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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 **MTI'S UNOPPOSED MOTION TO MODIFY THE CASE SCHEDULE TO PERMIT MTI TO REASSERT COUNTERCLAIMS** **REDACTED – PUBLIC VERSION** **DEMAND FOR JURY TRIAL** Date: March 11, 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.	

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NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on March 11, 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, Defendant and Counterclaim plaintiff Micron Technology, Inc. ("MTI") and defendant Micron Consumer Products Group, LLC (collectively, "Micron") hereby move the Court under Fed. R. Civ. P. Rule 16(b)(4) to modify the case schedule to permit MTI to file Second Amended Counterclaims.

Plaintiff and Counterclaim defendant Yangtze Memory Technologies Company, Ltd. ("YMTC") and Counterclaim defendant Yangtze Memory Technologies, Inc. (collectively, "YMTC Entities") do not oppose this Motion and consent to MTI filing its Second Amended Counterclaims.

This Motion is based on this Notice of Motion and Motion, the Memorandum of Points and Authorities below, the Declaration of J. 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

On February 16, 2024, MTI asserted patent infringement counterclaims against the YMTC Entities based on five MTI patents. Dkt. 35. On March 12, 2024, the YMTC Entities moved to dismiss those counterclaims based on MTI's alleged failure to plead marking and post-complaint infringing activity. Dkt. 49. The YTMC Entities repeatedly represented to this Court that they were no longer committing infringing activity in the United States, *i.e.*, post-complaint activity. For example, the YMTC Entities stated that "Micron knows that YMTC/YMTI are not selling the accused 3D NAND products in the U.S. (or otherwise engaging in conduct that would infringe)." Dkt. 53 at 1. In short, the YMTC Entities represented to the Court that MTI had no basis to assert infringement theories that require post-complaint infringement.

While the motion was under submission, the YMTC Entities made their L.R. 3-4(d) production, which requires "[d]ocuments sufficient to show the sales, revenue, cost, and profits for

accused instrumentalities … for any period of alleged infringement." *See* N.D. Cal. Patent L.R. 3-4(d). Although this production [redacted], it did not disclose any post-complaint sales or importations of the accused products in the United States. Nor did it disclose any sales or importations of a particular accused product type, namely, its 232-Layer 3D NAND memory products.

On July 16, 2024, the Court dismissed MTI's counterclaims with leave to amend. Dkt. 78. On August 1, 2024—in reliance on the YMTC Entities' representations to the Court and their Patent L.R. 3-4(d) production—MTI amended its counterclaims, dropping three patents and its allegation of willful infringement. Without the ability to show that YMTC engaged in infringing activity in 2024, MTI could not allege infringement as to apparatus claims that it practiced or willfulness under the Court's order of dismissal. And without documents showing that YMTC had imported 232-Layer 3D NAND memory products into the United States, MTI had to drop its infringement allegations against 232-Layer products as well.

[redacted]

From December 2024 to the filing this Motion, MTI has acted diligently to request relief. [redacted] and then meeting and conferring with the YMTC Entities' counsel, MTI timely brings this Motion seeking leave to modify the schedule to amend its counterclaims to reassert the three patents that it dropped and to reassert its willfulness claim in view of its reliance on the YMTC Entities' misstatements about their infringing activity and their incomplete Patent L.R. 3-4(d) production. The YMTC Entities do not oppose this Motion. The parties agree that no other adjustment to Court's schedule is necessary.

II. STATEMENT OF ISSUES TO BE DECIDED

Given that (1) MTI was diligent in seeking leave to amend the case schedule after learning that YMTC's representations that it was not currently engaging in infringing activity were incorrect and that YMTC withheld disclosure of such activity, (2) YMTC does not oppose MTI's motion, and (3) MTI's amendments will not impact the case schedule, should the Court modify the case schedule to allow MTI to amend its counterclaims to reassert the three patent infringement counterclaims and the willfulness claim that it dropped in reliance on YMTC's statements and Patent Local Rule production?

III. STATEMENT OF FACTS

On February 16, 2024, MTI asserted patent infringement counterclaims against the YMTC Entities for their infringement of U.S. Patent Nos. 10,475,737 (the "'737 patent"), 8,945,996 (the "'996 patent"), 8,803,214 (the "'214 patent"), 10,872,903 (the "'903 patent"), and 10,373,974 (the "'974 patent") (collectively, the "Originally Asserted MTI Patents"). Dkt. 35. MTI based these counterclaims on information in public sources about the YMTC Entities' infringing activities related to their 128-layer and 232-layer 3D NAND products ("128-Layer Products" and "232-Layer Products," respectively). *Id.* ¶¶ 14-21. MTI alleged that the YMTC Entities, both individually and together as a joint enterprise: (1) directly infringed at least by importing the 128-Layer and 232-Layer Products into the United States, (2) infringed by making the 128-Layer and 232-Layer Products overseas and importing them into the United States, and (3) willfully infringed MTI's patents. *Id.* ¶¶ 14-83.

On March 12, 2024, the YMTC Entities moved the Court to dismiss MTI's counterclaims. Dkt. 49. Notably, the YMTC Entities repeatedly represented that they were no longer committing infringing activity in the United States. For example, the YMTC Entities stated that "Micron knows that YMTC/YMTI are not selling the accused 3D NAND products in the U.S. (or otherwise engaging in conduct that would infringe)." Dkt. 53 at 1. The YMTC Entities further argued that MTI "cannot plausibly support a claim for infringement in 2024—particularly given … the 'export bans' imposed on YMTC in 2022 that have effectively prevented YMTC from undertaking U.S.-based commercial activity." *Id.* at 2. And the YMTC Entities asserted that "as Micron knows,

YMTC's 2022 addition to the Entity List effectively prevented [YMTC's] ability to do business here." *Id.* at 3 n.4.

While YMTC's motion to dismiss was pending, on June 27, 2024, the YMTC Entities made their Patent L.R. 3-4(d) production. Patent L.R. 3-4(d) required that the YMTC Entities produce "[d]ocuments sufficient to show the sales, revenue, cost, and profits for accused instrumentalities … for any period of alleged infringement." Patent L.R. 3-4(d). [redacted] *See* YMTC-MICRON_0009683. [redacted]

On the July 16, 2024, the Court dismissed all of MTI's counterclaims. Dkt. 78. The Court based its decision on two grounds that are relevant here. First, the Court found that MTI's "factual allegations do not provide a sufficient basis for the Court to plausibly infer that Yangtze Memory was selling, offering to sell, importing, or using the accused products in the United States, let alone that Yangtze Memory did so or was likely to do so after February 16, 2024." Dkt. 78 at 3. Second, the Court found that MTI had not alleged that it marked its products, which meant that MTI had to plausibly allege post-complaint (post February 16, 2024) infringing acts. *Id.* at 2. The Court dismissed MTI's counterclaims with leave to amend. *Id.* at 5.

In view of YMTC's representations and its Patent L.R. 3-4(d) production, MTI could only assert: (1) apparatus patents that MTI did not practice (and thus no marking obligation would apply) and (2) patents that cover methods of making the accused products (and thus no marking obligation would apply). [redacted]

On August 1, 2024—in reliance on the YMTC Entities' representations to the Court and their Patent L.R. 3-4(d) production—MTI amended its counterclaims, dropping three Originally Asserted MTI Patents and all its allegations against YMTC's 232-Layer products. Specifically, MTI amended its counterclaims to assert infringement against YMTC's 128-Layer products (1) only under Section 271(g) for the '996 patent (as there is no marking requirement), and (2) only

under Section 271(a) for the '903 patent (as MTI was able to allege compliance with any marking obligations for that patent). Dkt. 93; *see also* Dkt. 110 (answering, as opposed to moving to dismiss, MTI's First Amended Counterclaims). For the '737, '214, and '974 patents, however, MTI was unable to assert similar infringement theories. In short, without being able to allege current infringing activities, MTI had no choice but to drop these three patents as well as its allegations that YMTC willfully infringed.

Subsequently, MTI discovered evidence suggesting that the YMTC Entities' production of sales and importation information was incomplete. After much correspondence and meeting and conferring, on October 4, 2024, Micron moved to compel YMTC to produce information and documents related to its importation, sales, offers for sale, sampling, testing, qualification, and related activities in the U.S. *See* Dkt. 147. On October 18, 2024, the Court ordered YMTC to produce information and documents related to YMTC's manufacturing, worldwide sales, importation, intercompany transfers, prototyping, testing, qualification, marketing, and related activity. *See* Dkt. 163 at 1-7.

As demonstrated below, YMTC's belated Court-ordered productions reveal that YMTC's representations to the Court about its infringing activities were incorrect and that its earlier disclosures about its sales and importation activities were, at best, incomplete.

[redacted]

Ex. A.

