

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD.

Petitioner,

v.

MICRON TECHNOLOGY, INC.

Patent Owner.

Case IPR2025-00099

U.S. Patent No. 10,872,903

AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST

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EXHIBIT LIST

Exhibit No.	DESCRIPTION
1001	U.S. Patent No. 10,872,903 (“’903”)
1002	File History of U.S. Patent Application No. 16/716,177 (“’903FH”)
1003	Declaration of Dr. Kelin Kuhn in Support of Petition for <i>Inter Partes</i> Review of U.S. Patent No. 10,872,903 (“Kuhn”)
1004	Certified Translation of Korean Patent Application Publication No. 10-2010-0034612 (“Ahn”)
1005	Korean Patent Application Publication No. 10-2010-0034612
1006	U.S. Patent Application Publication No. 2009/0146190 (“Fukuzumi”)
1007	U.S. Patent Application Publication No. 2009/0283819 (“Ishikawa”)
1008	U.S. Patent No. 5,596,523 (“Endoh”)
1009	U.S. Patent No. 6,765,825 (“Scott”)
1010	U.S. Patent Application Publication No. 2010/0240205 (“Son”)
1011	U.S. Patent Application Publication No. 2009/0242967 (“Katsumata”)
1012	U.S. Patent Application Publication No. 2009/0310425 (“Sim”)
1013	U.S. Patent Application Publication No. 2010/0019310 (“Sakamoto”)
1014	Joint Claim Construction and Prehearing Statement (Patent Local Rule 4-3), <i>Yangtze Memory Technologies Co. Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC.</i> , No. 3:23-cv-05792-RFL, D.I. 105 (N.D. Cal. August 19, 2024)
1015	“Extended Data Retention Process Technology for Highly Reliable Flash EEPROMs of 10 ⁶ to 10 ⁷ W/E Cycles” by F. Arai et al. (1998)

Exhibit No.	DESCRIPTION
1016	“A High-Endurance (>100K) BE-SONOS NAND Flash With a Robust Nitrided Tunnel Oxide/Si Interface” by S. Wang et al. (2010)
1017	“Flash Memory Reliability NEPP 2008 Task Final Report” by Y. Chen (2009)
1018	Counterclaim Plaintiff Micron Technology’s Disclosure of Asserted Claims and Infringement Contentions and Document Production Accompanying Disclosure (Patent Local Rules 3-1 and 3-2), <i>Yangtze Memory Technologies Co. Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC.</i> , No. 3:23-cv-05792- RFL (N.D. Cal.)
1019	U.S. Patent Application Publication No. 2008/0116441A1 (Raghuram)
1020	“Growth characteristics and electrical resistivity of chemical vapor-deposited tungsten film” by I-Shun Chang (1998)
1021	Scheduling Order, <i>Yangtze Memory Technologies Co. Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC.</i> , No. 3:23-cv-05792-RFL, D.I. 141 (N.D. Cal. Sept. 18, 2024)
1022	“Nitride Engineering and the Effect of Interfaces on Charge Trap Flash Performance and Reliability” by Sandhya C. (2008)
1023	Excerpts of “Polycrystalline Silicon for Integrated Circuits and Displays” by Ted Kamins (1998)
1024	Print-out of IEEE webpage (dated November 8, 2024)
1025	U.S. Patent No. 7,425,742 (Nazarian)
1026	U.S. Patent Application Publication No. 2007/0057328 (“Taniguchi”)
1027	“Shrinking Possibilities” by B. Arnold (2009)
1028	Press Release, U.S. Department of Commerce, <i>Department of Commerce Awards CHIPS Incentives to Micron for Idaho and New</i>

