JARED BOBROW (STATE BAR NO. 133712)
jbobrow@orrick.com
JASON LANG (STATE BAR NO. 255642)
jlang@orrick.com
DIANA M. RUTOWSKI (STATE BAR NO. 233878)
drutowski@orrick.com
ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
Menlo Park, CA 94025-1015
Telephone: +1 650 614 7400
Facsimile: +1 650 614 7401

Attorneys for Defendant and Counterclaim Plaintiff Micron Technology, Inc., and Defendant Micron Consumer Products Group, LLC

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD., Plaintiff, v. MICRON TECHNOLOGY, INC., et al., Defendants.	Case No. 3:23-cv-05792-RFL **MICRON'S MOTION TO STAY THE CASE PENDING INTER PARTES REVIEW AND POST-GRANT REVIEW PROCEEDINGS** **DEMAND FOR JURY TRIAL** Date: March 4, 2025 Time: 10:00 a.m. PT Judge: Hon. Rita F. Lin Courtroom: 15, 18th Floor
MICRON TECHNOLOGY, INC., Counterclaim Plaintiff, v. YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD., and YANGTZE MEMORY TECHNOLOGIES, INC., Counterclaim Defendants.	

YMTC
Exhibit 2001
Micron v. YMTC
IPR2025-00035
Ex. 2001-001

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on March 4, 2025 at 10:00 am in the courtroom of the Honorable Rita F. Lin, 450 Golden Gate Avenue, Courtroom 15, 18th Floor, San Francisco, California, Defendants Micron Technology, Inc. and Micron Consumer Products Group, LLC (collectively, "Micron") will and hereby do move the Court to stay the above-captioned case pending resolution of *Inter Partes* Review ("IPR") and Post-Grant Review ("PGR") proceedings at the Patent Trial and Appeal Board ("PTAB").

This Motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities below, the Declaration of Jason Lang ("Lang Decl.") filed concurrently herewith, the pleadings and papers on file in this case, and any other matters of which the Court may take judicial notice.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

When YMTC filed its original complaint asserting eight patents against Micron's 3D NAND products in November 2023, Micron expeditiously filed petitions for IPR on all eight patents by May 2024. The PTAB has instituted IPR proceedings on seven of those eight patents, and will render final written decisions beginning in October 2025, which is eight months before the current trial date. When YMTC filed its second complaint asserting eleven more patents (ten against the same Micron 3D NAND products as in the original lawsuit) in July 2024, Micron again expeditiously filed IPR and PGR petitions on all asserted patents, completing those filings in early January 2025. All of those petitions are pending institution decisions. Instituted or pending IPR and PGR petitions thus cover all but one of YMTC's Asserted Patents[1] and challenge 202 of YMTC's 232 asserted claims. Given Micron's high rate of institution success in the first wave of IPR petitions, the pending petitions' reliance on prior art not before the PTAB during YMTC's original prosecution of the asserted patents, and the PTAB statistics indicating an institution rate of

[1] YMTC has filed IPR petitions challenging all asserted claims of Micron's two asserted patents. Neither IPR has been instituted. Should the Court stay this case pending the IPR and PGR proceedings against the YMTC's Asserted Patents, Micron would stipulate to a stay of its patent infringement counterclaims pending IPR proceedings against Micron's Asserted Patents.

68%, Micron expects most, if not all, of the pending petitions to be instituted in the coming months. Lang Decl., ¶8, Ex. 1 at 6 (PTAB Trial Statistics 2024).[2] Further, given the PTAB's 78%[3] cancellation rate of challenged claims from instituted petitions that are adjudicated in a final written decision, Micron expects a large percentage of YMTC's asserted claims to be invalidated. *Id.* at 12.

Although the PTAB has yet to render institution decisions on all of Micron's petitions, given that it already instituted a significant number and the likelihood that many of the claims challenged by the instituted and pending petitions will be canceled, a stay of the entire case is warranted. In evaluating whether a stay is appropriate, courts consider whether "the litigation is at an early stage," whether "a stay will simplify the issues in question" and whether "a stay would unduly prejudice… the nonmoving party." *Zomm, LLC v. Apple Inc.*, 391 F. Supp. 3d 946, 955-57 (N.D. Cal. 2019). All three factors favor a stay. ***First***, discovery is in its early stages and the trial date is 17 months away. There have been no depositions, no claim construction briefs, no claim construction hearing, no expert reports, no expert discovery, no dispositive motions, and the parties are in the midst of meeting and conferring and exchanging additional joint letter brief inserts in connection with discovery disputes. A stay will allow the parties and the Court to avoid much of this work if the PTAB invalidates even a subset of YMTC's asserted claims. ***Second***, a stay at this juncture will simplify or eliminate certain infringement, invalidity, claim construction, inventorship, and damages issues related to invalidated claims. For example, a stay will preserve the Court's resources by eliminating the need to construe terms in invalidated claims, and for any claims that survive, the parties and the Court will have the benefit of the intrinsic record developed during IPR and PGR proceedings in any further claim construction proceedings. This is true even if the IPR or PGR petitions are not instituted as to some patents because 20 of the 21 asserted patents relate to 3D NAND technology, have similar claim terms, and are asserted against overlapping accused products. *Google LLC v. EcoFactor, Inc.*, No. 21-cv-03220-HSG, 2022 WL 6837715, at *2 (N.D.