[redacted]

[redacted] YMTC-MICRON_0010167 (truncated). [redacted] *See* YMTC-MICRON_0010851 [redacted][1] *See* YMTC-MICRON_0010551, 10583-84; YMTC-MICRON_0010851. For the products to be added to the NVMe Integrator's List, YMTC needed to import the products into the United States for validation and testing.[2]

IV. LEGAL STANDARD

"[C]ircuits have consistently held that the requirements of both Rule 16 and Rule 15 must be met" when a party files a "motion seeking leave to amend filed after the scheduling order deadline has passed." STEVEN S. GENSLER, FEDERAL RULES OF CIVIL PROCEDURE, RULES AND COMMENTARY at 539 (2024).

Under Federal Rule of Civil Procedure 16(b)(4), "[a] schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "The good cause standard primarily considers the diligence of the party seeking the amendment." *Kamal v. Eden Creamery,*

[1] https://www.iol.unh.edu/registry/nvme

[2] https://nvmexpress.org/education/faqs/

LLC, 88 F.4th 1268, 1277 (9th Cir. 2023) (internal citation removed). "Though prejudice to the opposing party is relevant, diligence is Rule 16(b)'s primary focus." *Srigley v. Monterey Peninsula Yacht Club, Inc.*, No. 22-CV-01589-PCP, 2024 WL 4143590, at *1 (N.D. Cal. Sept. 11, 2024) (citing *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). For example, a court in this District held that good cause to amend a scheduling order exists where a party discovered new information and filed its motion to modify a month later. *See Synchronoss Techs., Inc. v. Dropbox Inc.*, No. 16-CV-00119-HSG, 2019 WL 95927, at *1 (N.D. Cal. Jan. 3, 2019);[3] *M.H. v. Cty. of Alameda*, No. 11-2868 CW, 2012 WL 5835732, at *3 (N.D. Cal. Nov. 16, 2012) ("Courts routinely allow parties to amend their pleadings after new information comes to light during discovery."); *see also Lyon v. U.S. Immigr. & Customs Enf't*, 308 F.R.D. 203, 216 (N.D. Cal. 2015) ("[C]ourts often find good cause when the motion to amend the scheduling order is based upon new and pertinent information."); *Ivy v. Mayet*, No. 14-CV-04879-HSG, 2015 WL 8641144, at *2 (N.D. Cal. Dec. 14, 2015) (finding good cause exists when a party moves for leave to file amended pleadings two months after learning of new information); *Fru-Con Constr. Corp. v. Sacramento Mun. Util. Dist.*, No. CIV.S-05-583LKK/GGH, 2006 WL 3733815, at *5 (E.D. Cal. Dec. 15, 2006) (finding good cause where Defendant sought leave to amend pleading two months after learning new information through discovery); *Fujitsu Ltd. v. Nanya Tech. Corp.*, No. C 06-6613 CW, 2008 WL 962146, at *2 (N.D. Cal. Apr. 8, 2008) (finding good cause to amend more than one year after the amendment deadline because discovery revealed new information); *Finjan, Inc. v. Blue Coat Sys. Inc.*, No. 13-cv-03999-BLF, 2014 WL 6626227, at *1-2 (N.D. Cal. Nov. 20, 2014) (finding good cause to amend nine months after the amendment deadline because defendants could not have uncovered new facts underlying their new asserted defenses before the deadline).

Under Federal Rule of Civil Procedure 15(a)(2), "a party may amend its pleading [] with the opposing party's written consent." Fed. R. Civ. P. 15(a)(2). "Where the opposing party consents to the filing of an amended pleading, the amendment should be allowed." *Atlas v. Arnold*,

[3] Dropbox filed its motion on August 6, 2018, after Synchronoss disclosed new information that formed the basis for the motion in a 10-K filing on July 2, 2018. Ex. C (*Synchronoss Techs., Inc. v. Dropbox, Inc.*, Case No. 16-cv-00119-HSG-KAW, Dkt. 198 (Aug. 6, 2018)).

No. CV 15-01504 RSWL (RAO), 2016 WL 11521727, at *3 (C.D. Cal. Oct. 31, 2016) (citing *Fern v. U.S.*, 213 F.2d 674, 677 (9th Cir. 1954)).

V. THE COURT SHOULD GRANT MTI LEAVE TO FILE SECOND AMENDED COUNTERCLAIMS

A. There Is Good Cause To Amend The Scheduling Order Under Rule 16

Good cause exists to amend the Scheduling Order (Dkt. 141) to permit MTI to file its Second Amended Counterclaims (reasserting three Originally Asserted MTI Patents and its willfulness claim) because (1) MTI only dropped those patents due YMTC's incorrect representations and YMTC's incomplete production, and (2) MTI acted diligently in seeking leave after discovering YMTC's misrepresentations. In addition, YMTC consents to MTI's amendment, and the amendment will not otherwise affect the schedule. MTI is attaching a redline of the proposed Second Amended Counterclaims to this motion. *See* Ex. B. The Second Amended Counterclaims only reassert the three dropped patents, reassert MTI's claims for willful infringement, and add factual pleadings as to the YMTC Entities' post-complaint sales. *Id.*

First, as Section III demonstrated in detail, MTI dropped the three patents from its counterclaims based on the YMTC Entities' representations about its infringing activities and their production pursuant to Patent L.R. 3-4(d). Specifically, MTI relied on YMTC's statements that it had not sold or imported any 232-Layer products in the United States and that it had not sold or imported any 128-Layer or 232-Layer products in the United States after MTI filed its counterclaims in February 2024. For example, the YMTC Entities stated that "Micron knows that YMTC/YMTI are not selling the accused 3D NAND products in the U.S. (or otherwise engaging in conduct that would infringe)." Dkt. 53 at 1. Consistent with these statements, the YMTC Entities' Patent L.R. 3-4(d) production did not include any recent infringing activity or any activity relating to its 232-layer 3D products. Based on the YMTC Entities' statements and production, MTI had no basis—at that time—to maintain three infringement counterclaims or its willful infringement claim. Dkt. 93.

Second, as demonstrated in Section III, after a Court order compelling production from YMTC, the YMTC Entities began to produce information and documents in late December 2024

[redacted] MTI has acted diligently since then, including investigating those productions, conferring with YMTC, and filing this Motion on January 29, 2025. Courts commonly find good cause exists under Rule 16 to amend a pleading where a party learns of new supporting facts in discovery and diligently moves to make amendment accordingly. *See* § IV, *supra.*

Third, YMTC consents to MTI's requested amendments, and both parties agree that no other adjustments to the Court's case schedule are necessary (other than the modifying the date to allow MTI to amend its pleadings). This is because MTI has already provided infringement contentions on these patents, and the YMTC Entities have already provided invalidity contentions. The opening claim construction briefs are due on March 17, 2025. To the extent that YMTC selects a term for construction from these three patents, sufficient time exists for the parties to present that term to the Court in the opening briefs.

B. MTI's Proposed Amendment Is Permitted Under Rule 15 Because YMTC Provided Written Consent

Under Rule 15, "[w]here the opposing party consents to the filing of an amended pleading, the amendment should be allowed." *Atlas*, 2016 WL 11521727, at *3 (citing *Fern*, 213 F.2d at 677). Here, the YMTC Entities have provided written consent to MTI filing its Second Amended Counterclaims. Ex. B. Accordingly, Rule 15 permits MTI to file its Second Amended Counterclaims.

VI. CONCLUSION

For the foregoing reasons, MTI respectfully requests that the Court grant Micron's motion and modify the case schedule to permit MTI to file its Second Amended Counterclaims.

Dated: January 29, 2025

ORRICK, HERRINGTON & SUTCLIFFE LLP

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

PROOF OF SERVICE

I am employed in the County of San Mateo, State of California. I am over the age of 18 years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, California 94025. On January 29, 2025, I served the **MTI'S UNOPPOSED MOTION TO MODIFY THE CASE SCHEDULE TO PERMIT MTI TO REASSERT COUNTERCLAIMS [FILED UNDER SEAL]** on all interested parties to this action in the manner described as follows:

☒ **(VIA EMAIL)** On January 29, 2025, via electronic mail in Adobe PDF format the document(s) listed above to the electronic address(es) set forth below.

☐ **(VIA OVERNIGHT-FED EX)** I caused the within document(s) to be delivered by overnight courier to the address(es) set forth below.

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Counsel for Plaintiff and Counterclaim Defendants, Yangtze Memory Technologies Company, Ltd. and Yangtze Memory Technologies Company, Inc.	

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 29, 2025, at San Jose, California.

/s/ Gabrielle Van Vleck
Gabrielle Van Vleck

Exhibit A

Filed Under Seal

Exhibit B

Redacted - Public Version

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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 **MTI'S SECOND AMENDED COUNTERCLAIMS** **REDACTED – PUBLIC VERSION** **DEMAND FOR JURY TRIAL** Judge: Hon. Rita F. Lin
MICRON TECHNOLOGY, INC., Counterclaim Plaintiff, v. YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD., and YANGTZE MEMORY TECHNOLOGIES, INC., Counterclaim Defendants.	

