

Filed on behalf of: Yangtze Memory Technologies Company, Ltd.

Entered: January 7, 2026

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.

IPR2025-00189
Patent 11,145,666

PATENT OWNER'S SUR-REPLY

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REGULATIONS

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Exhibit List

Ex.	Description
2001	Micron's Motion to Stay the Case Pending Inter Partes Review and Post Grant Review Proceedings, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , No. 3:23-cv-05792-RFL (N.D. Cal. Jan. 16, 2025), ECF No. 200
2002	Plaintiff/Counterclaim Defendant Yangtze Memory Technologies Company, Ltd.'s and Counterclaim Defendant Yangtze Memory Technologies, Inc.'s Opposition to Micron's Motion to Stay Case Pending Inter Partes Review and Post-Grant Proceedings, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , No. 3:23-cv-05792-RFL (N.D. Cal. Feb. 3, 2025), ECF No. 221
2003	Docket Entry Order (issuing temporary stay), <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , No. 3:23-cv-05792-RFL (N.D. Cal. Mar. 3, 2025), ECF No. 242
2004	U.S. District Courts—Time Intervals from Filing Date to Beginning Date for Completed Civil Trials, by District, During the 12-Month Period Ending September 30, 2024 (https://www.uscourts.gov/sites/default/files/2025-01/jb_t3_0930.2024.pdf)
2005	Statutory Disclaimer of Claims 17 and 20 of U.S. Patent 11,145,666 Under 37 C.F.R. § 1.321(a) (filed Mar. 12, 2025)
2006	Curriculum Vitae of Konstantinos Giapis, Ph.D.
2007	Declaration of Konstantinos Giapis, Ph.D. ("Giapis")
2008	James D. Plummer et al., SILICON VLSI TECHNOLOGY: FUNDAMENTALS, PRACTICE AND MODELING (Prentice Hall Elecs. & VLSI Series) (Charles Sodini ed. 2000) (excerpts)
2009	U.S. Patent Application Publication No. 2018/0301460 A1 ("Yoo")

Ex.	Description
2010	Transcript of the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep.”)
2011	Exhibit 1 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 1”)
2012	Exhibit 2 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 2”)
2013	Exhibit 3 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 3”)
2014	Exhibit 4 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 4”)
2015	Exhibit 5 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 5”)
2016	Exhibit 6 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 6”)
2017	Exhibit 7 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 7”)
2018	Exhibit 8 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 8”)

Ex.	Description
2019	Exhibit 9 entered in the Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Aug. 13, 2025) (“Lee Dep. Ex. 9”)
2020	3D FLASH MEMORIES (Roni Micheloni ed. 2016) (“Micheloni”) (excerpt)
2021	Counterpoint Tech. Mkt. Rsch., <i>Scaling to 1,000-Layer 3D NAND in the AI Era</i> (July 2024), https://filecache.mediaroom.com/mr5mr_lamresearch/182770/Counterpoint_Research_Paper_Scaling_to_1000-Layer_3D_NAND_in_the_AI_Era.pdf (“Counterpoint”)
2022	Steven S. Zumdahl et al., CHEMISTRY: AN ATOMS FIRST APPROACH (3d ed. 2021) (excerpt)
2023	Declaration of Konstantinos Giapis, Ph.D. in Support of Patent Owner's Response (“Giapis2”)
2024	Transcript of the Remote Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Dec. 23, 2025) (“Lee Dep.2”)
2025	Exhibit 10 entered in the Remote Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Dec. 23, 2025) (“Lee Dep. Ex. 10”)
2026	Exhibit 11 entered in the Remote Deposition of Jack C. Lee, Ph.D., <i>Micron Technology, Inc. v. Yangtze Memory Technologies Company, Ltd.</i> , IPR2025-00189 (P.T.A.B. Dec. 23, 2025) (“Lee Dep. Ex. 11”)

I. Introduction

Patent Owner's ("PO") Response ("POR") demonstrated numerous flaws in the Petition, and Petitioner's Reply only confirms them. Unable to prevail under the correct claim construction, Petitioner resorts to a generic dictionary definition of "side" to suggest the claimed "curved side surface" can be any surface. Such a construction is contrary to the intrinsic evidence and should be rejected.

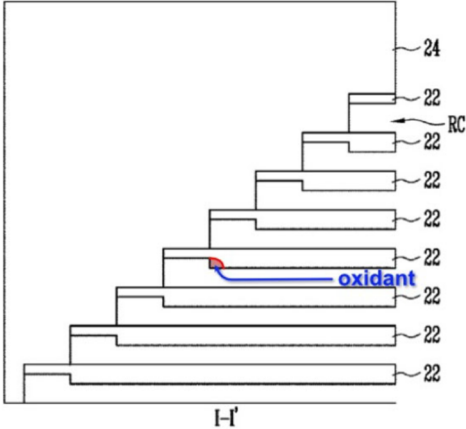
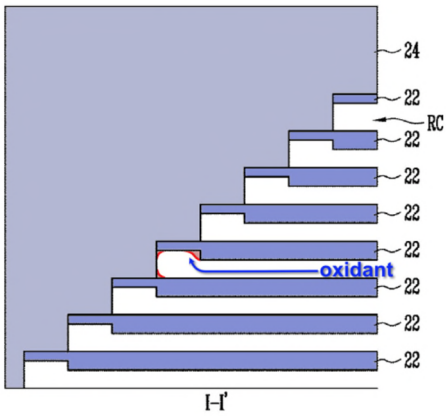
The flaws in Petitioner's arguments extend beyond claim construction. The Petition's single-reference Kim obviousness theory is unsupported after Petitioner's expert, Dr. Lee, conceded that Kim lacks a "curved side surface." Ex.2010 130:8-133:3. In view of this material concession, Petitioner pivots its arguments in Ground 1 from Kim alone to multiple new grounds, arguing for the first time that the challenged claims would have been obvious based on Kim in view of Nam, Park, or Yun. These new grounds must be stricken and not considered.

Even on the merits, the new combinations fail. Petitioner misreads Kim, offers no persuasive motivation to modify, proposes changes redundant of Kim's existing structures, and suggests fabrication steps technically unsuitable for Kim.