[2] The PTAB published trial statistics for 1,288 petitions—1,250 IPR petitions and 38 PGR petitions.

[3] The PTAB has issued final written decisions on over 6,891 claims across 1,250 petitions for IPR and 38 petitions for PGR in its 2024 fiscal year and found that 5,400 (or 78%) of those claims are unpatentable.

Cal. Oct. 11, 2022) (PTAB's review of the three asserted patents will simplify issues even for a fourth patent on which the PTAB denied institution because "the overlap of claims and subject matter between the instituted patents and the [denied] patent" "weighs strongly in favor of a stay"). Moreover, Micron has stipulated that it will be estopped from asserting in district court any invalidity grounds in instituted IPR proceedings and if YMTC prevails, Micron will not be able to assert in district court "any ground that [Micron] raised or reasonably could have raised during that inter partes review." 35 U.S.C. § 315(e)(2); Lang Decl. ¶7. Thus, regardless of whether Micron prevails at the PTAB, the case will be simplified through the IPRs. ***Third***, YMTC will not be prejudiced, let alone unduly prejudiced, by a stay. YMTC represented to this Court that it does not sell 3D NAND products in the United States because of its status on the "Entity List." Further, in unsuccessfully opposing consolidation, YMTC's only purported prejudice was delay, but delay "without more … does not demonstrate undue prejudice." Dkt. 98 at 12-13; *Rsch. in Motion Ltd. v. Visto Corp.,* 545 F. Supp. 2d 1011, 1012 (N.D. Cal. 2008).

Accordingly, Micron respectfully requests that the Court stay this case pending resolution of IPR/PGR proceedings against YMTC's Asserted Patents.

II. STATEMENT OF ISSUES TO BE DECIDED

Given that there are pending or instituted IPR/PGR proceedings for all but one patent-in-suit, and that allowing PTAB proceedings to conclude will likely simplify issues and promote judicial economy by avoiding duplicative and time-consuming work, should this case be stayed pending the resolution of the pending and instituted IPR/PGR proceedings?

III. STATEMENT OF FACTS

A. Micron Expeditiously Filed Petitions For IPR And PGR

YMTC initiated this suit against Micron on November 9, 2023 ("YMTC 1"), alleging that Micron's 3D NAND memory products infringe eight YMTC patents[4] directed to 3D NAND technology. Dkt. 1. In response, Micron filed 12 petitions for IPR challenging all the asserted

[4] U.S. Pat. Nos. 10,950,623 (the "'623 Patent"), 11,501,822 (the "'822 Patent"), 10,658,378 (the "'378 Patent"), 10,937,806 (the "'806 Patent"), 10,861,872 (the "'872 Patent"), 11,468,957 (the "'957 Patent"), 11,600,342 (the "'342 Patent"), and 10,868,031 (the "'031 Patent") (collectively the "YMTC 1 Patents")

claims of the YMTC 1 Patents in April and May 2024. Lang Decl. ¶3.

On July 12, 2024, YMTC filed a second complaint against Micron ("YMTC 2"), alleging that the same Micron 3D NAND products at issue in YMTC 1 infringe ten more YMTC patents directed to 3D NAND technology, and that one of Micron's LPDDR5 DRAM products infringes a generic circuit patent related to an electrostatic discharge ("ESD") bus.[5] The Court consolidated the two cases on August 21, 2024. Dkt. 106. Thereafter YMTC filed a motion to sever Micron's counterclaims from the case. The Court denied the motion, noting the case is at an "early juncture." Dkt. 146. Micron then timely filed its most recent amended pleading on October 31, 2024, Dkt. 170, which YMTC moved to dismiss and strike in part. A hearing on the motion is scheduled for March 4, 2025. Dkt. 196. Thus, the pleadings are not yet closed.

Meanwhile, Micron filed petitions for IPR and PGR on all 11 YMTC 2 Patents. Between October and January 2025, Micron filed 12 petitions for IPR and one petition for PGR on 156 of the 167 claims of the YMTC 2 Patents asserted in this case. Lang Decl. ¶¶5-6.