MTI'S SECOND AMENDED COUNTERCLAIMS

In accordance with the Court's [DATE] Order (Dkt. No. []), Defendant and Counterclaim Plaintiff Micron Technology, Inc. ("MTI") hereby submits its counterclaims against Plaintiff and Counterclaim Defendant Yangtze Memory Technologies Company, Ltd. ("YMTC"), and Counterclaim Defendant Yangtze Memory Technologies, Inc. ("YMTC Inc."), (collectively the "YMTC Entities") as follows:

Nature of the Action

1. MTI asserts these patent infringement claims against the YMTC Entities arising from their infringement of U.S. Patent Nos. 10,475,737 (the "'737 patent"), 8,945,996 (the "'996 patent"), 8,803,214 (the "'214 patent") ~~and~~, 10,872,903 (the "'903 patent"), and 10,373,974 (the "'974 patent") (collectively, the "MTI Asserted Patents"). On information and belief, each of the YMTC Entities has committed the acts of infringement described herein individually and together as one enterprise.

2. MTI also asserts a counterclaim for declaratory judgment of ownership of the U.S. Patent Nos. 10,879,254 (the "'254 patent"), 11,581,322 (the "'322 patent"), 10,658,378 (the "'378 patent"), 10,937,806 (the "'806 patent"), 10,868,031 (the "'031 patent"), and 11,468,957 (the "'957 patent") ~~patents~~.

The Parties

3. MTI is a Delaware corporation with its principal place of business at 8000 South Federal Way, Boise, Idaho 83716.

4. On information and belief, YMTC is a Chinese company with its principal place of business at No.88 Weilai 3rd Road, East Lake High-tech Development Zone, Wuhan, Hubei, China.

5. On information and belief, YMTC Inc. is a California corporation with its principal place of business at 2953 Bunker Hill Lane, Ste. 206, Santa Clara, California 95054.

Jurisdiction and Venue

6. MTI brings these counterclaims under the Patent Laws of the United States, 35 U.S.C. §§ 1 et seq., and the Declaratory Judgment Act 28 U.S.C. § 2201, *et seq.*, against the YMTC

Entities for their infringement of the MTI Asserted Patents and to obtain declaratory relief as to MTI's ownership of the '254, '322, '378, '806, '031, and '957 patents, respectively.

7. This Court has subject matter jurisdiction over MTI's counterclaims pursuant to 28 U.S.C. §§ 1331, 1338(a), and 1367.

8. This Court has personal jurisdiction over YMTC, which is the plaintiff in this action. Further, YMTC has committed acts of infringement in this District through its business and sales activities in the Northern District of California, including directly and/or indirectly selling, offering for sale, importing, and/or using products that practice (or are made in a manner that practices) one or more claims of the MTI Asserted Patents.

9. This Court has personal jurisdiction over YMTC Inc., which has its principal place of business in Santa Clara, California, in this judicial District. Further, YMTC Inc. has committed acts of infringement in this District through its business and sales activities in the Northern District of California, including directly and/or indirectly selling, offering for sale, importing, and/or using products that practice (or are made in a manner that practices) one or more claims of the MTI Asserted Patents.

10. Venue over these counterclaims is proper in this District. YMTC is a foreign company and filed the underlying lawsuit in this District. ~~YMTI~~ YMTC Inc. resides in this District, has a regular and established place of business in the District, and has committed acts of infringement in this District.

11. YMTC claims to the be the owner by assignment of the entire right, title, and interest in the '254, '322, '378, '806, '031, and '957 patents.

12. An immediate, real, and justiciable controversy exists between MTI and YMTC with respect to the ownership of the '254, '322, '378, '806, '031, and '957 patents by virtue of YMTC's claim that MTI infringes the '254, '322, '378, '806, '031, and '957 patents.

MTI's Innovations and Patents

13. MTI was founded in 1978 and is headquartered in Boise, Idaho. Since that time, MTI has become a world leader in innovative computer-memory and data-storage solutions,

employing more than 43,000 employees worldwide with more than 5,000 employees in Idaho. Ex. 1 at 2; Ex. 2 at 5.

14. MTI is the only U.S.-based manufacturer of semiconductor memory devices, and its presence in the U.S. is growing. MTI recently announced plans to invest approximately $15 billion through the end of the decade to construct a new memory manufacturing plant in Boise, Idaho and up to $100 billion over the next 20-plus years to build a fab near Syracuse, New York. Exs. 3-4. MTI's commitment to innovation is evident from its expansive patent portfolio that includes over 54,000 patents. Ex 1 at 2.

15. For over a decade, MTI has been at the forefront of developing new and innovative 3D NAND memory products. In March 2015, MTI launched its first 3D NAND product, a 32-layer high density memory chip. Ex. 5. Doing so required years of research and development before the product launch. These efforts led MTI to file dozens of patents on 3D NAND technology long before the product launch. Indeed, MTI described innovative 3D NAND arrays in patents it filed well before 2015. Exs. 6-7.

16. Since its initial 3D NAND product launch in 2015, MTI has continued to lead the world in 3D NAND innovation by developing and offering chips with greater memory capacity and capabilities. In early 2018, MTI doubled the number of layers in its 3D NAND products, releasing its 64-layer 3D NAND. Ex. 8. Thereafter, in 2019, MTI sampled its 128-layer 3D NAND (Ex. 9 at 7) and, in 2020, MTI was the first company in the world to launch 176-layer 3D NAND. Ex. 10. In July 2022, MTI became the first company to scale its 3D NAND technology to 232-layers in production. Ex. 11. MTI has received numerous awards for and widespread recognition of its innovative 3D NAND technology. *See, e.g.*, Exs. 12-14.

<u>The Accused YMTC Products and the YMTC Entities' Infringing Activities</u>

17. YMTC is a global manufacturer and supplier of 3D NAND memory products. YMTC was founded in 2016 and is majority-owned by the Chinese government. Ex. 15. YMTC's founding followed the 2015 announcement of the Made in China 2025 initiative by Chinese President Xi Jinping. Ex. 16. The Made in China 2025 initiative positioned semiconductors as a critical growth industry for the Chinese economy. *Id.* The Chinese Government's investment

platform for funding the expansion of its semiconductor industry is the National Integrated Circuit Industry Investment Fund, more commonly known as the "Big Fund." *Id.*

18. Latecomer YMTC has developed four generations of NAND storage devices since its founding in 2016: a first-generation 3D NAND storage technology incorporating a 32-layer 3D NAND memory array, a second-generation 3D NAND storage technology incorporating at least a 64-layer 3D NAND memory array, a third-generation 3D NAND storage technology incorporating at least a 128-layer 3D NAND memory array, and a fourth generation 3D NAND storage technology incorporating at least a 232-layer 3D NAND memory array. Ex. 17.

19. Unsurprisingly, given MTI's nearly decade long head start over YMTC into 3D NAND memory development, the YMTC Entities began to hire NAND engineers from MTI or its affiliates and has hired at least 20 such engineers to date. Indeed, at least eight of the named inventors on the YMTC Asserted Patents (*see* Dkt. No. 151) previously worked as engineers on 3D NAND R&D at ~~Micron~~ MTI before they filed the YMTC Asserted Patents. Some of these named inventors are Hongbin Zhu, Qian Tao, Yushi Hu, Jun Liu and Changhyun Lee.

20. On or around January 9, 2006, MTI hired Hongbin Zhu as an engineer to work at MTI's headquarters in Boise, Idaho. In consideration of providing employment to Mr. Zhu, Mr. Zhu "assign[ed] and agree[d] to assign to [MTI], or its designee, all of [his] right, title and interest in and to all inventions, discoveries, ideas, processes, works of authorship, mask works, drawings, logos, developments, concepts, and improvements…whether or not patentable, copyrightable, or subject to other forms of protection, made, created, developed, written, reduced to practice, or conceived by [him], in whole or in part, either solely or jointly with others, during the period of time [he is] in the employ of or providing service to [MTI], whether during or outside of regular working hours." Ex. 18 at 1 (Assignment Agreement between Hongbin Zhu and MTI).

21. During his 11 years of employment in Boise, Idaho at MTI, Mr. Zhu had access to information about the development of ~~Micron's~~ MTI's 3D NAND technology, including on the designs for its 128-Layer and 176-Layer 3D NAND products. Mr. Zhu was also involved with, worked on, and jointly collaborated with other engineers at ~~Micron~~ MTI on the development of the ~~Micron~~ MTI Accused Products, including on the B27A, B37R and B47R products. Among other

things, Mr. Zhu knew about, worked on, and jointly collaborated with other engineers at ~~Micron~~ MTI on alternating multiple-tier stack structures, the formation of channel structures through the stack, the formation of openings that extend through the stack, spacers on the sidewall of the openings, through array contacts that bury into the substrate, and slit structures that separate the memory stack (the slits being formed after through array contacts), at least under YMTC's construction of its patents. Consequently, per his Assignment Agreement, Mr. Zhu assigned, at least, any and all of the aforementioned individual and/or joint development work to ~~Micron~~MTI. This work is the subject matter of at least claim 1 of the '322 and '254 patents that were later filed by YMTC.