Exhibit No.	DESCRIPTION
	<i>York Projects and Announces Preliminary Memorandum of Terms for Virginia DRAM Project to Secure Domestic Supply of Legacy Memory Chips</i> (Dec. 10, 2024) available at: https://www.commerce.gov/news/press-releases/2024/12/departments-commerce-awards-chips-incentives-micron-idaho-and-new-york (last accessed Apr. 9, 2025)
1029	IPR2025-00245 (<i>Micron Technology, Inc., v. Yangtze Memory Technologies Company, Ltd.</i>), Paper 1 (excerpt)
1030	IPR2024-00370 (<i>Micron Technology v. Netlist Inc.</i>), Paper 1 (excerpt)
1031	Printout, Bureau of Industry and Security, <i>Entity List FAQs</i> (2024) available at: https://www.bis.doc.gov/index.php/component/fsj_faqs/cat/33-entity-list-faqs (last accessed Apr. 9, 2025)
1032	87 Fed. Reg. 77505 (December 19, 2022), <i>Additions and Revisions to the Entity List and Conforming Removal From the Unverified List</i>
1033	Printout, Yahoo Finance, <i>Micron Technology Inc. (MU)</i> , available at https://finance.yahoo.com/quote/MU/holders/ (last accessed Apr. 9, 2025)
1034	Printout, Slashgear, <i>The Real Owners Behind the World's Biggest Tech Companies</i> , available at: https://www.slashgear.com/1669177/biggest-tech-companies-who-really-owns/ (last accessed Apr. 11, 2025)

Petitioner Yangtze Memory Technologies Co., Ltd. (“YMTC”) respectfully requests denial of Patent Owner Micron Technology Inc.’s (“Micron’s”) Request for Director Review (“Request”). After YMTC filed its petitions, Micron alleged—based on specious and unsupported arguments—that YMTC is controlled by “the Chinese government.” The Board considered Micron’s arguments and correctly rejected them. Micron’s Request here is based on these same rejected arguments. Because the Board did not err, Micron’s Request should be denied.

I. Legal Standard

Director Review of institution decisions is limited to cases “presenting (a) an abuse of discretion, (b) important issues of law or policy, (c) erroneous findings of material fact, or (d) erroneous conclusions of law.” See USPTO, Director Review Process at 2.B (available at <https://www.uspto.gov/patents/ptab/decisions/director-review-process>). Micron’s Request relies solely on factors (c) and (d). Pap. 17 at 4-9. YMTC agrees that these are the only relevant factors that need to be considered.

II. The Board Correctly Found YMTC Eligible to File IPRs and Correctly Found No RPI Issues Warranting Denial

A. The Board Correctly Determined That YMTC Is a Person

The Board properly rejected Micron’s argument that YMTC is not a statutory “person” eligible to file IPR petitions under *Return Mail, Inc. v. U.S. Postal Service*, 587 U.S. 618 (2019). Pap. 15 at 19-22. As the Board explained, Micron does not dispute (and in fact expressly admits) that YMTC is a company, which statutorily

qualifies it as a “person.” Pap. 15 at 20; *see also* 1 U.S.C. § 1 (“the word[] “person” ... include[s] ... companies”); 35 U.S.C. § 311(a) (“a person who is not the owner of a patent may file with the Office a petition to institute an inter partes review”).

Micron’s Request, like its Preliminary Response, improperly equates YMTC—a private company with multiple shareholders—with the U.S. Postal Service—a federal agency. The Board correctly rejected this comparison, noting that “[t]he Supreme Court held that the USPS is ... [a] ‘federal agency.’” Pap. 15 at 20; *see also Return Mail*, 587 U.S. at 637 (“a federal agency is not a ‘person’ who may petition for post-issuance review under the AIA”); *id.* at 627 (statutory definition of person includes “companies” but not the Federal Government). Micron’s Request does not contest that the U.S. Postal Service is a federal agency and that YMTC is a company.

Beyond this textual analysis (which is itself dispositive), the Board also properly rejected Micron’s policy argument that *Return Mail* applies to foreign governments. Pap. 8 at 16. As the Board explained, *Return Mail* was based on factors specific to the U.S. government (such as limitations on patent owners’ rights when bringing claims against the U.S. and on problems with inter-agency proceedings), which do not apply to YMTC. Pap. 15 at 21-22 The Board’s decision is supported by the panel decision in *Tik Tok Inc. v. Cellspin Soft, Inc.*, IPR2024-00757, Pap. 33 at 12, which considered a similar *Return Mail* argument and reached the same

conclusion.¹ Micron’s Request does not explain how these U.S. government-specific issues could be relevant to YMTC’s IPR filings here.