B. All But One Patent-In-Suit Is Subject To An Instituted Or Pending IPR/PGR

Micron filed 12 IPR petitions, challenging claims of all YMTC 1 Asserted Patents, and thus far, the PTAB has instituted nine[6] of those IPRs on seven of the eight YMTC 1 Asserted Patents. Lang Decl. ¶¶3-4. Given that the PTAB only institutes IPR proceedings upon a showing that "there is a reasonable likelihood that the petitioner would prevail" in invalidating a challenged claim (35 U.S.C. § 314(a)), that the instituted petitions relied on prior art not before the PTAB during original patent prosecution, and that the PTAB cancels 78% of challenged claims addressed in final written decisions, Micron expects that most of the challenged claims in instituted petitions will be

[5] U.S. Pat. Nos. 10,879,254 (the "'254 Patent"), 11,581,322 (the "'322 Patent"), 10,886,291 (the "'291 Patent"), 11,482,532 (the "'532 Patent"), 11,145,666 (the "'666 Patent"), 11,450,604 (the "'604 Patent"), 10,672,711 (the "'711 Patent"), 11,101,276 (the "'276 Patent"), 11,568,941 (the "'941 Patent"), and 12,010,838 (the "'838 Patent") are directed to 3D NAND technology and U.S. Pat. No. 10,879,164 (the "'164 Patent") is directed to ESD bus circuitry (collectively the "YMTC 2 Patents")

[6] The PTAB declined institution of three petitions: two covering the '342 Patent, and one covering the '872 Patent (for which Micron also filed two petitions). On December 31, 2024, Micron moved for a rehearing on both denied petitions challenging the '342 Patent and on January 9, 2025, Micron moved for a rehearing on the denied petition challenging the '872 Patent.

invalidated. *See* Lang Decl., ¶8, Ex. 1 at 12 (PTAB Trial Statistics 2024). The 13 petitions[7] for IPR and PGR that Micron filed on the YMTC 2 Patents are pending and institution decisions are expected between May to July. Lang Decl. ¶5. Given Micron's success in securing institution of IPR proceedings on the YMTC 1 Patents, and the pending petitions' reliance on prior art not before the PTAB during prosecution, Micron expects most, if not all, of the pending petitions on the YMTC 2 Patents will be instituted. *See* Lang Decl., ¶8, Ex. 1 at 6 (PTAB Trial Statistics 2024) (68% of IPRs were instituted in 2024).

Micron's instituted IPRs and pending IPR/PGR petitions currently challenge the validity of 202 of YMTC's 232 asserted claims. There are substantial similarities between the patents subject to instituted IPRs and the other patents. For example, except for the '164 Patent (directed to ESD circuitry), the patents-in-suit are all directed to 3D NAND technology, and YMTC's patents are asserted against overlapping Micron Accused Products. *See* Dkt. 106 (consolidation order acknowledges "the overlap in the accused products and claim terms" between instituted IPRs on YMTC 1 patents and pending petitions on YMTC 2 patents). Furthermore, some of Micron's inventorship counterclaims and defenses may be mooted depending on the outcome of instituted (and pending) IPRs.

IV. LEGAL STANDARD

This Court has the inherent power to manage its own docket, including the power to stay this case pending the resolution of IPR and PGR proceedings. *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1426-27 (Fed. Cir. 1988). For the purposes of a motion to stay, IPR and PGR proceedings are analyzed no differently under the three stay factors. *Columbia Ins. Co. v. Simpson Strong-Tie Co., Inc.*, 703 F. Supp. 3d 1007, 1013 (N.D. Cal. 2023) (motion to stay granted "pending … the PTAB's PGR institution decision" under the same three stay factors). "Courts in this district have often recognized a liberal policy in favor of granting motions to stay pending IPR." *Regents of Univ. of Mich. v. Novartis Pharm. Corp.*, No. 22-cv-04913-AMO, 2023 WL 6795971 at *1 (N.D. Cal. Oct. 12, 2023) (citation omitted); *see also Murata Machinery USA v. Daifuku Co., Ltd.*, 830

[7] Micron filed an IPR petition on the '838 Patent but is terminating it and replacing it with a substantively identical PGR petition.