22. Then, on September 18, 2017, after 11 years at MTI, Mr. Zhu left the company. Mr. Zhu told ~~Micron~~ MTI on September 15, 2017, that he was leaving ~~Micron~~ MTI because he needed to move closer to his aging father. On the same date, he executed a "Separation Statement" reaffirming his obligations with respect to ~~Micron~~ MTI confidential information, which stated that he continued to agree not to use or disclose ~~Micron~~ MTI confidential information. Based on the foregoing, and following the closing of its employee termination process, MTI did not have reason to suspect that Mr. Zhu would utilize joint development work of MTI to apply for patents at a new employer, did not have reason to monitor Mr. Zhu's post-employment patent activities, and therefore did not do so.

23. After his departure from MTI, Mr. Zhu joined YMTC, where, based on information and belief, he has served as YMTC's vice president of research and development. On information and belief, while at YMTC, Mr. Zhu also worked on the development of alternating multiple-tier stack structures, the formation of channel structures through the stack, the formation of openings that extend through the stack, spacers on the sidewall of the openings, through array contacts that bury into the substrate, and slit structures that separate the memory stack (the slits being formed after the through array contacts), which is the subject matter of at least claim 1 of the '322 and '254 patents that were filed by YMTC.

24. On November 21, 2020, YMTC filed Patent Application No. 17/100,847, which claims priority to PCT/CN2018/101482, filed on August 21, 2018, and issued as the '322 patent on

February 14, 2023. The '322 patent names Mr. Zhu as an inventor and claims technologies that Mr. Zhu learned of and worked on while at ~~Micron~~MTI.

25. On January 17, 2020, YMTC filed Patent Application No. 16/745,343, which claims priority to PCT/CN2018/101482, filed on August 21, 2018, and issued as the '254 patent on December 29, 2020. The '254 patent names Mr. Zhu as an inventor and claims technologies that Mr. Zhu learned of and worked on while at ~~Micron~~MTI.

26. Another former ~~Micron~~ MTI employee who is now a named inventor on YMTC's Asserted Patents is Qian Tao. On or around June 6, 2011, MTI hired Qian Tao as an engineer to work at MTI's headquarters in Boise, Idaho. In consideration of providing employment to Mr. Tao, Mr. Tao "assign[ed] and agree[d] to assign to [MTI], or its designee, all of [his] right, title and interest in and to all inventions, discoveries, ideas, processes, works of authorship, mask works, drawings, logos, developments, concepts, and improvements…whether or not patentable, copyrightable, or subject to other forms of protection, made, created, developed, written, reduced to practice, or conceived by [him], in whole or in part, either solely or jointly with others, during the period of time [he is] in the employ of or providing service to [MTI], whether during or outside of regular working hours." Ex. ~~23~~ 19 at 1 (Assignment Agreement between Qian Tao and MTI).

27. During his nearly 6 years of employment in Boise, Idaho at MTI, Mr. Tao had access to information about the development of ~~Micron's~~ MTI's 3D NAND technology, including on the designs for its 64-Layer 3D NAND products. Among other things, Mr. Tao knew about, worked on, and jointly collaborated with other engineers at ~~Micron~~ MTI on alternating multiple-tier stack and staircase structures, dielectric structures extending through the stack on isolation structures, through array contacts through the dielectric structure, channel structures, epitaxial layers, etch stop plugs, and slit structures, at least under YMTC's construction of its patents. Consequently, per his Assignment Agreement, Mr. Tao assigned at least any and all of the aforementioned individual and/or joint development work to MTI~~Micron~~. This work is the subject matter of at least claim 1 of the '378 patent and claim 8 of the '806 patent that were later filed by YMTC.

28. Then, on May 2, 2017, after nearly 6 years at MTI, Mr. Tao left the company. MTI did not have reason to suspect that Mr. Tao would utilize joint development work of MTI to apply

for patents at a new employer, did not have reason to monitor Mr. Tao's post-employment patent activities, and therefore did not do so.

29. After his departure from MTI, Mr. Tao joined YMTC. On information and belief, while at YMTC, Mr. Tao worked on the development of alternating multiple-tier stack and staircase structures, dielectric structures extending through the stack on isolation structures, through array contacts through the dielectric structure, channel structures, epitaxial layers, etch stop plugs, and slit structures, which is the subject matter of at least claim 1 of the '378 patent and claim 8 of the '806 patent that were filed by YMTC.

30. On July 27, 2018, YMTC filed Patent Application No. 16/047,182, which claims priority to PCT/CN2018/085421, filed on May 3, 2018, and issued as the '378 patent on May 19, 2020. The '378 patent names Mr. Tao as an inventor and claims technologies that Mr. Tao learned of, worked on, and jointly collaborated with other MTI~~Micron~~ engineers on while at MTI~~Micron~~.

31. On May 5, 2020, YMTC filed Patent Application No. 16/867,404, which claims priority to Patent Application No. 16/047,182, filed on July 27, 2018, now Patent No. 10,658,378, which is a continuation of Patent Application No. PCT/CN2018/085421, filed on May 3, 2018, and issued as the '806 patent on March 2, 2021. The '806 patent names Mr. Tao as an inventor and claims technologies that Mr. Tao learned of, worked on, and jointly collaborated with other MTI~~Micron~~ engineers on while at MTI~~Micron~~.

32. Another former MTI~~Micron~~ employee who is now a named inventor on YMTC's Asserted Patents is Yushi Hu. On or around June 27, 2011, MTI hired Yushi Hu as an engineer to work at MTI's headquarters in Boise, Idaho. In consideration of providing employment to Mr. Hu, Mr. Hu "assign[ed] and agree[d] to assign to [MTI], or its designee, all of [his] right, title and interest in and to all inventions, discoveries, ideas, processes, works of authorship, mask works, drawings, logos, developments, concepts, and improvements…whether or not patentable, copyrightable, or subject to other forms of protection, made, created, developed, written, reduced to practice, or conceived by [him], in whole or in part, either solely or jointly with others, during the period of time [he is] in the employ of or providing service to [MTI], whether during or outside of regular working hours." Ex. ~~24~~ 20 at 1 (Assignment Agreement between Yushi Hu and MTI).

33. During his more than 5 years of employment in Boise, Idaho at MTI, Mr. Hu had access to information about the development of MTI~~Micron~~'s 3D NAND technology, including on the designs for its 32 and 96-Layer 3D NAND products, as well as multi-deck developmental chips and replacement gate developmental technologies. Among other things, Mr. Hu knew about, worked on, and jointly collaborated with other engineers at MTI~~Micron~~ on alternating multiple-tier staircase structures, insulating fill structures, dual deck structures, through-array contacts, aligned support pillars, unaligned channel structures, and replacement gate technologies, at least under YMTC's construction of its patents. Consequently, per his Assignment Agreement, Mr. Hu assigned at least any and all of the aforementioned individual and/or joint development work to MTI~~Micron~~. This work is the subject matter of at least claim 1 of the '031 patent that was filed by YMTC.

34. Then, on August 12, 2016, after more than 5 years at MTI, Mr. Hu left the company. MTI did not have reason to suspect that Mr. Hu would utilize joint development work of MTI to apply for patents at a new employer, did not have reason to monitor Mr. Hu's post-employment patent activities, and therefore did not do so.

35. After his departure from MTI, Mr. Hu joined YMTC. On information and belief, while at YMTC, Mr. Hu worked on the development of alternating multiple-tier staircase structures, insulating fill structures, dual deck structures, through-array contacts, aligned support pillars, unaligned channel structures, and replacement gate technologies, which is the subject matter of at least claim 1 of the '031 patent that was later filed by YMTC.

36. Another former MTI~~Micron~~ employee who is now a named inventor on YMTC's Asserted Patents is Jun Liu. On or around September 3, 2002, MTI hired Jun Liu as an engineer to work at MTI's headquarters in Boise, Idaho. In consideration of providing employment to Mr. Liu, Mr. Liu "assign[ed] and agree[d] to assign to [MTI], or its designee, all of [his] right, title and interest in and to all inventions, discoveries, ideas, processes, works of authorship, mask works, drawings, logos, developments, concepts, and improvements…whether or not patentable, copyrightable, or subject to other forms of protection, made, created, developed, written, reduced to practice, or conceived by [him], in whole or in part, either solely or jointly with others, during

the period of time [he is] in the employ of or providing service to [MTI], whether during or outside of regular working hours." Ex. ~~25~~ 21 at 1 (Assignment Agreement between Jun Liu and MTI).

37. During his nearly 15 years of employment in Boise, Idaho at MTI, Mr. Liu had access to information about the development of MTI~~Micron~~'s 3D NAND technology, including on the designs for its 96-Layer 3D NAND products. Among other things, Mr. Liu knew about, worked on, and jointly collaborated with other engineers at MTI~~Micron~~ on alternating multiple-tier staircase structures with contacts and through array contacts, dual deck structures, and replacement gate technologies, at least under YMTC's construction of its patents. Consequently, per his Assignment Agreement, Mr. Liu assigned, at least, any and all of the aforementioned individual and/or joint development work to MTI~~Micron~~. This work is the subject matter of, at least, claim 1 of the '031 patent that was filed by YMTC.

