

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRON TECHNOLOGY, INC.,
Petitioner

v.

YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD.,
Patent Owner

Case No. IPR2025-00118
U.S. Patent No. 10,879,164
Issue Date: December 29, 2020

Title: INTEGRATED CIRCUIT ELECTROSTATIC DISCHARGE BUS
STRUCTURE AND RELATED METHOD

PETITIONER'S PRELIMINARY REPLY

LISTING OF EXHIBITS

Exhibit	Description
1001	U.S. Patent No. 10,879,164 to Li (“the ’164 Patent”)
1002	File History of U.S. Patent No. 10,879,164
1003	Declaration of Dr. Daniel Foty (“Foty”)
1004	<i>Curriculum Vitae</i> of Dr. Daniel Foty
1005	Japanese Unexamined Patent Application Publication No. JP2006-93598 to Yoshinaga (“Yoshinaga”)
1006	Certified Translation of Japanese Unexamined Patent Application Publication No. JP2006-93598 to Yoshinaga (“Yoshinaga”)
1007	U.S. Patent No. 9,070,700 to Haralabidis (“Haralabidis”)
1008	IC Mask Design: Essential Layout Techniques, Christopher Saint and Judy Saint, McGraw-Hill (2002) (“Saint”)
1009	Library of Congress Catalog Record for IC Mask Design: Essential Layout Techniques, Christopher Saint and Judy Saint, McGraw-Hill (2002)
1010	United States Copyright Office Record for IC Mask Design: Essential Layout Techniques, Christopher Saint and Judy Saint, McGraw-Hill (2002)
1011	U.S. Patent No. 6,078,068 to Tamura (“Tamura”)
1012	U.S. Patent No. 7,129,574 to Wu (“Wu”)
1013	U.S. Patent No. 6,144,542 to Ker et al.
1014	U.S. Patent Publ. No. 2004/0140860 to Miller (“Miller”)
1015	U.S. Patent No. 7,880,310 to Mathew (“Mathew”)
1016	U.S. Patent Publ. No. 2007/0215994 to Beauchamp et al. (“Beauchamp”)

Exhibit	Description
1017	Comprehensive Dictionary of Electrical Engineering, 2nd Ed. (2005)
1018	Wiley Electrical and Electronics Engineering Dictionary (2004)
1019	The Authoritative Dictionary of IEEE Standards Terms, 7th Ed. (2000)
1020	U.S. Patent No. 6,097,098 to Ball (“Ball”)
1021	Minute Order (case schedule), Dkt. No. 141, dated September 18, 2024 in <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC</i> , Case No. 3:23-cv-05792-RFL
1022	Combined Civil and Criminal Federal Court Management Statistics (December 31, 2023), available at https://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distcomparison1231.2023.pdf
1023	Plaintiff and Counterclaim Defendant Yangtze Memory Technologies Company, LTD.’s Disclosure of YMTC II Asserted Claims and Infringement Contentions, dated October 2, 2024 in <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC</i> , Case No. 3:23-cv-05792-RFL
1024	Docket from <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC</i> , Case No. 3:24-cv-04223-RFL which has been consolidated with Case No. 3:23-cv-05792-RFL
1025	YMTC’s October 2, 2024 Infringement Contentions for the ’164 Patent [FILED UNDER SEAL]
1026	C. Ito, K. Banerjee, and R. Dutton, “Analysis and Design of ESD Protection Circuits for High-Frequency/RF Applications,” Proceedings of the International Symposium on Quality of Electronic Design, pp. 117-122 (2001).
1027	Uyemura, “Chip Design for Submicron VLSI,” Thomson, 2006.

Exhibit	Description
1028	Declaration of Jared Bobrow in Support of Petitioner’s Motion for Admission <i>Pro Hac Vice</i>
1029	Email from Franchesca I. Alicea Villanueva (PTAB) regarding IPR2025-00118 – Preliminary Reply Request, dated April 8, 2025
1030	Order Granting Motion to Stay Pending <i>Inter Partes</i> Review, dated March 14, 2025 in <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc. and Micron Consumer Products Group, LLC</i> , Case No. 3:23-cv-05792-RFL

As authorized by the Board (EX1029), Petitioner Micron Technology, Inc. (“Micron”) respectfully submits this Preliminary Reply to address Patent Owner’s *Fintiv* arguments in its Preliminary Response (Paper 10, “POPR”). For the reasons set forth in the Petition (at 8-10) and herein (viz., an order staying the underlying district court case), the Board should not deny institution.