F.3d 1357, 1361 (Fed. Cir. 2016). In light of this liberal policy, stays are frequently granted in this district "pending [IPR] *prior* to the PTO deciding to [review] the patent" to "avoid needless waste of judicial resources." *PersonalWeb Techs., LLC v. Apple Inc.,* 69 F. Supp. 3d 1022, 1027 (N.D. Cal. 2014) (citations omitted) (emphasis added); *see also Regents of Univ. of Mich.,* 2023 WL 6795971, at *1 (stay granted pre-institution); *Dialect LLC v. Google, LLC*, No. 24-cv-04388-JSC, 2024 WL 4314206 at *2 (N.D. Cal. Sept. 26, 2024) (stay granted pre-institution); *Cortex MCP, Inc. v. Visa, Inc.*, No. 5:23-cv-05720-EJD, 2024 WL 3511637 at *1 (N.D. Cal. July 22, 2024) (stay granted pre-institution); *Apple Inc. v. AliveCor, Inc.*, No. 22-cv-07608-HSG, 2023 WL 9187388 at *1 (N.D. Cal. Dec. 29, 2023) (stay granted pre-institution); *Topia Tech., Inc. v. Dropbox Inc.*, No. 23-CV-00062-JSC, 2023 WL 3437823 at *1 (N.D. Cal. May 12, 2023) (stay granted pre-institution).

A stay pending IPR and PGR proceedings, including a stay pre-institution, can simplify the case, develop the intrinsic record for claim construction, and avoid inconsistent results. *See Grobler v. Apple Inc.*, No. 12-cv-01534-JST, Dkt. No. 67 at 1 (N.D. Cal. June 6, 2013) (Lang Decl., ¶9, Ex. 2) (a stay is appropriate "pending the USPTO's decision as to whether to grant or deny [a] petition for inter partes review" "given that the claim construction process is imminent and the [USPTO's] decision [whether to institute the IPR proceeding] ... will add to the intrinsic record"); *Aylus Networks, Inc. v. Apple Inc.*, 856 F.3d 1353, 1362 (Fed. Cir. 2017) ("[S]tatements made by a patent owner during an IPR proceeding, whether before or after an institution decision, can be considered for claim construction and relied upon to support a finding of prosecution disclaimer.").

In determining whether a stay is appropriate, courts consider three factors: "(1) whether discovery is complete and whether a trial date has been set; (2) whether a stay will simplify the issues in question and trial of the case; and (3) whether a stay would unduly prejudice or present a clear tactical disadvantage to the non-moving party." *Zomm*, 391 F. Supp. 3d at 955-96.

V. THE COURT SHOULD STAY THIS CASE PENDING RESOLUTION OF THE PTAB PROCEEDINGS

All three stay factors weigh heavily in favor of staying the case until final resolution of PTAB proceedings challenging YMTC's Asserted Patents.

A. A Stay Is Appropriate Given The Early Stage Of This Litigation

Because this case is still in its early stages, the first factor strongly favors a stay. Courts consider the progress already made in the case, such as the completion of discovery, the setting of a trial date, and whether claim construction has occurred. *Universal Elecs., Inc. v. Universal Remote Control, Inc.*, 943 F. Supp. 2d 1028, 1031 (C.D. Cal. 2013); *see also Internet Patents Corp. v. eBags, Inc.,* No. C 12-03385-SBA, 2013 WL 4609533 at *2 (N.D. Cal. Aug. 28, 2013) ("There is a liberal policy in favor of granting motions to stay proceedings pending [IPR] of a patent, especially in cases that are still in the initial stages of litigation and where there has been little or no discovery."). Staying a case in its early stages, where claim construction has not occurred and discovery is still underway, will allow the parties and the Court to "obtain guidance from the PTAB" in determining patent invalidity and "avoid needless waste of judicial resources" by removing unpatentable claims from the case. *PersonalWeb Techs.,* 69 F. Supp. 3d at 1027 (citations omitted).

Although YMTC filed its initial lawsuit against Micron a little over a year ago, the parties have "barely begun to address the merits of [the] claims" and instead have engaged in a series of procedural and administrative disputes. *Uniloc USA Inc. v. LG Elecs. U.S.A. Inc.*, No. 18-cv-06737-JST, 2019 WL 1905161, at *3 (N.D. Cal. Apr. 29, 2019). YMTC filed the YMTC 2 Complaint shortly after Micron filed IPR petitions against all the YMTC 1 patents. It then opposed consolidation of the related YMTC 1 and YMTC 2 actions, sought severance of Micron's counterclaims, and filed multiple pleading stage motions. The Court ordered consolidation of YMTC 1 and YMTC 2 just five months ago (Dkt. 106) and denied YMTC's request to sever just over three months ago (Dkt. 146). Micron filed its Amended Answer and Counterclaims on October 31, 2024 (Dkt. 170), and this Court is due to hear YMTC's Motion to Dismiss and Strike portions of that pleading on March 4, 2025. Dkt. 196. The pleadings are not yet closed. In light of this motion practice, the case is still at an early stage. *See Droplets, Inc. v. Yahoo! Inc.,* No. 12-cv-03733-JST, 2013 WL 5116002, at *1 (N.D. Cal. Sept. 13, 2013) (case is early stage even though it "ha[d] been pending for two years" due to extensive "procedural motion practice").