38. Then, on June 9, 2017, after nearly 15 years at MTI, Mr. Liu left the company. MTI did not have reason to suspect that Mr. Liu would utilize joint development work of MTI to apply for patents at a new employer, did not have reason to monitor Mr. Liu's post-employment patent activities, and therefore did not do so.

39. After his departure from MTI, Mr. Liu joined YMTC. On information and belief, while at YMTC, Mr. Liu worked on the development of alternating multiple-tier staircase structures with contacts and through array contacts, dual deck structures, and replacement gate technologies, which is the subject matter of at least claim 1 of the '031 patent that was later filed by YMTC.

40. On September 10, 2018, YMTC filed Patent Application No. 16/126,919, which claims priority to PCT/CN2018/097432, filed on July 27, 2018, and issued as the '031 patent on December 15, 2020. The '031 patent names Mr. Hu and Mr. Liu as ~~an~~ inventors and claims technologies that Mr. Hu and Mr. Liu learned of, worked on, and jointly collaborated with other MTI~~Micron~~ engineers on while at MTI~~Micron~~.

41. Another former MTI~~Micron~~ employee who is now a named inventor on YMTC's Asserted Patents is Changhyun Lee. On or around September 14, 2015, MTI hired Changhyun Lee as an engineer to work at MTI's headquarters in Boise, Idaho. In consideration of providing employment to Mr. Lee, Mr. Lee "agree[d] to and do hereby assign to [MTI], or its designee, all of

[his] existing and future right, title and interest in and to all Intellectual Property made, created, developed, written, reduced to practice, or conceived by [him], in whole or in part, either solely or jointly with others (i) while [he] [is] employed by ~~Micron~~[MTI], whether during or outside of regular working hours." Ex. ~~26~~ 22 at 3 (Assignment Agreement between Changhyun Lee and MTI).

42. During his more than 4 years of employment in Boise, Idaho at MTI, Mr. Lee had access to information about the development of MTI~~Micron~~'s 3D NAND technology, including on the designs for its 32 and 64-Layer 3D NAND products, as well as MTI~~Micron~~'s development of access algorithms. Among other things, Mr. Lee knew about, worked on, and jointly collaborated with other engineers at MTI~~Micron~~ on pre-verify and verify stages, along with first and second bias voltages and first and second bias voltages, at least under YMTC's construction of its patents. Consequently, per his Assignment Agreement, Mr. Lee assigned at least any and all of the aforementioned individual and/or joint development work to MTI~~Micron~~. This work is the subject matter of at least claim 1 of the '957 patent that was filed by YMTC.

43. Then, on October 23, 2019, after more than 4 years at MTI, Mr. Lee left the company. After his departure from MTI, Mr. Lee joined YMTC. On information and belief, while at YMTC, Mr. Lee worked on the development of alleged pre-verify and verify stages, along with first and second bias voltages and first and second bias voltages, which is the subject matter of at least claim 1 of the '957 patent that was later filed by YMTC.

44. On March 4, 2021, YMTC filed Patent Application No. 17/191,768, which claims priority to PCT/CN2020/136482, filed on December 15, 2020, and issued as the '957 patent on October 11, 2022. The '957 patent names Mr. Lee as an inventor and claims technologies that Mr. Lee learned of, worked on, and jointly collaborated with other engineers on while at MTI~~Micron~~.

45. The YMTC Entities have in the past and continue to directly ~~and/or indirectly~~ use~~d~~, sell~~old~~, offer~~ed~~ for sale, import~~ed~~, supply~~ied~~, or otherwise distribute~~d~~ into the United States, and provide~~d~~ support for, their 128-layer 3D NAND storage technology and products containing the same (collectively, the "YMTC 128L Accused Products"), including the X2-6070 and other memory chips (and memory products containing the same), such as the [redacted]

[redacted] and PE321 products, that have the same or similar structures, features, or functionalities, and/or are made by the same or similar Xtacking® 2.0 technology manufacturing processes, as the aforementioned exemplary product. YMTC makes the YMTC 128L Accused Products in China. *E.g.*, YMTC-MICRON_0010167 (listing YMTC products imported into the United States).

46. The YMTC Entities have in the past and continue to directly use, sell, offer for sale, import, supply, or otherwise distribute into the United States, and provide support for, their 232-layer 3D NAND storage technology and products containing the same (collectively, the "YMTC 232L Accused Products"), including the X3-9060, X3-9070, X3-6070, X4-6080, and X4-9070 and other memory chips (and memory products containing the same), such as PC450, PC450_2242, PC450_2280, PC42Q_2242, PC42Q_2280, and [redacted] that have the same or similar structures, features, or functionalities, and/or are made by the same or similar Xtacking® 3.0/4.0 technology manufacturing processes, as the aforementioned exemplary product. *E.g.*, YMTC-MICRON_0010167 (listing YMTC products imported into the United States).

47. To the extent that a single part number has both a 128L and 232L version, that product is included under both the definition of YMTC 128L Accused Products and of YMTC 232L Accused Products.

48. Upon information and belief, each of the YMTC 128L Accused Products~~,~~ and YMTC 232L Accused Products have the same or similar structures, features, or functionalities, and/or are made by the same or similar manufacturing processes insofar as the structures, features, functionalities, and/or manufacturing processes of the Accused Products relate to the MTI Asserted Patents.

~~45.~~49. The YMTC 128L Accused Products and YMTC 232L Accused Products are collectively referred to as the "YMTC Accused Storage Products."

~~46.~~50. For example, as set forth in YMTC's Patent Local Rule 3-4 contentions and accompanying document production (YMTC-MICRON_0009683), YMTC has imported into and/or sold in the United States YMTC 128L Accused Products, product numbers [redacted] within the last six years. On

information and belief, YMTC imported YMTC 128L Accused Products, including the at least PE321, after the filing on MTI's original counterclaims (Dkt. No. 35) on February 16, 2024.[1] As another example, as set forth in YMTC's document productions (YMTC-MICRON_0010167, 551, 583-84, 702, 851; YMTC-MICRON_0011208-212, 219-223), YMTC has imported into and/or sold in the United States YMTC 232L Accused Products, including at least product numbers including X4-6080, X4-9070, PC450, PC450_2242, PC450_2280, PC42Q_2242, PC42Q_2280, and [redacted] within the last six years and/or after the filing of MTI's original counterclaims (Dkt. No. 35) on February 16, 2024.

~~47.~~ On information and belief, YMTC controls and has controlled YMTC Inc.

51.

YMTC admits that it is "dedicated to the development of memory products for the global market" and that it "maintains ties to Silicon Valley through a wholly-owned subsidiary, Yangtze Memory Technologies, Inc." Dkt. No. 29 ¶ 24.

52.

Counterclaim I

(Infringement of U.S. Patent No. 10,475,737)

53. MTI restates and incorporates by reference its allegations in Paragraphs 1 through 52 of its Counterclaims.

54. MTI, owns all right, title, and interest, including the right to recover damages for past, present, and future infringement, in and to U.S. Patent No. 10,475,737, entitled "Stack of horizontally extending and vertically overlapping features, methods of forming circuitry components, and methods of forming an array of memory cells." A true and correct copy of the '737 patent is attached as Ex. 23.

55. The '737 patent was duly and legally issued by the United States Patent and Trademark Office on Nov. 12, 2019.

56. The YMTC Entities have infringed and are infringing at least claims 1-7, 9, 10-12, 14, 15, 18, 20, 21, and 22 of the '737 patent under 35 U.S.C. § 271(a), literally and/or under the

[1] https://www.iol.unh.edu/registry/nvme

doctrine of equivalents, by using, offering for sale, selling, and/or importing into the United States, without authorization, the YMTC Accused Storage Products.

57. The YMTC Accused Storage Products practice each and every limitation of at least claims 1-7, 9, 10-12, 14, 15, 18, 20, 21, and 22 of the '737 patent. Claim charts providing examples of how the YMTC Accused Storage Products practice the foregoing claims are attached as Exs. 24 and 25 hereto and are incorporated by reference herein.

58. Since the filing of MTI's February 16, 2024, Answer to First Amended Complaint and Counterclaims (Dkt. No. 35), the YMTC Entities' infringement has been willful.

~~48.~~59. As a result of YMTC Entities' infringement of the '737 patent, MTI is entitled to monetary damages in an amount adequate to compensate for YMTC Entities' infringement, but in no event less than a reasonable royalty for the use made of the invention by the YMTC Entities, together with interest and costs as fixed by the Court.

Counterclaim II
(Infringement of U.S. Patent No. 8,945,996)

~~49.~~60. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~48-60~~59 of its Counterclaims.

~~50.~~61. MTI, owns all right, title, and interest, including the right to recover damages for past, present, and future infringement, in and to U.S. Patent No. 8,945,996, entitled "Methods of forming circuitry components and methods of forming an array of memory cells." A true and correct copy of the '996 patent is attached as Ex.~~hibit~~ 264.

~~51.~~62. The '996 patent was duly and legally issued by the United States Patent and Trademark Office on Feb. 3, 2015.