Similarly, on Ground 2 (Nam), unsatisfied with the four unclear and inconsistent mappings in the Petition, Petitioner unveils a fifth new mapping of the "insulating layer," introducing another improper new argument that should have been raised in the Petition. But under any of these mappings, Petitioner still fails to

show Nam includes a curved side surface in contact with a “side surface” of the insulating layer.

On Ground 3 (Lee in view of Park), PO showed that a POSITA would not, and could not, oxidize Lee's layer 22 as Petitioner proposes. In Reply, Petitioner abandons its original implausible “exposed corner” theory and instead changes Ground 3 to involve entirely different corners and a nonstoichiometric-oxide approach never previously raised—both improper and meritless.

Petition and Declaration	Reply
FIG. 5B  Ex.1003 ¶413; Pet.84, 89	FIG. 5B  Reply 25

The Petition's flaws stem from Dr. Lee's unreliable opinions. At deposition, he retreated from his declaration, conceding his Lee Figure 5B depiction was incorrect (Ex.2010 38:7-40:16), that Kim lacks a “curved side surface” (*id.* 130:8-133:3), and that he relied on Kim, combined with Park and Nam (Ex.2024 127:20-128:6, 155:13-17)—not Kim alone as Ground 1 states. The seismic shifts from the

Petition's theories to the Reply's theories confirm that the Petition's grounds fail. The Board should adopt PO's construction and reject each ground.

II. Claim Construction

As PO explained, a "curved side surface" is a vertical surface curved along a direction (e.g., the z-axis), perpendicular to the top surface of the structure. POR 8-27. Ignoring the claim term, Petitioner isolates the word "side," arguing that a "side" includes any "outer surface," including "top, bottom, left, right, front, or back." Reply 3-6. Petitioner relies on extrinsic sources while downplaying the claims and specification. *Id.* 3-4. That is improper: claims must be construed in view of the specification. *Hamilton Beach Brands, Inc. v. f'real Foods, LLC*, 908 F.3d 1328, 1339 (Fed. Cir. 2018). The intrinsic record—claims, specification, and prosecution history—compels PO's construction.

A. PO's construction is consistent with the claim's plain language

Patent Owner's construction of a "curved side surface" is consistent with the plain language of the claims.

The claims recite a "curved side surface." As explained in the POR, a POSITA would have understood the "curved side surface" to be a vertical surface curved along a direction (e.g., the z-axis), perpendicular to the top surface of the structure. POR 8. Petitioner proposes that a "curved side surface" can be "any of the various surfaces," including "top, bottom, left, right, front, or back" "interior" or "exterior"

Reply 3-4; *id.* 9. But reading “side” to mean any surface improperly renders “side” meaningless such that it “would be erased from the claims”—an outcome the Federal Circuit highly disfavors. *Intel Corp. v. Qualcomm Inc.*, 21 F.4th 801, 809-10 (Fed. Cir. 2021); *SSI Techs., LLC v. Dongguan Zhengyang Elec. Mech. Ltd.*, 59 F.4th 1328, 1335 (Fed. Cir. 2023) (“A claim construction that gives meaning to all the terms of the claim is preferred over one that does not do so.”).¹ Dr. Lee admitted that the number of “surfaces” and “side surfaces” were the same in his new figure (Ex.1027 ¶12), rendering “side” superfluous. Ex.2024 38:15-43:4. Further, treating “side” as superfluous, like Petitioner does, ignores the claims’ use of the “top” and/or “bottom” modifiers of “surface” in contrast to the “side” modifier used elsewhere. Even Petitioner’s own dictionary defines “side” as an “outer surface,” refuting Petitioner’s argument that “side” includes interior surfaces. Ex.1024 483.

The rest of the claim language confirms that a “curved side surface” cannot be any curved surface. Claims 1 and 2 recite a “top surface” and a “bottom surface” as distinct from a “side surface,” and even Petitioner’s expert admits that “the scope of the term ‘side surface’” “excludes the top and bottom surfaces of a layer” in view of these clear distinctions. Ex.1027 ¶19; Ex.2024 65:7-72:6; Ex.1001 (“’666 patent”)

¹ Unless noted otherwise, all emphases are added and internal quotation marks and citations are omitted.

cls.1-2. That is dispositive here. Because claim 2's "side surface" "exclude[s] the top and bottom surfaces of a layer," the same is true for claim 19's. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1313-14 (Fed. Cir. 2005) (en banc) ("Because claim terms are normally used consistently throughout the patent, the usage of a term in one claim can often illuminate the meaning **of the same term in other claims.**").

Petitioner argues that because claim 19 does not recite "top" or "bottom" landing pad surfaces, the term "side surface" must have a different scope between claims. Reply 5. But the phrase "side surface" appears across claims 1, 2, 17 and 19 and there is a "strong" presumption it should have the same meaning between claims, only overcome "if 'it is clear' that the same phrase has different meanings in different claims." *In re Varma*, 816 F.3d 1352, 1363 (Fed. Cir. 2016). Petitioner has not overcome that presumption. The claims consistently contrast "top surface" and "side surface," and those terms should carry that same distinction across claims.

Contrary to Petitioner's assertion, the absence of the words "vertical" or "z-axis" in the claims does not preclude PO's construction. Reply 3. Claim 19's "staircase structure" mirrors the specification's two horizontal surfaces (x-y plane) and at least two vertical surfaces (z-axis). '666 patent 4:43-48. Claim 19's reference to a "top surface" of the "substrate" orients the structures, with horizontal surfaces parallel to the top surface while vertical surfaces are perpendicular, consistent with the specification. *Id.* 4:10-23, 5:3-13. And the claims must be construed "in view of

the specification.” *Hamilton Beach*, 908 F.3d at 1339. The claims cannot be construed as Petitioner proposes in the context of the '666 patent. *Eon Corp. IP Holdings LLC v. Silver Spring Networks, Inc.*, 815 F.3d 1314, 1320-21 (Fed. Cir. 2016) (“Ordinary meaning is not something that is determined in a vacuum.”).