Discovery remains in its early stages as well. YMTC is a listed entity on the U.S.

Department of Commerce's Entity List, which means the Bureau of Industry and Security ("BIS") requires "extra due diligence" before sensitive information may be transferred to parties affiliated with Entity Listed entities, including agents of such entities such as their counsel. *See* BIS, Entity List FAQs[8]; 15 C.F.R. § 744.11(c)(2) (referring to prohibitions and license requirements when there is an "unacceptable risk that the party is acting as an agent" for an Entity Listed entity). As a result, the parties had to negotiate appropriate protective order provisions and ultimately engaged in motion practice, including over YMTC's insistence that Micron review its source code materials in China. A protective order was not entered until June 2024, and YMTC did not make any source code materials available for inspection until August 19, 2024. YMTC also has yet to comply in full with Judge Hixson's October 18, 2024 Discovery Order requiring production of various categories of discovery, and the parties are engaged in further meet and confer efforts as a result. Dkt. 163 (compelling YMTC to provide discovery on U.S. activity, worldwide sales, and the named inventors on the YMTC Asserted Patents). The parties have not noticed or taken any depositions, and they are still meeting and conferring over the scope of discovery requests, collecting responsive documents for production, and exchanging portions of joint letter briefs regarding outstanding disputes. The parties have not engaged in extensive claim construction work yet, with opening claim construction briefs not due until March 17, 2025 and the *Markman* hearing not scheduled until April 24, 2025. Fact discovery does not close until August 26, 2025. Dkt. 141. Although this Court has set a trial date, that date is a year and half away, in June 2026. *Id.*

Courts routinely stay cases that are much further along than this case. *See, e.g., PersonalWeb Techs.,* 69 F. Supp. 3d at 1025 (stay granted after claim construction was fully briefed); *TAS Energy, Inc. v. San Diego Gas & Elec. Co.*, No. 12cv2777-GPC (BGS), 2014 WL 794215, at *3 (S.D. Cal. Feb. 26, 2014) (stay granted after claim construction briefs were exchanged because "significant amount of work still remains such as expert discovery, summary judgment motions and trial"). Because significant work, such as claim construction, depositions, expert discovery, summary judgment motions, and trial, remains to be done, the early stage of

[8] *See* https://www.bis.doc.gov/index.php/policy-guidance/faqs#faq_134 ("Do the license requirements and policies of the Entity List apply to separately incorporated subsidiaries, partially owned subsidiaries, or sister companies of a listed entity?").

litigation weighs in favor of a stay. *See DSS Tech. Mgmt., Inc. v. Apple, Inc.*, No. 14-cv-05330-HSG, 2015 WL 1967878, at *2 (N.D. Cal. May 1, 2015) ("Although the parties have conducted some discovery, significant work remains to be done ... no expert discovery has been conducted, no substantive motions have been filed … and the Court has not issued a claim construction order."). This factor favors a stay while the PTAB reviews, and likely invalidates, claims that YMTC is asserting in this lawsuit.

B. A Stay Will Simplify And Streamline This Case

A stay will dramatically simplify this case for a number of reasons.

First, Micron's instituted IPRs and pending IPR/PGR petitions challenge 18 of the 19 YMTC Asserted Patents and 202 of the 232 asserted claims in this case. Thus, these PTAB proceedings will very likely narrow or moot a significant number of infringement, validity, and claim construction issues in this case. *See Evolutionary Intell. LLC v. Yelp Inc.*, No. 13-cv-03587-DMR, 2013 WL 6672451, at *6 (N.D. Cal. Dec. 18, 2013) ("[I]f the PTAB cancels all of the asserted claims of the Asserted Patents, this action will be rendered moot. Should the PTAB cancel or narrow *any* of the asserted claims of the Asserted Patents, the scope of this litigation may be significantly simplified."). The Patent Office already has instituted IPRs on seven of the patents-in-suit (Lang Decl., ¶3), and the PTAB's own statistics indicate that, in final written decisions, 78% of instituted claims are invalidated. Lang Decl., ¶8, Ex. 1 at 12 (PTAB Trial Statistics 2024). It is highly likely that many of the 232 asserted claims in this case—and especially the 65 claims of the patents-in-suit for which the PTAB already instituted IPR—will be invalidated. Even if some claims survive, the likelihood of significant simplification is high. *Software Rights Archive, LLC v. Facebook, Inc.*, No. 12-cv-3970-RMW, 2013 WL 5225522, at *5 (N.D. Cal. Sept. 17, 2013) ("Even if these claims are not all cancelled, the IPR could encourage settlement or lead to amendments to the claims, which could create intervening rights and limit potential damages."). Litigating this case in parallel with the IPR/PGR proceedings would likely result in the Court and the parties expending a large amount of wasted time and effort.