~~52.~~63. The YMTC Entities have infringed and are infringing at least claims 1-4, 6-10, 12, 13, 16-18, 23-26, 28, 30, and 32 of the '996 patent under 35 U.S.C. § 271(g), literally and/or under the doctrine of equivalents, by directly or indirectly importing into the United States at least the YMTC Accused Storage Products~~YMTC 128L Accused Products, including at least product numbers~~ [redacted] which are made outside the

United States using the patented processes of at least the foregoing claims, are not materially changed by subsequent processes, and are not a trivial and nonessential component of another product.

~~53.~~64. The YMTC Accused Storage Products~~YMTC 128L Accused Products~~ are made with, used to perform, and/or practice each and every limitation of at least claims 1-4, 6-10, 12, 13, 16-18, 23-26, 28, 30, and 32 of the '996 patent. ~~A c~~Claim charts providing examples of how the YMTC Accused Storage Products ~~YMTC 128L Accused Products~~ practice the foregoing claims ~~is~~ are attached as Exs.~~hibits~~ ~~20~~ 27 and 28 hereto and ~~is~~ are incorporated by reference herein.

~~54.~~65. YMTC makes the YMTC Accused Storage Products~~YMTC 128L Accused Products~~ in China in accordance with the methods claimed in at least claims 1-4, 6-10, 12, 13, 16-18, 23-26, 28, 30, and 32 of the '996 patent.

66. Since the filing of MTI's February 16, 2024, Answer to First Amended Complaint and Counterclaims (Dkt. No. 35), the YMTC Entities' infringement has been willful.

~~55.~~67. As a result of the YMTC Entities' infringement of the '996 patent, MTI is entitled to monetary damages in an amount adequate to compensate for the YMTC Entities' infringement, but in no event less than a reasonable royalty for the use made of the invention by the YMTC Entities, together with interest and costs as fixed by the Court.

Counterclaim III

(Infringement of U.S. Patent No. 8,803,214)

68. MTI restates and incorporates by reference its allegations in Paragraphs 1 through 67 of its Counterclaims.

69. MTI, owns all right, title, and interest, including the right to recover damages for past, present, and future infringement, in and to U.S. Patent No. 8,803,214, entitled "Three dimensional memory and methods of forming the same." A true and correct copy of the '214 patent is attached as Ex. 29.

70. The '214 patent was duly and legally issued by the United States Patent and Trademark Office on Aug. 12, 2014.

71. The YMTC Entities have infringed and are infringing at least claims 1-7, 9-12 and 14-20 of the '214 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by using, offering for sale, selling, and/or importing into the United States, without authorization, the YMTC Accused Storage Products.

72. The YMTC Accused Storage Products practice each and every limitation of at least claims 1-7, 9-12 and 14-20 of the '214 patent. Claim charts providing examples of how the YMTC Accused Storage Products practice the foregoing claims are attached as Exs. 30 and 31 hereto and are incorporated by reference herein.

~~56.~~ Since the filing of MTI's February 16, 2024, Answer to First Amended Complaint and Counterclaims (Dkt. No. 35), the YMTC Entities' infringement has been willful.

73.

As a result of the YMTC Entities' infringement of the '214 patent, MTI is entitled to monetary damages in an amount adequate to compensate for YMTC Entities' infringement, but in no event less than a reasonable royalty for the use made of the invention by the YMTC Entities, together with interest and costs as fixed by the Court.

~~57.~~74.

Counterclaim I~~I~~V
(Infringement of U.S. Patent No. 10,872,903)

~~58.~~75. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~55~~74- of its Counterclaims.

~~59.~~76. MTI, owns all right, title, and interest, including the right to recover damages for past, present, and future infringement, in and to U.S. Patent No. 10,872,903, entitled "Three dimensional memory and methods of forming the same." A true and correct copy of the '903 patent is attached as Ex.~~hibit 21~~32.

~~60.~~77. The '903 patent was duly and legally issued by the United States Patent and Trademark Office on Dec. 22, 2020.

~~61.~~78. The YMTC Entities have infringed and are infringing at least claims 1-3, 5, 7-9, and 17-20 of the '903 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents,

by using, offering for sale, selling, and/or importing into the United States, without authorization, the YMTC 128L Accused Products~~, including at least product numbers YMN09TC1B1JC6C_000 and YMN09TC1B1HC6C_000~~.

~~62.~~79. The YMTC 128L Accused Products ~~are used to perform and/or~~ practice each and every limitation of at least claims 1-3, 5, 7-9, and 17-20~~-~~ of the '903 patent. A claim chart providing examples of how the YMTC 128L Accused Products practice each limitation of at least the foregoing claims is attached as Ex.~~hibit 22~~ 33 hereto and is incorporated by reference herein.

~~63.~~80. There are no marking requirements with which MTI~~Micron~~ and its licensees have not complied for the period before February 2, 2024. MTI~~Micron~~ has not made, used, sold, offered for sale, or imported into the United States any "patented articles" under the '903 patent. Moreover, on information and belief, prior to February 2, 2024, none of MTI~~Micron~~'s licensees made, used, sold, offered for sale, or imported into the United States any "patented articles" under the '903 patent.

81. The YMTC Entities had actual notice of their infringement of the '903 patent on February 16, 2024, the date MTI~~Micron~~ filed its Answer to First Amended Complaint and Counterclaims (Dkt. No. 35).

~~64.~~82. Since the filing of MTI's February 16, 2024, Answer to First Amended Complaint and Counterclaims (*id.*), the YMTC Entities' infringement has been willful.

~~65.~~83. As a result of the YMTC Entities' infringement of the '903 patent, MTI is entitled to monetary damages in an amount adequate to compensate for the YMTC Entities' infringement, but in no event less than a reasonable royalty for the use made of the invention by the YMTC Entities, together with interest and costs as fixed by the Court.

Counterclaim V

(Infringement of U.S. Patent No. 10,373,974)

~~(Infringement of U.S. Patent No. 10,373,974)~~

84. MTI restates and incorporates by reference its allegations in Paragraphs 1 through 83 of its Counterclaims.

85. MTI, owns all right, title, and interest, including the right to recover damages for past, present, and future infringement, in and to U.S. Patent No. 10,373,974, entitled "Microelectronic devices and related methods." A true and correct copy of the '974 patent is attached as Ex. 34.

86. The '974 patent was duly and legally issued by the United States Patent and Trademark Office on Aug. 6, 2019.

87. The YMTC Entities have infringed and are infringing at least claims 1, 4, and 5 of the '974 patent under 35 U.S.C. § 271(a), literally and/or under the doctrine of equivalents, by using, offering for sale, selling, and/or importing into the United States, without authorization, the YMTC Accused Storage Products.

88. The YMTC Entities have infringed and are infringing at least claims 7, 9, and 11-19 of the '974 patent under 35 U.S.C. § 271(g), literally and/or under the doctrine of equivalents, by directly or indirectly importing into the United States at least the YMTC Accused Storage Products, which are made outside the United States using the patented processes of at least the foregoing claims, are not materially changed by subsequent processes, and are not a trivial and nonessential component of another product.

89. YMTC makes the YMTC Accused Storage Products in China in accordance with the methods claimed in at least claims 7, 9, and 11-19 of the '974 patent.

90. The YMTC Accused Storage Products are made with, used to perform, and/or practice each and every limitation of at least claims 7, 9, and 11-19 of the '974 patent. Claim charts providing examples of how the YMTC Accused Storage Products practice the foregoing claims are attached as Ex. 35 and 36 hereto and are incorporated by reference herein.

~~66.~~ Since the filing of MTI's February 16, 2024, Answer to First Amended Complaint and Counterclaims (Dkt. No. 35), the YMTC Entities' infringement has been willful.

91.

As a result of YMTC Entities' infringement of the '974 patent, MTI is entitled to monetary damages in an amount adequate to compensate for YMTC Entities' infringement, but in

no event less than a reasonable royalty for the use made of the invention by the YMTC Entities, together with interest and costs as fixed by the Court.

~~67.~~92.

Counterclaim ~~III~~VI
(Declaratory Judgment of Ownership of the ’322 patent)

~~68.~~93. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~63~~92 of its Counterclaims.

~~69.~~94. MTI is the true owner of the ’322 patent by virtue of the assignment agreement entered into between Hongbin Zhu, one of the named inventors on the ’322 patent, and MTI. Hongbin Zhu assigned all right, title and interest in the claimed invention that is the subject matter of at least claim 1 of the ’322 patent to MTI during his employment at MTI. His assignment predates the priority date of the ’322 patent. Ex. 18.

~~70.~~95. MTI holds equitable title to the ’322 patent.

~~71.~~96. As such, MTI seeks declaratory relief that it is the sole and exclusive owner of the ’322 patent or, in the alternative, that it owns a pro rata undivided interest in the ’322 patent, and seeks transfer of legal title from YMTC to MTI.

Counterclaim ~~IV~~VII
(Declaratory Judgment of Ownership of the ’254 patent)

~~72.~~97. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~67~~ 96 of its Counterclaims.