Petitioner cited pre-*Phillips* caselaw *Johnson Worldwide Associates, Inc. v. Zebco Corp.*, is inapposite. 175 F.3d 985, 989 (Fed. Cir. 1999). *Johnson* does not apply where a patent “does not involve the ‘[v]aried use of a disputed term’” and instead defines the term by implication through consistent usage in the specification. See *Bell Atl. Network Servs., Inc. v. Covad Commc’ns Grp., Inc.*, 262 F.3d 1258, 1273 (Fed. Cir. 2001) (original alteration) (distinguishing *Johnson*); *Saffran v. Johnson & Johnson*, 712 F.3d 549, 560 (Fed. Cir. 2013) (“[e]xtensive, consistent usage in the specification” suggests term’s meaning). That is exactly the case here: the '666 patent uses “side surface” without “top” or “bottom” 53 times to consistently denote vertical surfaces, defining the term by implication. Ex.2023 ¶44.

B. The specification supports PO’s construction

As explained in the POR, the specification supports PO’s plain language interpretation. POR 8-25. Petitioner’s contrary arguments fail. Reply 5-9.

First, Petitioner argues that the specification does not use the word “curved,” and that the patent does not explain how such a pad is formed. *Id.* 1, 5-6. That is legally erroneous. Terms are construed in light of the specification even if terms do

not appear. *See, e.g., Kaneka Corp. v. Xiamen Kingdomway Grp. Co.*, 790 F.3d 1298, 1305 (Fed. Cir. 2015) (rejecting argument that a term “must be construed according to the dictionary definition because the written description never uses the term” and “the patentee added the term ... to the claims during prosecution”). Here, the specification discloses a process flow that yields a side surface curved only along the z-axis. Ex.2023 ¶¶32-36. And the only embodiment of the “curved side surface” (shown in Fig.8) is curved along the z-axis. *Id.* ¶¶36, 53. Likewise, the only surface of the landing pad that is curved is a “side surface,” not the “top” or “bottom” surfaces. '666 patent Fig.8. Petitioner's claim (without expert support) that the specification “says nothing” about forming curved pad sides (Reply 8) is wrong and highlights Petitioner's failed view of the specification as a POSITA. Petitioner's misunderstanding infects its other arguments.

Second, Petitioner argues that the patent is “open to the use of ‘any suitable deposition techniques.’” *Id.* That may be true for other embodiments,² but not the claimed “curved side surface” embodiments. Different embodiments are claimed across the family and in the '666 patent; not every claim needs to “contain every

² Dr. Lee admits the '666 patent discloses “both ... conformal and non-conformal deposition” and shows “poor step coverage” and “good step coverage.” Ex.2024 104:6-13.

feature taught in the specification.” *AllVoice Computing PLC v. Nuance Commc 'ns, Inc.*, 504 F.3d 1236, 1248 (Fed. Cir. 2007). As Dr. Giapis explained, forming the “curved side surface” requires “poor step coverage.” Ex.2023 ¶¶32. Petitioner ignores that claim 19 covers this embodiment. Petitioner’s reliance on CVD having “good step coverage”—the opposite of what this embodiment requires—confirms that Petitioner is improperly construing the claims. Reply 7-9. While CVD can produce “good step coverage,” the claimed “curved side surface” is only formed through “poor step coverage,” shown in Figure 6, and thus can only form a curved side surface in the vertical direction. ’666 patent 8:41-9:7, 12:32-44, Fig.6; Ex.2023 ¶¶32, 56-60. A broader construction risks written description/enablement problems, contradicting the canon of construing claims to preserve validity. *Omega Eng’g, Inc. v. Raytek Corp.*, 334 F.3d 1314, 1335 n.6 (Fed. Cir. 2003).

Third, Petitioner argues that the specification’s references to “a side” merely denote one of many sides and thus cannot define “side” by implication. Reply 6-7. But nothing about PO’s construction precludes multiple side surfaces; indeed, Dr. Lee agrees the landing pad in Figure 7 includes “four vertical side surfaces.” Ex.2024 58:18-59:1. And while Petitioner argues that the patent “explicitly characterizes both the ‘top’ and the ‘bottom’ of a ‘layer’ ... as ‘side[s]’” (Reply 7), that is incorrect. As explained (and Petitioner never contests), the specification always uses the term “side” (without “top”/“bottom”) to refer to a vertical surface; a “side surface”

likewise refers to a vertical surface. POR 11-12; Ex.2023 ¶45. Even Dr. Lee concedes that the “’666 patent does not use the term ‘vertical’ to refer to top surface” nor does it use “‘horizontal’ to describe side surfaces.” Ex.2024 81:8-82:17, 85:10-88:10. The patent uses “side” for vertical surfaces 53 times and “top” for horizontal surfaces 33 times, across different embodiments. Ex.2023 ¶¶44-58. This is definition by implication, not improper importation of a limitation. *See, e.g., AstraZeneca LP v. Apotex, Inc.*, 633 F.3d 1042, 1051-52 (Fed. Cir. 2010) (“[W]hen a patentee uses a claim term throughout the entire patent specification, in a manner consistent with only a single meaning, he has defined that term ‘by implication.’” (original alteration)).

Petitioner's cases do not compel a different result. In *Acumed LLC v. Stryker Corp.*, the specification used “transverse” and “perpendicular” such that the two could not be read as the same. 483 F.3d 800, 807 (Fed. Cir. 2007). And in *Promptu Systems Corp. v. Comcast Corp.*, the proposed construction would have improperly excluded other embodiments. 92 F.4th 1372, 1379 (Fed. Cir. 2024). Here there is no contradiction with “curved side surface”—Petitioner admits “curved” is not in the specification (Reply 5-6)—and no embodiments are improperly excluded.

Finally, Petitioner does not dispute that the patent's purpose—improving yield and manufacturing cost—guides construction. *See Sequoia Tech., LLC v. Dell, Inc.*, 66 F.4th 1317, 1326 (Fed. Cir. 2023). As Dr. Giapis explains—and Petitioner

does not contest—these benefits require the side surface be curved vertically. Ex.2023 ¶¶59-60; Reply 17. Petitioner fails to address this in Reply.

C. The prosecution history supports PO's construction

Petitioner's cited prosecution history of a related patent does not undermine PO's construction. Reply 9-10. As an initial matter, the claims at issue did not recite "curved side surface," and there is no discussion that refutes that it is curved along the z-axis. Instead, the claims, after amended, discussed landing pads with distinct "side" and "bottom surface[s]." Ex.1014 283-284.