B. The Board Correctly Determined that No RPI Issues Warrant Denial of Institution

The Board correctly determined that, even accepting *arguendo* that YMTC failed to name RPIs, this could not justify denial of institution. Pap. 15 at 22-25. Precedential PTAB decisions hold that YMTC could add an RPI without

¹ Director Review was granted in the *Tik Tok* proceedings due to “novel issues presented.” IPR2024-00757, Pap. 34 at 3. Micron’s Request does not identify any similar “novel issues,” in this matter, but argues only that the Board erred. Pap. 17 at 4-9 (“The Board Based its Institution Decision on Erroneous Conclusions of Law and Factual Findings”; “The Board Erred in Declining to Exercise Its Discretion to Deny Institution”). This matter is distinguishable from *Tik Tok* at least because it involves different parties, a different procedural posture, and, as Micron concedes, a “much different record.” Pap. 17 at 2. Additionally, unlike in *Tik Tok*, Micron filed its own IPRs against YMTC relating to the same underlying district court proceedings such that denying YMTC the same opportunity would be inequitable. *See, e.g.*, IPR2024-00788 to -00795, -00909 to -00912; IPR2025-00034 to -00035, -00117 to -00119, -00189-00191, -00228 to -00229, -00244 to -00245, and -00294.

necessitating a new filing date. *Id.* at 23-24 (citing *SharkNinja Operating LLC v. iRobot Corp.*, IPR2020-00734, Pap. 11, 18 (PTAB Oct. 6, 2020) (precedential); *Lumentum Holdings, Inc. v. Capella Photonics, Inc.*, IPR2015-00739, Pap. 38 at 6 (PTAB Mar. 4, 2016) (precedential)). Because no alleged RPI in this matter has been sued on the asserted patent, no time bar or estoppel could apply. *Id.* at 24 (citing *Unified Patents, LLC v. MemoryWeb, LLC*, IPR2021-01413, Pap. 76 at 4 (PTAB May 22, 2023)). And with respect to Micron’s hypothetical that a yet-to-be-named RPI could file future proceedings, the Board explained that any such issue should be addressed when it arises. *Id.* at 24-25. Thus, the Board did not “punt[]” on this issue, Pap. 17 at 6, but rather it properly declined to resolve unnecessary legal questions after determining that no RPI issue could affect this proceeding.

Finally, as the Board’s decision explained, Micron is wrong that adding the Chinese government as an RPI would require termination of these proceedings. Pap. 17 at 7. Even if the Chinese government was an RPI (and it is not), Micron is the petitioner and is a statutory person entitled to petition. *See supra* Section II.A.

III. The Board Correctly Declined to Discretionally Deny Institution

The Director guidance for discretionary denial counsels that for POPRs filed before March 26, 2025, the Board should consider discretionary considerations “as enumerated in previously existing Board precedent” and that “[t]he panel will not address any new factors outlined in the Process Memorandum.” *FAQs for Interim*

Processes for PTAB Workload Management, FAQ 5 (available at <https://www.uspto.gov/patents/ptab/faqs/interim-processes-workload-management>); Pap. 15 at 25-26.

The Board correctly found that no such precedent exists that relates to Micron’s argument that a foreign state actor cannot challenge U.S. patents. Pap. 15 at 26-27.

Micron concedes that the Board cannot consider new discretionary denial factors, but claims that its request is based in the “old discretionary denial guidance.” Pap. 17 at 8. However, the Board considered and rejected this argument, finding the only case cited by Micron (*Microsoft*) inapplicable because—unlike here—the petitioner was in privity with the U.S. government, and—unlike here—the U.S. government had been served a complaint more than one year before Microsoft filed its petition. Pap. 15 at 26-27 (citing *Microsoft Corp. v. Science Applications Int’l Corp.*, IPR2019-01311, Pap. 35 at 13–14 (PTAB Jan. 27, 2020)). Micron’s Request makes no new arguments, nor does it identify error with the Board’s analysis.

Finally, Micron’s renewed reliance on *Return Mail* is unpersuasive. Pap. 17 at 8-9. The differences between this proceeding and *Return Mail* are substantive, not mere “technicalities,” *id.* at 9, because the statutes governing IPRs treat companies and federal agencies differently, and because of the U.S. government-specific factors that do not apply here. Thus, the Board correctly determined that Micron “has not shown that *Return Mail* applies to the facts presented here,” and discretionary denial is not warranted. Pap. 15 at 26. Micron’s Request should be denied.

Respectfully submitted,

Dated: June 30, 2025

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing AUTHORIZED RESPONSE TO DIRECTOR REVIEW REQUEST was served in their entirety by filing through the Patent Trial and Appeal Case Tracking System (P-TACTS), as well as providing a courtesy copy via e-mail to the following attorneys of record for Patent Owner listed below:

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