~~73.~~98. MTI is the true owner of the ’254 patent by virtue of the assignment agreement entered into between Hongbin Zhu, one of the named inventors on the ’254 patent, and MTI. Hongbin Zhu assigned all right, title and interest in the claimed invention that is the subject matter of at least claim 1 of the ’254 patent to MTI during his employment at MTI. His assignment predates the priority date of the ’254 patent. Ex. 18.

~~74.~~99. MTI holds equitable title to the ’254 patent.

~~75.~~100. As such, MTI seeks declaratory relief that it is the sole and exclusive owner of the '254 patent or, in the alternative, that it owns a pro rata undivided interest in the '254 patent, seeks transfer of legal title from YMTC to MTI.

Counterclaim VIII
(Declaratory Judgment of Ownership of the '378 patent)

~~76.~~101. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~71~~ 100 of its Counterclaims.

~~77.~~102. MTI is the true owner of the '378 patent by virtue of the assignment agreement entered into between Qian Tao, one of the named inventors on the '378 patent, and MTI. Qian Tao assigned all right, title and interest in the claimed invention that is the subject matter of at least claim 1 of the '378 patent to MTI during his employment at MTI. His assignment predates the priority date of the '378 patent. Ex. 19.

~~78.~~103. MTI holds equitable title to the '378 patent.

~~79.~~104. As such, MTI seeks declaratory relief that it is the sole and exclusive owner of the '378 patent or, in the alternative, that it owns a pro rata undivided interest in the '378 patent, seeks transfer of legal title from YMTC to MTI.

Counterclaim ~~VIII~~X
(Declaratory Judgment of Ownership of the '806 patent)

~~80.~~105. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~75~~ 104 of its Counterclaims.

~~81.~~106. MTI is the true owner of the '806 patent by virtue of the assignment agreement entered into between Qian Tao, one of the named inventors on the '806 patent, and MTI. Qian Tao assigned all right, title and interest in the claimed invention that is the subject matter of at least claim 8 of the '806 patent to MTI during his employment at MTI. His assignment predates the priority date of the '806 patent. Ex. 19.

~~82.~~107. MTI holds equitable title to the '806 patent.

~~83.~~108. As such, MTI seeks declaratory relief that it is the sole and exclusive owner of the '806 patent or, in the alternative, that it owns a pro rata undivided interest in the '806 patent, seeks transfer of legal title from YMTC to MTI.

Counterclaim ~~VIX~~
(Declaratory Judgment of Ownership of the '031 patent)

~~84.~~109. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~79~~ 108 of its Counterclaims.

~~85.~~110. MTI is the true owner of the '031 patent by virtue of the assignment agreement entered into between Yushi Hu and Jun Liu, two of the named inventors on the '031 patent, and MTI. Yushi Hu and Jun Liu assigned all right, title and interest in the claimed invention that is the subject matter of at least claim 1 of the '031 patent to MTI during his employment at MTI. Their assignment predates the priority date of the '031 patent. Exs. 20-21.

~~86.~~111. MTI holds equitable title to the '031 patent.

~~87.~~112. As such, MTI seeks declaratory relief that it is the sole and exclusive owner of the '031 patent or, in the alternative, that it owns a pro rata undivided interest in the '031 patent, seeks transfer of legal title from YMTC to MTI.

Counterclaim ~~VIIIXI~~
(Declaratory Judgment of Ownership of the '957 patent)

~~88.~~113. MTI restates and incorporates by reference its allegations in Paragraphs 1 through ~~83~~ 112 of its Counterclaims.

~~89.~~114. MTI is the true owner of the '957 patent by virtue of the assignment agreement entered into between Changhyun Lee, one of the named inventors on the '957 patent, and MTI. Changhyun Lee assigned all right, title and interest in the claimed invention that is the subject matter of at least claim 1 of the '957 patent to MTI during his employment at MTI. His assignment predates the priority date of the '957 patent. Ex. 22.

~~90.~~115. MTI holds equitable title to the '957 patent.

~~91.~~116. As such, MTI seeks declaratory relief that it is the sole and exclusive owner of the '957 patent or, in the alternative, that it owns a pro rata undivided interest in the '957 patent, seeks transfer of legal title from YMTC to MTI.

DEMAND FOR A JURY TRIAL

Defendants and counterclaim plaintiff request a jury trial on all issues related to YMTC's claims and MTI's counterclaims that are so triable.

PRAYER FOR RELIEF

WHEREFORE, ~~having fully answered,~~ Micron prays that the Court enter judgment as follows:

A. A judgment in favor of Micron and against YMTC on all of YMTC's claims, including a dismissal with prejudice of all of YMTC's claims;

B. A judgment declaring that Micron has not infringed, contributed to the infringement of, or induced others to infringe, either directly or indirectly, literally or under the doctrine of equivalents, any valid claims of the YMTC Asserted Patents (under 35 U.S.C. §§271 and 273);

C. A judgment declaring that the YMTC Asserted Patents are invalid;

D. A judgment declaring that this YMTC's case against Micron is exceptional and an award to Micron of its reasonable costs and expenses of litigation, including attorneys' fees and expert witness fees;

E. A judgment declaring that YMTC lacks standing to assert the '254, '322, '378, '806, '031, and '957 patents;

F. A judgment declaring that YMTC is estopped from asserting the '254, '322, '378, '806, '031, and '957 patents;

G. A judgment in favor of MTI and against the YMTC Entities on all of MTI's Counterclaims;

H. A judgment in favor of MTI that the YMTC Entities have infringed, either literally and/or under the doctrine of equivalents, one or more claims of each of the MTI Asserted Patents;

~~H.~~I. A judgment in favor of MTI that the YTMC Entities' infringement has been willful since the filing of MTI's February 16, 2024, Answer to First Amended Complaint and Counterclaims;

~~I.~~J. An order pursuant to 35 U.S.C. § 283 enjoining the YMTC Entities and their subsidiaries, parents, divisions, affiliates, successors, assigns, transferees, officers, directors, attorneys, agents, servants, employees, privies, and all other persons in active concert or participation with any of the foregoing, from continued acts of infringement of the claims of the MTI Asserted Patents;

~~J.~~K. A judgment and order requiring the YMTC Entities to pay MTI its damages, costs, expenses, and pre-judgment and post-judgment interest for the YMTC Entities' infringement;

~~K.~~L. If a permanent injunction is not granted, then a judicial determination of the conditions for the YMTC Entities future infringement, such as an ongoing royalty;

~~L.~~M. A judgment declaring that MTI is the sole and exclusive owner of all right, title and interest in the '254, '322, '378, '806, '031, and '957 patents;

~~M.~~N. A judgment compelling YMTC to transfer legal title of the '254, '322, '378, '806, '031, and '957 patents to MTI;

~~N.~~O. A judgment declaring that MTI's case against the YMTC Entities is exceptional and an award to MTI of its reasonable costs and expenses of litigation, including attorneys' fees and expert witness fees;

~~O.~~P. All other relief that the Court deems just and proper.

Dated: January 29, 2025

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

Exhibit C

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IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

OAKLAND DIVISION

SYNCHRONOSS TECHNOLOGIES, INC., Plaintiff, v. DROPBOX, INC., Defendant.	No. 4:16-cv-00119-HSG-KAW **DROPBOX, INC.'S NOTICE OF MOTION AND MOTION TO MODIFY THE SCHEDULING ORDER AND FOR LEAVE TO FILE A FIRST AMENDED ANSWER** Date: September 27, 2018 Time: 2:00 PM Place: Courtroom 2, 4th Floor (Oakland) Judge: Hon. Haywood S. Gilliam, Jr.

PUBLIC REDACTED VERSION

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NOTICE OF MOTION AND REQUESTED RELIEF

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 27, 2018, at 2:00 p.m., or as soon thereafter as the matter may be heard, in the courtroom of the Honorable Haywood S. Gilliam, Jr., located at 1301 Clay Street, Oakland, California, defendant Dropbox, Inc. ("Dropbox") will and hereby does move this Court pursuant to Rules 15 and 16 of the Federal Rules of Civil Procedure for leave to file its proposed Amended Answer to plaintiff Synchronoss Technologies, Inc.'s Complaint. Dropbox requests an order granting it leave to file its Amended Answer.

This motion is based on this Notice and Motion, the accompanying exhibits, the Declaration of Christopher J. Mandernach in Support of Dropbox Inc.'s Motion to Modify the Scheduling Order and for Leave to File a First Amended Answer ("Mandernach Decl."), the pleadings on file in this case, matters on which this Court may take judicial notice, and such oral argument as the Court permits.

Dropbox has notified counsel for Synchronoss Technologies, Inc. of its intent to file this motion. Synchronoss Technologies, Inc. does not consent.

MEMORANDUM OF POINTS AND AUTHORITIES

Defendant Dropbox, Inc. moves for leave to file its Amended Answer to add an unclean hands defense. Because Dropbox satisfies Rules 15 and 16 of the Federal Rules of Civil Procedure, Dropbox respectfully requests that leave be granted.