Regardless, Petitioner focuses on a single claim, and ignores that the Hyun rejection was directed to pending claim 1 too. *Id.* 268-270. To overcome the Examiner's rejection, the Applicant amended claim 1 to add "a bottom surface" in addition to "side surfaces." *Id.* 283. Similarly, in claim 18, the Applicant added "top surface." *Id.* 284. By "specifying that the layer has a 'top,' 'bottom,' and 'side' in the same claim," the Applicant ensured that the claims "exclude[] the top and bottom surfaces" from the term "side surface." Ex.1027 ¶19. Contrary to Petitioner's assertion that PO did not dispute the Examiner's characterization of the prior art (Reply 10), the Applicant expressly did not adopt the Examiner's view, stating that it did not "acquies[e] to the propriety of the rejections" (Ex.1014 288).

Petitioner improperly limits its focus to the further addition of "substantially perpendicular" to claim 18, ignoring the claim amendments above. Reply 10. The

allowance of claim 1 shows that the addition of “bottom surface” made clear that the Examiner’s interpretation of Hyun was inapplicable to the claims, meaning the addition of “top surface” had the same effect on its own in claim 18. Those same distinctions appear in the ’666 claims: claim 19 of the ’666 patent recites a “top surface” the same way as the amended claim 18 in the cited prosecution history; while claim 2 recites a “bottom surface” the same way as amended claim 1. Ex.1014 283-284. The ’666 patent thus distinguishes “side surfaces” from “top” and “bottom” surfaces the same way the Applicant did in the file history—consistent with PO’s construction, not Petitioner’s.

D. Petitioner’s extrinsic evidence supports PO’s construction

Petitioner’s dictionary also supports PO’s construction. Petitioner’s relied-on definition (the fourth-listed definition) conflicts with the intrinsic record (*supra* §§II.A-B), while the primary definition from the same dictionary (“the right or left part of the trunk of a body”) aligns with PO’s construction and excludes horizontal surfaces. Ex.1024 483. As shown in Figures 7-8 of the ’666 patent, the left and right parts of the conductive and insulating layers are only “vertically oriented surfaces.” Ex.1027 ¶20.

The intrinsic record consistently uses “curved side surface” to mean a vertical surface curved along the z-axis. Petitioner’s dictionary-based construction conflicts

with the intrinsic evidence, reads out claim language, and undermines the written description. The Board should adopt PO's construction.

III. Petitioner failed to demonstrate Kim renders claim 19 obvious

Petitioner's Reply contends Kim teaches the claimed "curved side surface." Reply 13. But that contention cannot be reconciled with Petitioner's expert's repeated concessions that Kim "does not expressly or inherently disclose" that limitation. Ex.2010 130:8-131:7, 132:17-133:3. Petitioner ignores these admissions, which undermine its single-reference obviousness theory. *See AIA Eng'g Ltd. v. Magotteaux Int'l S/A*, 657 F.3d 1264, 1278 (Fed. Cir. 2011) (rejecting argument where the proponent's expert's admissions undermined the position).

Petitioner does not dispute that Kim's cylindrical pads are not curved along the z-axis. Instead, Petitioner argues the claimed "curved side surface" need not be vertically curved. But Claim 19 requires vertical curvature, which Kim's cylindrical pads do not provide. *Supra* §II. Even assuming curvature, Kim's cylindrical pads contact an interior surface of the identified insulating layer, not a "side surface" as claimed. Petitioner's attempt to stretch "side surface" to include interior surfaces reads "side" out of the claim, contradicts its own dictionary, and entirely changes the Petition's theory of what is the "side surface" of the insulating layer. *Supra* §II; *compare* Pet.45, *with* Reply 12.

Petitioner argues, without expert support, that Kim's reference to a "curved surface based on a virtual rectangular parallele shape" encompasses vertically curved pads "routinely" disclosed in the art, and that Kim "teaches" substituting such pads. Reply 13. But Kim never suggests such a change, nor does it cite Nam, Yun, or Park or any similar approach that could even be used to achieve that. Petitioner identifies no evidence—beyond attorney argument (which "'is not evidence'")—that Kim teaches vertically curved pads or that Kim "does not require" its exemplary method. Reply 16; *see Elbit Sys. of Am., LLC v. Thales Visionix, Inc.*, 881 F.3d 1354, 1359 (Fed. Cir. 2018); *Wasica Fin. GmbH v. Cont'l Auto. Sys., Inc.*, 853 F.3d 1272, 1284-85 (Fed. Cir. 2017) ("attorney argument ... cannot rebut record evidence").

Petitioner argues Kim "is open to the use of any method capable of producing the types of contact pads it discusses." Reply 14. The record refutes that. As Dr. Giapis explained, Kim uses a shaped mask process that cannot form a vertically curved surface. Ex.2023 ¶¶70-72. Petitioner does not dispute this in Reply. Instead, as explained next, Petitioner changes Ground 1.

A. Kim's process is not "readily tailorable" to form a "curved side surface"

Ground 1 is a single-reference obviousness theory, yet, in Reply, Petitioner pivots to combinations—Kim (Ex.1005) with Park (Ex.1008), Nam (Ex.1006), or Yun (Ex.1018)—asserting that "[a]ny of these methods" would "produce a pad with a 'curved side surface.'" Reply 14; *see also* Ex.1027 ¶¶46, 50; Ex.2024 127:20-

128:6, 155:13-17. The Petition claimed Kim “could be readily adapted” to form a curved side surface without describing how, improperly relying on a POSITA’s purported knowledge to radically change Kim’s approach. Pet.50-51; POR 42-44. In Reply, Petitioner newly argues that a POSITA would directly follow Park or Nam to add oxidation or diffusion to Kim to form a curved side surface. Reply 15-16. The Board cannot consider these new combinations or arguments because the Petition never raised them. 37 C.F.R. § 42.23(b); *Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.*, 821 F.3d 1359, 1369 (Fed. Cir. 2016) (affirming Board striking new arguments not in petition); *Ariosa Diagnostics v. Verinata Health, Inc.*, 805 F.3d 1359, 1367 (Fed. Cir. 2015) (same).