Second, the PTAB will develop the intrinsic record of the patents by addressing the meaning of the challenged claims as applied to prior art under the same *Phillips* claim construction

standard as this Court. This is true whether or not the PTAB ultimately institutes the proceedings. *See* Lang Decl., ¶9, Ex. 2 at 1 (*Grobler v. Apple, Inc. Slip Opinion)* ("[A] temporary stay of this action pending the USPTO's decision as to whether to grant or deny [a] petition for inter partes review is appropriate given that the claim construction process is imminent and the [USPTO's] decision [whether to institute the IPR proceeding] ... will add to the intrinsic record."); *Aylus Networks,* 856 F.3d at 1362 ("[S]tatements made by a patent owner during an IPR proceeding, whether before or after an institution decision, can be considered for claim construction and relied upon to support a finding of prosecution disclaimer."). The PTAB's guidance on these issues will impact issues of claim construction, invalidity, and infringement in this case.

A stay at this juncture also will avoid "needless waste of judicial resources" related to claim construction. *PersonalWeb Techs.,* 69 F. Supp.3d at 1027. Since a patent owner's statements "during an IPR proceeding, whether before or after an institution decision," can be considered for claim construction, and 18 of the 19 YMTC Asserted Patents are subject to instituted or pending IPR proceedings, the parties will add to the intrinsic record in the coming months. *Aylus Networks*, 856 F.3d at 1362. The development of this intrinsic record may require that the Court reconsider any claim construction rulings issued before the PTAB proceedings are completed. *Wonderland Nursery Goods Co. v. Baby Trend, Inc.*, No. 14-cv-01153-VAP, 2015 WL 1809309, at *3 (C.D. Cal. Apr. 20, 2015) ("refusing a stay incurs the risk that developments in the IPR proceedings, if they are instituted, will necessitate reconsideration of the Court's claim construction order or render certain claim construction disputes moot after the court has already construed the claims."). The parties have already developed the intrinsic record for the construction of the term "dummy source structures" in the '872 Patent. Both parties have proposed constructions for "dummy source structures" in this case (Lang Decl., ¶10, Ex. 3 (Micron's 1/8 Preliminary Constructions), Lang Decl., ¶11, Ex. 4 (YMTC's 1/8 Preliminary Constructions)), but they also filed statements with the PTAB on the construction of this term pre-institution, leading the PTAB to issue a preliminary construction for purposes of institution. Lang Decl. ¶12, Ex. 5. The PTAB ultimately instituted Micron's petition challenging the claims of the '872 Patent and that proceeding will further develop the intrinsic record on this patent and this term. *Id.* The PTAB will likely consider the construction

of other terms that the parties have identified for construction. Micron currently identifies 15 terms for construction in this case, eight of which are found in the patents subject to instituted IPRs and seven of which are in patents subject to pending petitions. Lang Decl., ¶10, Ex. 3 (Micron's 1/8 Preliminary Constructions). YMTC currently identifies five terms for construction. Lang Decl., ¶11, Ex. 4 (YMTC's 1/8 Preliminary Constructions). Two of those terms are found in patents subject to instituted IPRs and the other three are in patents subject to pending petitions. Thus, there is significant risk that the parties will make further representations before the PTAB that will develop the intrinsic record of these patents-in-suit, and may "necessitate reconsideration of the Court's claim construction order."[9] *Wonderland Nursery Goods*, 2015 WL 1809309, at *3.

Third, if Micron prevails in an IPR, asserted claims in this case will be rendered invalid and the case will be simplified. Even if Micron loses in an IPR in a Final Written Decision, Micron will not be able to assert in district court "any ground that [Micron] raised or reasonably could have raised during that inter partes review." 35 U.S.C. § 315(e)(2). This strongly weighs in favor a stay. *Evolutionary Intell., LLC v. Facebook, Inc.*, No. C 13-4202 SI, 2014 WL 261837, at *2 (N.D. Cal. Jan. 23, 2014) (finding that a stay was appropriate "because [Petitioner] would be bound by the estoppel provisions for inter partes review…[pursuant to]…35 U.S.C. § 315(e)(2).")

Fourth, the instituted IPRs against the '378, '806, '031, and '957 Patents may moot several unique issues that would require the parties and Court to expend considerable time and resources. Specifically, should the PTAB determine that the asserted claims of these patents are invalid, this would moot several of Micron's defenses and counterclaims on these patents. *See* Dkt. 170, (Defenses) ¶¶ 18-20, 25-28; *id.*, (Amended Counterclaims) ¶¶ 72-87. Furthermore, the '031 and '957 patents name inventors who are former Micron employees and who will be important witnesses in Micron's inventorship counterclaims and defenses.[10] Finally, the '957 Patent is the only patent against which Micron raised Micron's 130 Series Products and 140 Series Products as invalidating prior art. Thus, the unique issues regarding these patents, which are already in

[9] The PTAB will be issuing institution decisions from now until at least July.

