). By focusing its argument on that issue, Petitioner's opposition has exceeded the scope of Patent Owner's motion, while effectively helping itself to more than ten additional pages of public-accessibility arguments. Petitioner's improper merits arguments should not be considered, either here or in the Board's consideration of the merits for institution.

Petitioner's tactics further underscore the weakness in its public-accessibility case. If Petitioner had met its burden to show, *in the Petition*, that the draft JEDEC proposal was publicly accessible, there would be no reason to address that issue in an opposition to a motion to seal.

II. ARGUMENT

A. Petitioner's Arguments Contravene JEDEC's Stated Request to Seal JEDEC-Related Documents.

EX2002 and EX2005 contain information available only to individuals with valid JEDEC membership credentials, and Patent Owner has shown that JEDEC membership is restricted to companies (not individuals) who manufacture semiconductor products or provide related services or equipment. POPR, 31-32. The documents are thus confidential and should be treated as such. Mot., 2-3.

The Board need not take Patent Owner's word for it—the President of JEDEC requested in correspondence with Netlist that these type of documents be filed under seal.¹ EX2007, 1-2. The correspondence indisputably establishes that JEDEC treats the materials as confidential and thus resolves Petitioner's concern regarding Patent Owner's competence to address confidentiality. Opp., 11.

Petitioner emphasizes that EX2002 and EX2005 are not marked confidential and that there are no confidentiality agreements between JEDEC members. *Id.*, 1, 2-3, 11-12. But “that there [is] no *legal* obligation of confidentiality” is insufficient alone to establish a lack of confidentiality as a factual matter. *Cordis Corp. v. Boston Sci. Corp.*, 561 F.3d 1319, 1333 (Fed. Cir. 2009) (emphasis added). Rather,

¹ Petitioner itself relied on JEDEC's President's testimony in other cases involving JEDEC materials. *See* IPR2022-00639, EX1012.

“professional and behavioral norms” can give rise to confidentiality. *Id.* at 1333-

34. Here, there are such confidentiality norms—JEDEC treats these types of documents as confidential.

As a last effort, Petitioner points out that it did not file any JEDEC-related documents under seal in this IPR or in previous ones.² Opp., 1-2, 8. But that Petitioner has flouted JEDEC’s confidentiality norms does not mean that Patent Owner is willing to do the same and is no basis to deny Patent Owner’s motion.

B. Most of Petitioner’s Arguments Improperly Address the Public Accessibility of the Draft JEDEC Proposal.

Rather than focus on whether EX2002 and EX2005 should be sealed, Petitioner improperly uses its opposition to attempt to bolster Petitioner’s public-accessibility arguments related to the draft JEDEC proposal (EX1015).

For example, block-quoting two paragraphs of the Petition, the opposition argues that it was “easy for an interested member of the relevant public to find Exhibit 1015.” Opp., 2-3 (citing Pet., 41). Citing a snapshot of JEDEC’s webpage, the opposition argues that JEDEC “provided a search feature on its website to find documents.” *Id.*, 4. And citing three pages of deposition testimony, the opposition argues that an interested member of the relevant public “could simply call the

² Petitioner re-filed EX2002 and EX2005 on the public docket (as EX1116 and EX1117) in violation of at least 37 C.F.R. §§ 42.6(d) and 42.14.

JEDEC office to help” find a document. *Id.*, 4-6 (citing, e.g., Pet., 41); *see also id.*, 8-9 (arguing that the draft proposal was copyrighted but “not confidential”).

These arguments fail for all the reasons stated in the POPR. In any event, the arguments are improper and should not be considered. To start, an opposition is limited to addressing reasons why the motion should be denied. *See* 37 C.F.R. §§ 42.22(a), 42.23(a). Here, Patent Owner’s motion properly focused on the narrow issue of whether good cause exists to seal EX2002 and EX2005. Accordingly, Petitioner’s opposition likewise should have been limited to that issue. There was no reason for Petitioner to address the draft proposal at all.

Second, Petitioner’s arguments effectively circumvent the word-count limitation that governs IPR petitions. Petitioner spends most of its opposition addressing the public accessibility of the draft JEDEC proposal. If those words were expended in the Petition, as they should have been, Petitioner would have been well over the 14,000-word limit. 37 C.F.R. § 42.24(a)(1)(i).

By straying well beyond the scope of Patent Owner’s motion, Petitioner has tried to shore up deficiencies in its Petition as to the public accessibility of the draft JEDEC proposal. The Board should not permit Petitioner to do so.

III. CONCLUSION

For the foregoing reasons, Patent Owner respectfully requests that its motion be granted and that EX2002 and EX2005 be sealed.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Richard M. Bemben/

Richard M. Bemben
Registration No. 68,658
Lead Attorney for Patent Owner

Date: April 14, 2025

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600

CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

I certify that the above-captioned **PATENT OWNER'S REPLY IN
SUPPORT OF MOTION TO SEAL** and Exhibit 2007 were served in their
entirety on April 14, 2025, upon the following parties via electronic mail:

Eliot D. Williams (Lead Counsel)
Theodore W. Chandler (Back-up Counsel)
Ferenc Pazmandi (Back-up Counsel)
Brianna L. Potter (Back-up Counsel)
Baker Botts L.L.P.
DLSamsungNetlistIPRs@bakerbotts.com

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX PLLC

/Richard M. Bemben/

Richard M. Bemben
Registration No. 68,658
Lead Attorney for Patent Owner

Date: April 14, 2025

1101 K Street, NW, 10th Floor
Washington, DC 20005
(202) 371-2600