Petitioner’s new argument that Kim is “readily tailorable to form the types of curved pads oft taught in the prior art” also fails on the merits. Reply 15. No cited art teaches “a curved side surface in contact with a side surface of the insulating layer.” Kim does not, as Dr. Lee admitted. *Supra* §III. Nam does not, as PO explains. See POR 57-61; Ex.2023 ¶¶121-124. Park does not; its pad does not contact insulating layers (12a–12f in Fig.5, 52a–52f in Fig.7). Park Figs.5, 7. And Yun does not because there is no curved side surface in contact with the insulating layer. Ex.2023 ¶99.

Petitioner speculates that Park’s oxidation would round Kim’s pads but identifies no evidence that a POSITA could further oxidize Kim’s silicon oxide layer

122 to induce curvature—or how. Reply 15-16. As Dr. Giapis explained regarding Lee (which also applies to Kim),³ fully-oxidized silicon oxide will not further oxidize. Kim 6:35-36, 12:59-60; Ex.1028 91:14-94:4; Ex.2023 ¶¶130-142. Petitioner's own references confirm this. Park oxidizes silicon nitride or polysilicon, not silicon oxide (12a–12f), because if the silicon oxide in recess 27 were to oxidize, it would bridge adjacent layers 40, contrary to Park's teaching to avoid short-circuits. Park 6:26-39, 8:38-42; Ex.2023 ¶¶131-133. Likewise, Lee oxidizes only layer 21 (polysilicon). Ex.2024 185:6-16; Ex.1007 [0030], [0048]. If the silicon oxide in layer 22 could be oxidized, then the risk of shorting would increase. *Infra* §V. These teachings underscore that further oxidizing Kim's oxide is neither taught nor workable.

Nor is Nam's heat-induced diffusion compatible with Kim. Heating in Nam enlarges pad size and increases short-circuit risk, contrary to Kim's goals. Ex.2023 ¶109; Pet.68-69. Kim's lithography defines doped region 122_I and the etchable

³ Dr. Giapis' reasons for why a POSITA would not oxidize Lee to form rounded surfaces (Ex.2023 ¶¶130-142) apply equally to Kim, because, as Dr. Lee admits, "there is no difference" in how a POSITA would oxidize the oxide layers in Kim and Lee. Ex.2024 147:15-148:15.

region with masks to increase spacing. Kim 8:66-9:11, 12:43-13:11, 13:60-67; Ex.2023 ¶¶89, 94, 110. But Nam is “not very precise,” yielding “a range of structures” with pads closer together. Ex.2023 ¶109; Pet.68-69. Petitioner ignores this. Reply 17. Petitioner’s “routine design work” argument fails because Nam’s and Park’s processes conflict with Kim’s shaped mask process. Ex.2023 ¶¶70-72, 101-104, 108-111. Petitioner never explains how they could work together, let alone motivate a POSITA to abandon Kim’s approach and use Nam’s or Park’s. POR 45-48.

B. Curving Kim’s landing pad was not a “known” and “suitable” option

Petitioner claims that adding a curved side surface to Kim was a “known” and “suitable” option. Reply 17-19. The record shows otherwise. First, Petitioner identifies no reference showing the specific configuration—“a curved side surface in contact with a side surface of the insulating layer”—was known. *Supra* §III.A. Labeling a feature “well known” cannot substitute for proof of obviousness. *See Juniper Networks, Inc. v. Correct Transmission, LLC*, No. 2023-1046, 2024 WL 3517862, at *5 n.3 (Fed. Cir. July 24, 2024) (well-known feature was not obvious). Second, as Dr. Giapis testified, semiconductor processes are not modular: “semiconductor processes are not so simple that a POSITA simply sees a particularly shaped structure and substitutes it into a structure made by a different process.” Ex.2023 ¶99. Third, importing Nam’s heat-induced diffusion or Park’s oxidation

would undermine Kim's benefits and conflict with its process, rendering those options unsuitable. POR 45-49. Fourth, Nam teaches away from the asserted modification by increasing pad size and reducing spacing—the opposite of Kim's goals and the '666 patent's use of a “curved side surface” to increase spacing. Ex.2023 ¶¶59-60, 109-110. That is teaching away—leading a POSITA “in a direction divergent from the path that was taken by the applicant.” *Millennium Pharms., Inc. v. Sandoz Inc.*, 862 F.3d 1356, 1366 (Fed. Cir. 2017); Ex.2023 ¶¶108-110.

C. Petitioner's motivation to modify Kim is flawed

Petitioner argues that Kim's recognition of short-circuits would have motivated modifying Kim. Reply 16-17. But Petitioner never explains why a POSITA would modify Kim when Kim's process already “effectively prevent[s]” short-circuits. Kim 9:7-11, 9:50-53. Nor does Petitioner confront the incompatibility between Kim's manufacturing method and the different prior art processes. *Supra* §§III.A-B. Prior art must be considered “for all its teachings, not selectively.” *Henny Penny Corp. v. Frymaster LLC*, 938 F.3d 1324, 1332 (Fed. Cir. 2019). Petitioner cannot import different processes into Kim and still claim Kim's benefits persist while ignoring the necessary modifications. Both experts agree that the landing pad's shape is “determined by the manufacturing process used to create it.” Ex.2024 142:13-16; Ex.2023 ¶¶88-95. Dr. Giapis explained that Kim could not be modified

using Park or Nam without completely changing Kim's process and eliminating Kim's benefits, including solutions to short-circuiting. Ex.2023 ¶¶95, 109. Thus, Kim teaches away from combining its process with Nam or Park to add a curved side surface.

D. Petitioner's caselaw distinctions are inapposite

Petitioner's attempt to distinguish *In re Anova Hearing Labs, Inc.*, 809 F. App'x 840 (Fed. Cir. 2020) fails. Just like in *Anova*, Petitioner never identified "what features of the references, or even which references, would be combined" with Kim. *Id.* at 843. Indeed, the Petition did not rely on any combination. The same flaw recurs on motivation: just as the Board in *Anova* erred by not explaining why a POSITA would modify Brown—which already had vents—to address occlusion (*id.*), Petitioner does not explain why a POSITA would modify Kim—which already discloses methods that "effectively prevent[]" short-circuits—to address short-circuits. Kim 7:63-67, 9:7-11, 9:46-53. Petitioner ignores these parallels and fails to establish why a POSITA would radically change Kim to round Kim's landing pad corners.