[10] Specifically, Jun Liu and Changhyun Lee are former Micron employees and named inventors on only the '031 and '957 Patents, respectively.

instituted IPRs, may very likely become irrelevant should the Patent Office invalidate some or all of the asserted claims.

Finally, the significant potential for simplification and streamlining exists even if not all IPR/PGRs are instituted given the overlap in patented technology and accused products. The patents subject to instituted IPRs cover nearly the same technology as other patents that are not now—but may soon be—challenged in instituted IPR proceedings. For example, the '378, '872, '031, '806, and '623 Patents are all in instituted IPR proceedings and relate to 3D NAND staircase structures. At least the '666, '604, '711, '276, and '838 Patents, which are the subject of pending IPR/PGR petitions, also relate to the same technology and structures. As a further example, the '957 and '822 Patents are in instituted IPRs and relate to the operation of 3D NAND memory. At least the '941 Patent, which is subject to a pending IPR petition, is also directed, at least in part, to the operation of 3D NAND memory. Finally, both the '378 and '806 Patents are in instituted IPRs, and both are titled "Through Array Contact (TAC) For Three-Dimensional Memory Devices." The subject matter of these two patents directly overlaps with the '254 and '322 Patents, which are subject to pending IPR petitions and which are titled "Three-Dimensional Memory Devices Having Through Array Contacts and Methods for Forming the Same." *See* '254 Patent, 1:22-24; '322 Patent, 1:26-28. Further, YMTC accuses nearly all the Micron 128L, 176L, and 232L 3D NAND accused products of infringing both the patents subject to instituted IPRs as well as the remaining Asserted Patents. Given this overlap, staying the case is warranted because "there are overlapping issues between the [instituted] patents and other [non-instituted] patents-in-suit [which] … will simplify discovery, claim construction proceedings, and trial." *Finjan v. FireEye, Inc.*, No: C13-03133 SBA, 2014 WL 2465267 at *4 (N.D. Cal. June 2, 2014) (litigating the case as to only the non-instituted patents "in such a piecemeal fashion will result in duplicative discovery and require the time and expense of educating a judge and jury twice on similar technology").

The simplification promised by the IPR proceedings strongly favors a stay.

C. YMTC Will Not Be Prejudiced, Let Alone Unduly Prejudiced

YMTC cannot credibly claim that it would suffer any ***actual*** prejudice, let alone ***undue*** prejudice, from a stay. "Courts have repeatedly found no undue prejudice unless the patentee makes

a specific showing of prejudice beyond the delay necessarily inherent in any stay." *PersonalWeb Techs.,* 69 F. Supp. 3d at 1029. Courts consider four subfactors when evaluating undue prejudice: "(1) the timing of the IPR petition; (2) the timing of the stay request; (3) the status of review; and (4) the relationship of the parties." *Zomm*, 391 F. Supp. 3d at 957. None of these subfactors supports a claim of prejudice.

First, the timing of the IPR/PGR petitions weigh in favor of a stay. Micron filed IPR/PGR petitions on the Asserted Patents "as soon as practically possible." *Zomm*, 391 F. Supp. 3d at 957. Micron diligently filed twelve IPR petitions on all of the YMTC 1 Asserted Patents within six months of YMTC filing the YMTC 1 Complaint.[11] Dkt. 1, Lang Decl. ¶3. Micron then diligently filed 12 IPR petitions and one PGR petition on all of the YMTC 2 Asserted Patents within six months of YMTC filing the YMTC 2 Complaint.[12] *Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc., et al.*, No. 3:23-cv-05792-RFL (YMTC 2), Dkt. 1; Lang Decl. ¶5. These IPR/PGR petitions against the YMTC 1 and YMTC 2 patents were all filed well "within the statutory time frame," so there can be no undue prejudice "resulting from the IPR petitioners exercising their statutory rights." *DSS Tech. Mgmt.,* 2015 WL 1967878 at *4.

