

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE OFFICE OF THE UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND DIRECTOR OF THE
UNITED STATES PATENT AND TRADEMARK OFFICE

YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD.,
Petitioner,

v.

MICRON TECHNOLOGY, INC.,
Patent Owner.

IPR2025-00098 (Patent 8,945,996 B2)
IPR2025-00099 (Patent 10,872,903 B2)¹

Before MICHELLE N. ANKENBRAND,² *Senior Lead Administrative
Patent Judge, performing the duties of Director Review Executive.*

ORDER
Granting Director Review

¹ This Order applies to each of the above-listed cases. All citations are to IPR2025-00098. Similar papers and exhibits were filed in all IPR2025-00099.

² Coke Morgan Stewart, Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office, is recused and took no part in this decision. The Acting Director delegated her authority in a Notice of Delegation entered in this case. See Paper 19.

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Micron Technology, Inc. (“Patent Owner”) filed a request for Director Review of the Decision granting institution (“Decision,” Paper 15), and Yangtze Memory Technologies Company, Ltd. (“Petitioner”) filed an authorized response. *See* Paper 17 (“DR Request”); Paper 18. Patent Owner argues that the Board erred in instituting for three reasons: (1) Petitioner is an entity controlled by a foreign sovereign and, therefore, is not a statutorily authorized “person” eligible to file an *inter partes* review (“IPR”) under the Supreme Court’s ruling in *Return Mail, Inc. v. United States Postal Service*, 587 U.S. 618 (2019); (2) Petitioner failed to identify all real parties-in-interest (“RPIs”) as required under 35 U.S.C. § 312(a); and (3) the Board should have discretionarily denied review based on control that the foreign sovereign has over Petitioner. DR Request 4–9.

In granting institution, the Board addressed each of Patent Owner’s arguments. As to Patent Owner’s *Return Mail* argument, the Board was not persuaded that the decision applies to these IPRs, because *Return Mail* addressed whether a U.S. federal agency is a “person” able to petition for post-grant reviews and the alleged sovereign in these IPRs—the Chinese government—is a foreign country, not a U.S. federal agency. Decision 16–19. The Board also declined to extend *Return Mail* to exclude a company, even if that “company were under the control of a foreign government.” *Id.* at 17.

As to Patent Owner’s argument that Petitioner failed to name the Chinese government as an RPI, the Board found that even if the Chinese government was an unnamed RPI, Patent Owner did not show that Petitioner’s failure to name it as an RPI requires denying institution because no “statutory bar or other estoppel would apply” to the Chinese government

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and resolving the RPI issue would not “impact the underlying proceeding.”
Decision 19–21 (citing *SharkNinja Operating LLC v. iRobot Corp.*,
IPR2020-00734, Paper 11, 18 (PTAB Oct. 6, 2020) (precedential)
(additional citation omitted)).

As to Patent Owner’s argument that the Board should discretionarily
deny institution based on the Chinese government’s control over Petitioner
and these Petitions, the Board declined to exercise its discretion to deny
institution where no statutory bar under 35 U.S.C. § 315(b) applies to a
foreign sovereign. Decision 22–23.

After reviewing the Board’s Decision and the relevant papers,
Director Review is appropriate to reconsider the Board’s decisions to
institute in view of the novel issues presented in these IPRs. The cases shall
be stayed until further notice, and an opinion will issue in due course.

Accordingly, based on the foregoing, it is

ORDERED that Director Review is granted;

FURTHER ORDERED that these IPRs are stayed until further notice;

and

FURTHER ORDERED that an opinion will issue in due course.

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