Petitioner's effort to distinguish *South-Tek Systems, LLC v. Engineered Corrosion Solutions, LLC*, 748 F. App'x 1003 (Fed. Cir. 2018), also fails. Petitioner argues that *South-Tek* involved a shift from adding a redundant component to substituting it for improvement. Reply 18. That mirrors the Reply's pivot here; from

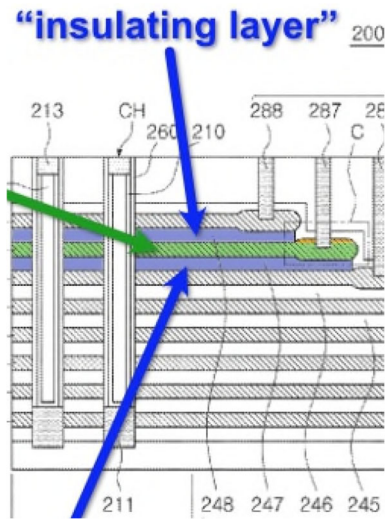
“adding” a purported well-known redundant feature to Kim (in Petition) to substituting “any of the[] methods” in Park, Nam, and Yun for Kim’s, contrary to Kim’s teachings (in Reply). *Id.* 14. Petitioner even concedes that “[a] proposed **combination**” does not have to be the best option, confirming both the improper new grounds and Petitioner’s failure to establish obviousness on the Petition’s single-reference theory. *Id.* 18-19.

IV. Petitioner failed to demonstrate Nam renders claim 19 obvious

A. Petitioner’s shifting “insulating layer” theory is materially inconsistent

Petitioner argues its annotated figures simply “highlight different aspects of Nam’s ‘insulating layer’ relevant to different claim limitations.” Reply 19-21. Yet, its Reply abandons every prior depiction and unveils a fifth, newly-minted identification—one that reaches to the end of the stair but curiously encompasses only the supposed “second portion” of the conductive layer. That maneuver is not a clarification; it is a material inconsistency. Rather than “highlight different aspects of Nam’s ‘insulating layer’ relevant to different claim limitations,” these ever-changing identifications—spanning five different labeling (shown below)—confirm that Nam does not have one identifiable insulating layer as in the claimed structure. *Id.*

“insulating layer” as layer 248



Pet.70

“insulating layer” as layers 248 and 271

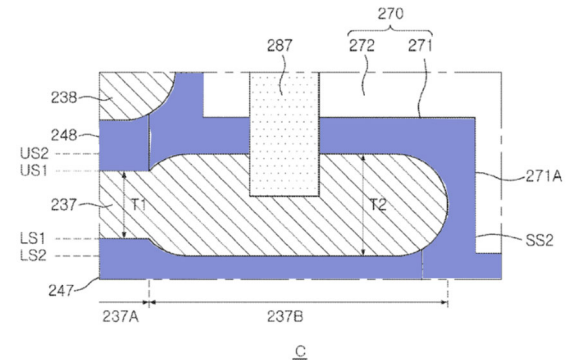
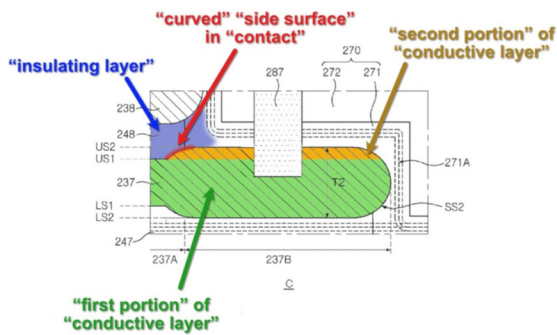


FIG. 8A

Ex.2014

“insulating layer” as layer 248 and portion of layer 271



Pet.65

“insulating layer” as layer 248 and different portion of layer 271

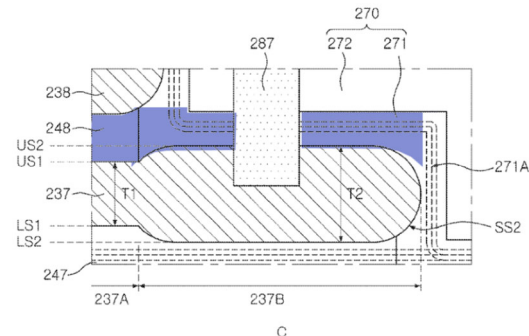


FIG. 8A

Ex.2018

“insulating layer” as layer 248 and different portion of layer 271

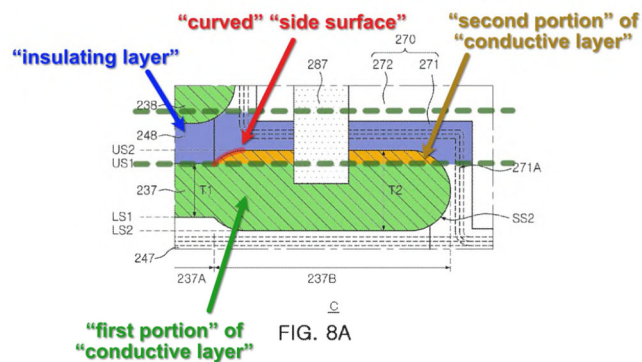


FIG. 8A

Reply 21

Petitioner argues that PO “misrepresent[s]” its annotations and “wrongly” assumes all of Nam’s layer 271 is the insulating layer. Reply 19-21. But PO only attempted to identify—relying on Petitioner’s own figures and wording—Nam’s “insulating layer” to locate the “side surface” that purportedly contacts the claimed “curved side surface”—a location the Petition never identifies. *Id.* 21; Pet.63-69. Petitioner’s failure to label the claimed “side surface of the insulating layer” and its shifting positions on Nam’s insulating layer underscore its failure of proof, obscure the analysis, and prejudice PO’s ability to test the contact requirement. Those alone warrant rejecting Petitioner’s mapping under 37 C.F.R. § 42.104, which requires the Petition specify where each claim element is found.

B. Petitioner fails to show the claimed “insulating layer” over a “portion” of the “conductive layer”

In its newest labeling (Reply 21), the insulating layer is over the entire conductive layer, not just a portion as required by the claims. This claim limitation cannot be met with the “insulating layer” over the entire conductive layer because it would read out “portion” from the claim, rendering it meaningless. Such a reading of the claims is “highly disfavored.” *Intel*, 21 F.4th at 809-10.