In the POPR, Patent Owner argues that the Board should deny institution under the *Fintiv* factors “*if* the district court denies Petitioner’s motion to stay” the underlying case in which Patent Owner is asserting the ’164 patent. POPR, 31 (emphasis added). The district court granted Petitioner’s motion to stay on March 14, 2025. *See* EX1030. Thus, the condition on which Patent Owner’s discretionary denial argument was premised has not been met. Based on this alone, the Board should not deny institution. Indeed, in opposing leave for a Preliminary Reply, Patent Owner expressly asserted that “Patent Owner’s *Fintiv* arguments [] no longer apply, and a Reply would waste the Board’s resources.” EX1029, 3.

Now, in an about face, Patent Owner has refused to withdraw its *Fintiv* arguments based on “recent guidance from the Board on discretionary denial and the application of *Fintiv*.” EX1029, 1. But Patent Owner’s reliance on this “recent guidance” is misplaced because the guidance ***re-affirmed*** the *Fintiv* factors which, as discussed below, favor Petitioner. *See* www.uspto.gov/about-us/news-updates/uspto-rescinds-memorandum-addressing-discretionary-denial-procedures

(rescinding June 21, 2022, memorandum and directing parties “to [PTAB] precedent for guidance, including [the precedential *Fintiv* decision]”). Any attempt by Patent Owner in sur-reply to advance a new theory would be improper gamesmanship.

Factor 1 (district court stay). As noted, the district court has stayed the underlying litigation in which the '164 patent is asserted. See EX1030. Moreover, the case is stayed through “the completion of *all* IPR proceedings” on the patents asserted in district court. *Id.*, 3 (emphasis added). Presently, the parties have filed 32 IPR petitions, and the case is stayed through the completion of them all. Thus, *Fintiv* factor 1 overwhelmingly counsels against discretionary denial.

Factor 2 (proximity of trial date to the Board's projected statutory deadline for a final written decision). Because of the district court stay, no trial date is set. Nor will a trial date be set until after the completion of the IPR proceedings. As such, the IPR final written decisions will necessarily be complete well before trial. Accordingly, *Fintiv* factor 2 strongly counsels against discretionary denial.

Factor 3 (investment in the parallel proceedings). In its order staying the case, the district court recognized that “the litigation is in an early stage.” EX1030, 1. Nevertheless, Patent Owner asserts that the “parties have expended, and continue to expend, substantial resources in[] the Parallel Proceeding” because the parties have conducted some written discovery, produced documents, and conducted code reviews. POPR, 34. But Patent Owner cannot dispute that not a single fact

deposition has been taken, or that even before the stay order the close of fact discovery was months away. Moreover, unlike *Fintiv* where the parties had “each filed three briefs addressing claim construction issues,” the parties here have not even submitted opening claim construction briefs. *Fintiv*, 13-14. Thus, *Fintiv* factor 3 also counsels against discretionary denial.

Factor 4 (issue overlap). Petitioner challenged all '164 patent claims asserted in district court. Thus, a final written decision finding the claims unpatentable will eliminate district court litigation on the '164 patent altogether. Patent Owner faults Petitioner for filing a *Sand-Revolution* stipulation instead of a *Sotera* stipulation. POPR, 36. But, because of the stay, Petitioner would presumably be subject to actual statutory estoppel in district court on any claims found not unpatentable in a final written decision. Thus, factor 4 counsels against discretionary denial.

Factor 5 (same/different parties). The parties are the same, which is often the case given that a patent assertion frequently prompts an IPR. This factor is neutral.

Factor 6 (other circumstances). Patent Owner generically asserts the Petition is not “particularly strong,” but presents no specific reason that factor 6 would favor discretionary denial. POPR, 37-38. Petitioner maintains that its Petition is compelling, with easily understood and straightforward prior art. *See generally* Pet.

On balance, the *Fintiv* factors overwhelmingly favor Petitioner, and the Board should not deny institution.

Respectfully submitted,

Dated: April 15, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby confirms that the foregoing paper was caused to be served on April 15, 2025 via electronic mail, upon the following attorneys of record for the Patent Owner:

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