By contrast, YMTC has not pursued its own patent claims with any sense of urgency. Many of the YMTC Asserted Patents issued years before YMTC ultimately filed the YMTC 1 and YMTC 2 complaints, yet YMTC delayed for years before asserting them. The Federal Circuit has noted that a delay of a "nearly a year" or more between issuance of a patent and date of the suit "weigh[s] against [patentee's] claims that it will be unduly prejudiced by a stay." *VirtualAgility Inc. v. Salesforce.com, Inc.,* 759 F.3d 1307, 1319 (Fed. Cir. 2014). Fourteen of the 19 YMTC Asserted Patents were issued at least a year before YMTC filed its YMTC 1 Complaint in November 2023, and 18 of the 19 YMTC Asserted Patents were issued at least a year before YMTC filed its YMTC 2 Complaint in July 2024. Indeed, YMTC could have asserted 10 of the 11 YMTC 2 patents at the

[11] Micron filed its first IPR petition on the YMTC 1 patents on April 11, 2024, and filed its twelfth and final IPR petition on the YMTC 1 patents on May 19, 2024.

[12] Micron filed its first IPR petition on the YMTC 2 patents on October 11, 2024, and filed its 12th and final IPR petition on the YMTC 2 patents on December 31, 2024. Micron filed its PGR petition on the '838 Patent on January 6, 2025.

time it filed the YMTC 1 Complaint, but it chose not to do so. Instead, it waited another eight months after filing the YMTC 1 complaint to file the YMTC 2 complaint. Micron's diligence and YMTC's delay strongly weigh against any prejudice to YMTC.

Second, the timing of this motion weighs in favor of a stay. Micron is filing this Motion within four months of the first instituted petition[13] and within ten days after filing its last PGR petition. Lang Decl. ¶¶3, 5. Micron's diligence strongly weighs against any prejudice.

Third, the status of review—particularly where the PTAB already has instituted nine IPRs—weighs in favor of a stay. The PTAB instituted review on 61 of 65 asserted claims of seven of the eight YMTC 1 patents and will be rendering institution decisions on Micron's IPR/PGR petitions filed on the YMTC 2 patents starting in May, shortly after the *Markman* hearing currently scheduled for April 24, 2025. Dkt. 141. Although the PTAB denied institution of IPR on the '342 Patent, that is the only patent not subject to any instituted IPR proceedings or pending IPR/PGR petitions, and Micron has moved for a rehearing on the PTAB's non-institution decision. Lang Decl. ¶3. Nonetheless, courts routinely find that non-instituted IPRs and denied IPRs minimally weigh against a stay when the "stay will simplify discovery, claim construction proceedings, and trial." *Supra V.B*; *Finjan,* 2014 WL 2465267, at *4-5 (N.D. Cal. June 2, 2014); *Jenam Tech., LLC v. Google, LLC*, No. 21-cv-07994-JST, 2022 WL 20275184 at *3-5 (N.D. Cal. Mar. 28, 2022) (stay is granted on patents subject to both instituted and non-instituted IPR proceedings because "overlapping issues between the [instituted and non-instituted] patents" such as "substantial similarities in both disputed claim terms and features" will simplify the entire litigation); *see also Symantec Corp. v. Zscaler, Inc.*, No. 17-cv-04426-JST, 2018 WL 3539267, at *2 (N.D. Cal. July 23, 2018) (that the "PTAB instituted review for some, but not all of Symantec's asserted claims" does not weigh against a stay). This subfactor weighs against any prejudice.

Fourth, YMTC represented to this Court that it is not selling any 3D NAND products in the U.S. due to its status on the "Entity List." *See* Dkt. No. 53 (YMTC's Reply in Support of YMTC's Motion To Dismiss Counterclaims) at 1, 3 n.4. YMTC's representation that it is not

[13] The PTAB granted institution on October 9, 2024, for the '822 Patent petition, which was also the first IPR that Micron filed.

competing with Micron in the U.S. further undermines any claim of prejudice. *Id.* at 1. YMTC cannot point to any loss of market share or lost sales to Micron that could result from a stay. Therefore YMTC "does not risk irreparable harm by [Micron's] continued use of the accused technology and can be fully restored to the status quo ante with monetary relief." *Software Rights Archive*, 2013 WL 5225522, at *6. While YMTC stated that a delay will prejudice its "timely enforcement of its right[s]" in its opposing consolidation (Opp. to Mtn. to Consolidate (Dkt. 98) at 12), "the plaintiff in every patent infringement action asserts such an interest…[to] timely enforce[] its patent rights." *DSS Tech. Mgmt.,* 2015 WL 1967878 at *4. This subfactor strongly weighs against any prejudice.

VI. CONCLUSION

For the foregoing reasons, Micron respectfully requests that the Court stay the action pending resolution of the IPR and PGR proceedings challenging the YMTC Asserted Patents.

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ORRICK, HERRINGTON & SUTCLIFFE LLP

By: */s/ Jared Bobrow*
Jared Bobrow
Attorneys for Defendant and Counterclaim Plaintiff Micron Technology, Inc., and Defendant Micron Consumer Products Group, LLC