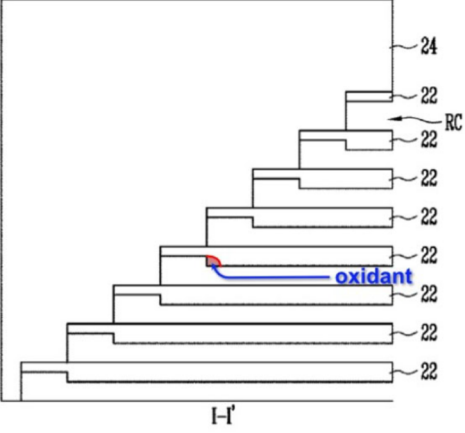
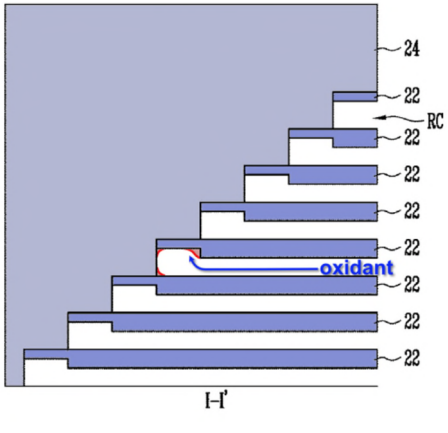
C. Petitioner fails to show the claimed contact between side surfaces

Petitioner concedes, as the Board recognizes, that Nam’s insulating layer “does not ... ‘extend only so far as the blue shading’” in its figures. Reply 20. Taking Petitioner at its word, the surface it labels as the “side surface of the insulating layer”

(both in Reply and Pet.65, 70, Exs.2014, 2018) is, in fact, a bottom surface, not a “side surface.” ’666 patent 5:3-13; Ex.1027 ¶¶40-61. The claims use “bottom surface” and “top surface” in contrast to, and different from, a “side surface,” a fact Petitioner ignores. *Supra* §II. Thus, Nam does not teach the claimed “side surface of the insulating layer” in contact with a “curved side surface.”

V. Petitioner failed to demonstrate Lee in view of Park renders claim 19 obvious

The Petition argued that a POSITA would oxidize the “exposed” corners of layer 22 in Lee (shown below-left) to form a rounded curved side surface. Pet.82-86; Ex.1003 ¶¶410-415. As PO explained—and Petitioner did not dispute in Reply—the corner Petitioner identified is not exposed; it is a solid oxide region that cannot further oxidize. POR 64-68. When unaided by his attorney, Dr. Lee admitted multiple times that layer 22 is “not designed to be oxidized,” contrary to his original declaration. Ex.2024 185:9-186:14.

Petition and Declaration	Reply
FIG. 5B  Ex.1003 ¶413; Pet.84, 89	FIG. 5B  Reply 25

With its flawed argument exposed by the POR, Petitioner's Reply (and its expert's new testimony) wholesale changes the presented combination and now points to three corners of Lee, each different from the originally-identified one, as the locations for rounding (shown above-right), while also now arguing for the first time that this layer is nonstoichiometric silicon oxide. Reply 22-25. These are untimely new arguments that underscore the unreliability of Petitioner's expert and should be disregarded. *See In re NuVasive, Inc.*, 841 F.3d 966 (Fed. Cir. 2016) (finding improper a changed invalidity theory even when it relied on the same prior art).

On the merits, Petitioner's new theories also fail.

First, as Dr. Lee conceded and Dr. Giapis explained, Lee identifies no silicon at the relevant locations that could further oxidize to form rounded corners. Ex.2025

125:13-15; Ex.2023 ¶134. While never mentioned in the Petition, the one time Lee refers to oxidation, it refers to oxidizing the silicon nitride layer 21, not layer 22. Ex.2024 185:6-16.

Second, nonstoichiometric oxides are neither taught by Park or Lee nor are they suitable for 3D NAND. None of the twelve prior art references cited in the Petition mentions using nonstoichiometric oxide, and neither does Dr. Lee's original declaration. Only after PO exposed the infeasibility of Petitioner's approach did Dr. Lee introduce Petitioner's new theory of a "nonconventional" approach that could (not would) be used. Ex.1027 ¶¶84-98. Of course, there is no teaching or rationale provided for why a POSITA would look to this "nonconventional" approach—or expect it to succeed—to obtain a curved side surface in Lee, which creates pads in an entirely different manner. As Dr. Giapis testified, 3D NAND structures with nonstoichiometric oxides will fail because they cannot "withstand the electric fields that are forming during operation" and will corrupt stored information. Ex.1028 91:14-94:4. Indeed, Park does not teach oxidizing nonstoichiometric oxides; it teaches oxidizing silicon nitride "to form silicon dioxide." Ex.2010 250:4-8.

Petitioner's citations do not refute Dr. Giapis. Exhibits 2008, 1025, and 1026 do not address 3D NAND technology. Exhibit 1029 expressly defines "silicon oxide" to include nonstoichiometric oxide, which confirms that, absent an express definition, a POSITA would understand "silicon oxide" to mean silicon dioxide. Ex.1029 6:48-

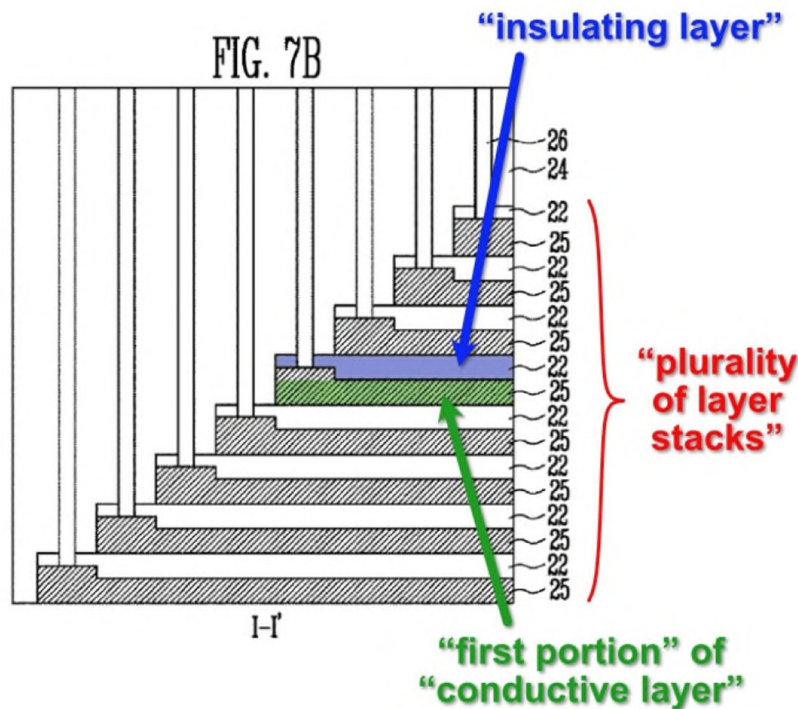
51. Exhibit 1029 also supports Dr. Giapis' opinion that a POSITA would avoid nonstoichiometric silicon oxide because of its instability, given Exhibit 1029's preference for silicon dioxide over nonstoichiometric oxide. *Id.* 6:50-51.

Petitioner's reliance on Dr. Lee is likewise misplaced. Although Petitioner asserts that Dr. Lee explained oxidation of "silicon oxide" in his original declaration (Reply 24), he never identified nonstoichiometric oxide or the material being oxidized. Ex.1003 ¶¶412-413. Instead, he discussed oxidation generally, without regard to Lee's actual silicon oxide structures, which he admitted at deposition are "not designed to be oxidized." Ex.2024 185:9-186:14.

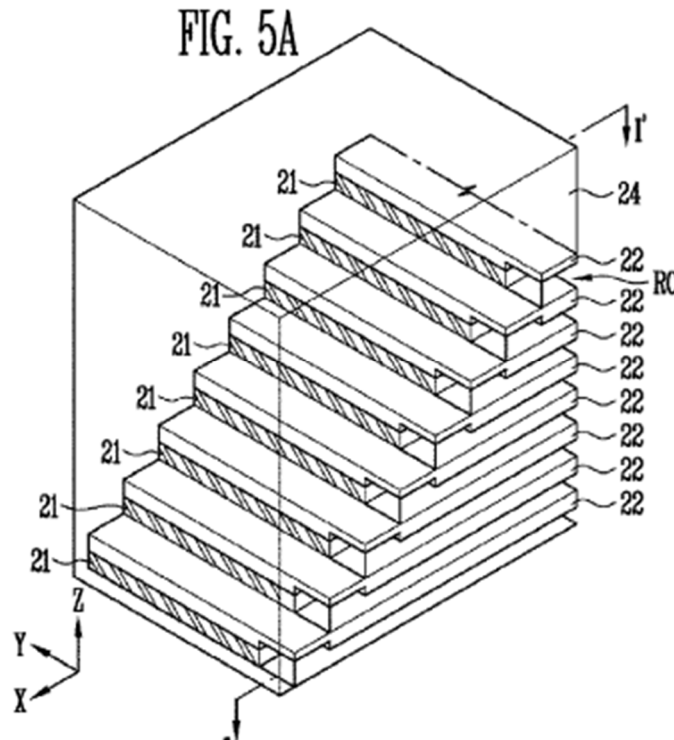
Third, Petitioner's new proposed modifications would increase risk of short-circuit and thus deter a POSITA from making such modifications. Because oxidation is an "additive" process, introducing oxidant into the recess with a nonstoichiometric silicon oxide layer will expand layer 22 in all directions. Ex.1027 ¶¶88-89; Ex.2024 152:20-153:11. As a result, the pad will be thinner, increasing risk of short-circuit due to punch-through, contrary to Lee's desire to prevent short-circuits. Ex.2023 ¶¶38-39, 131; Ex.2010 168:17-169:10; Ex.1007 [0049]; POR 67.

Fourth, even if oxidant were introduced such that the corners were rounded, the resulting structure would still fail the claim's requirement that "the insulating layer" be disposed over a "portion" of the "conductive layer." Petitioner's own

depiction shows the insulating layer over the entire conductive layer, not just a portion.



Pet.77. Further, while Park applies oxidant from the top of the memory staircase, Petitioner’s combination introduces oxidant *within* the staircase. Reply 25. Yet, Petitioner never considers that Lee’s exposed layers 21 (Fig.5A, below) would also oxidize, or how the resulting structure would satisfy the claims. At minimum, oxidizing layers 21 will decrease the landing window for the contact plugs along the y-axis, increasing the risk of failing to land on a thickened word-line, thereby risking electrical failure due to reduced contact area at the pad.



Ex.1007 [0041]-[0043], [0091], Fig.5A.

Finally, Petitioner fails to demonstrate why a POSITA would modify Lee in view of Park. Petitioner's sole rationale for rounding Lee's contact pad corners is to further reduce short-circuit risk. But as discussed above, rounding Lee's contact pad using Park's oxidation process would *increase*, not decrease, risk of short-circuits and other electrical failures. In addition, Lee already prevents short-circuits by design through other measures. *Id.* [0049]. Adding rounding to achieve the same purpose confers no functional benefit and is redundant, therefore providing no motivation to modify or combine. *See Kinetic Concepts, Inc. v. Smith & Nephew, Inc.*, 688 F.3d 1342, 1368-69 (Fed. Cir. 2012) ("Because **each device independently operates effectively**, a person having ordinary skill in the art, who

was merely seeking to create a better device to drain fluids from a wound, **would have no reason to combine the features of both devices into a single device.”**).

Petitioner cites no caselaw to the contrary.

VI. Conclusion

For the reasons set forth above, the Board should find claim 19 nonobvious.

Respectfully submitted,

Dated: January 7, 2026

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CERTIFICATE OF COMPLIANCE WITH 37 C.F.R. § 42.24

I hereby certify that this Patent Owner's Sur-Reply complies with the word count limitation of 37 C.F.R. § 42.24(c)(4) because the Patent Owner's Sur-Reply contains 5,590 words using Microsoft Word's counting feature, excluding the cover page, signature block, and the parts of the Patent Owner's Sur-Reply exempted by 37 C.F.R. § 42.24(c).

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CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), I certify that on this 7th day of January, 2026, a true and correct copy of the foregoing **Patent Owner's Sur-Reply and all Exhibits** were served by electronic mail on Petitioner's lead and backup counsel at the following email addresses:

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