I. BACKGROUND

In July 2017, pursuant to Patent Local Rule 3-8, Synchronoss provided its Preliminary Disclosure of Damages Contentions. Mandernach Decl., Ex. 1. These contentions pointed to [redacted]. *Id.* at 6. Although Synchronoss has provided Dropbox virtually no documents surrounding these agreements (despite repeated requests), information recently disclosed suggests that Synchronoss

orchestrated an effort to artificially inflate the value of its patents by entering into licenses that were not an "objective" measure of the value of the licensed rights.

On July 2, 2018, in its delayed 10-K filing for 2017, Synchronoss publicly admitted that its lump-sum licenses did not have economic substance independent of the acquisitions. Instead, each was executed as part of, and virtually simultaneously with, transactions in which Synchronoss *purchased the licensee or the licensee's cloud-related assets.* Far from arms-length transactions, these were part of transactions in which Synchronoss bought the alleged "licensee" thereby rendering the allegedly independent licensing transaction moot. In a press release accompanying its 10-K filing, Synchronoss stated:

> The company identified and corrected errors related to fees received under license agreements entered into with parties of certain historical acquisitions and a divestiture. In each case, we had originally treated the license agreement as a separate transaction and recorded the license fees as revenue. The company has determined to revise the accounting treatment of such license arrangements to record the license fees as part of the accounting for the acquisition or divestiture. Accordingly, this revenue has been reversed in the company's restated financials and will not be recognized as revenue in subsequent periods.

Mandernach Decl., Ex. 2, at 6-7 (Synchronoss Press Release). Synchronoss further described in its 10-K filing specific licenses that are asserted in this litigation, as follows:

> In connection with the acquisition of Openwave, the Company entered into $10.0 million patent settlement agreement. The Company determined that the transaction was negotiated in the overall consideration paid for the purchase of Openwave, and as result, the proceeds were reflected as a reduction in the Company's purchase price.
>
> * * *
>
> On February 18, 2015, the Company entered into a patent license and settlement agreement for $10.0 million, whereby the Company granted F-Secure a limited license to the Company's patents. The Company concluded that since the settlement and the acquisition were contemplated and negotiated together, the Company determined to net the $10.0 million settlement against the consideration transferred in connection with the purchase price, resulting in purchase price of $49.5 million.

Mandernach Decl., Ex. 3, at 134, 137 (Excerpts from Synchronoss 2017 10-K Filing).

The license-then-buy scheme that Synchronoss disclosed in its 10-K filing appears to have been used with other licensees as well. For instance, documents recently produced by a

third party indicate that Synchronoss' [redacted] license, with Newbay Software Limited and Research in Motion Limited, was also procured using a similar license-then-buy approach. [redacted] The [redacted] was illusory; it yielded no net payment to Synchronoss, but appears to have been included for purely optical reasons. Indeed, [redacted]

Moreover, Synchronoss' royalty-based licenses also appear to be designed to create the illusion of value. For example, [redacted] Again, Synchronoss appears to have orchestrated a licensing term to artificially inflate the value of the patents-in-suit.

On August 3, 2018, Synchronoss served its Supplemental Disclosure of Damages Contentions Under Patent Local Rule 3-8. In those supplemental contentions, Synchronoss [redacted]

[redacted]

II. LEGAL STANDARD

Regional circuit law governs motions for leave to amend. *Ultimax Cement Mfg. Corp. v. CTS Cement Mfg. Corp.*, 587 F.3d 1339, 1354 (Fed. Cir. 2009). In the Ninth Circuit, if the scheduling order's deadline to file for leave to amend pleadings has passed, the party seeking leave to amend must satisfy the requirements of Rule 16(b) and Rule 15(a) of the Federal Rules of Civil Procedure. *Ellis v. Advanta Bank*, No. 16-CV-06437-BLF, 2017 WL 4842069, at *2 (N.D. Cal. Oct. 26, 2017); *see also Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 608 (9th Cir. 1992).

Under Rule 16(b), the party seeking leave "must show good cause for not having amended their [pleadings] before the time specified in the scheduling order expired." *Coleman v. Quaker Oats Co.*, 232 F.3d 1271, 1294 (9th Cir. 2000). "The 'good cause' standard primarily considers the diligence of the party seeking the amendment." *Lyon v. U.S. Immigration & Customs Enf't*, 308 F.R.D. 203, 216 (N.D. Cal. 2015) (citing *Johnson*, 975 F.2d at 609). "[T]he focus of the inquiry is upon the moving party's reasons for seeking modification." *C.F. ex rel. Farnan v. Capistrano Unified Sch. Dist.*, 654 F.3d 975, 984 (9th Cir. 2011) (internal quotation marks omitted).

If good cause is found, "the Court may then consider whether leave to amend should be granted pursuant to Rule 15(a)." *Thomas v. San Francisco Travel Ass'n*, No. 14-CV-03043-YGR, 2016 WL 861239, at *2 (N.D. Cal. Mar. 7, 2016). A party may amend under Rule 15(a) if it obtains the opposing party's written consent or the court's leave to amend. Fed. R. Civ. P. 15(a)(2). "The court considers five factors in assessing the propriety of leave to amend—bad faith, undue delay, prejudice to the opposing party, futility of amendment, and whether the plaintiff has previously amended the [pleading]." *United States v. Corinthian Colls.*, 655 F.3d 984, 995 (9th Cir. 2011). "Absent prejudice, or a strong showing of any of the remaining . . . factors, there exists a presumption under Rule 15(a) in favor of granting leave to amend." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (emphasis omitted).

Indeed, Rule 15 explicitly instructs courts to "freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2). And under Ninth Circuit law, "Rule 15's policy of favoring amendments to pleadings should be applied with extreme liberality." *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir. 1987) (internal quotation marks omitted); *see also Griggs v. Pace Am. Grp., Inc.*, 170 F.3d 877, 880 (9th Cir. 1999) (stating that the court must determine whether to grant leave with "all inferences in favor of granting the motion").

III. ARGUMENT

A. Dropbox Has Good Cause to Allow for Amendment under Rule 16.

Dropbox has "good cause" under Rule 16 to submit an Amended Answer that includes an unclean hands defense. Despite document requests pending for more than eighteen months, Synchronoss did not disclose the factual developments upon which Dropbox's motion to amend is predicated—the orchestrated effort to artificially inflate the value of the Patents-in-Suit—until July 2, 2018 in its 10-K filing. And because Synchronoss did not produce any documents to Dropbox on this topic, Dropbox lacked sufficient basis to amend its Answer until after Dropbox learned of Synchronoss' 10-K filing. Thus, Dropbox could not have moved to amend its complaint to include the unclean hands defense contained in its Proposed Amended Answer until well after the Court's pleading deadline of January 19, 2018, had already passed. *See Johnson*, 975 F.2d at 609 (holding that a district court may permit amendment "if [the pretrial schedule] cannot reasonably be met despite the diligence of the party seeking the extension"). Dropbox filed this motion within weeks of learning of the factual predicate for its defense. *M.H. v. Cty. of Alameda*, No. 11-2868 CW, 2012 WL 5835732, at *3 (N.D. Cal. Nov. 16, 2012) ("Courts routinely allow parties to amend their pleadings after new information comes to light during discovery."); *see also Lyon*, 308 F.R.D. at 216 ("[C]ourts often find good cause when the motion to amend the scheduling order is based upon new and pertinent information."). Dropbox thus has "good cause" to modify the Scheduling Order to allow for amendment.

B. Leave to Amend Is Appropriate under Rule 15.

None of the Rule 15 factors weigh against granting leave to amend.

Bad faith: The Ninth Circuit has explained that bad faith in the context of Rule 15 occurs when "the [party] merely is seeking to prolong the litigation by adding new but baseless legal theories." *Griggs*, 170 F.3d at 881.

Dropbox seeks to add an unclean hands defense to its Answer. "[A] determination of unclean hands may be reached when 'misconduct' of a party seeking relief 'has immediate and necessary relation to the equity that he seeks in respect of the matter in litigation,' *i.e.*, 'for such violations of conscience as in some measure affect the equitable relations between the parties in respect of something brought before the court.'" *Gilead Scis., Inc. v. Merck & Co.*, 888 F.3d 1231, 1239 (Fed. Cir. 2018) (quoting *Keystone Driller Co. v. Gen. Excavator Co.*, 290 U.S. 240, 245 (1933)). This doctrine "is not bound by formula or restrained by any limitation that tends to trammel the free and just exercise of discretion." *Precision Instrument Mfg. Co. v. Auto. Maint. Mach. Co.*, 324 U.S. 806, 815 (1945).

Here, the facts indicate that Synchronoss entered into licenses that were not probative of the value of the patents, and in fact suggest an effort to artificially inflate their value. It then attempted to rely on those licenses to extract money from Dropbox in this litigation. In other words, the facts suggest that Synchronoss may not have "acted fairly and without fraud or deceit as to the controversy in issue." *Precision Instrument*, 324 U.S. at 814-15. Thus, Dropbox has a legitimate basis to plead an unclean hands defense and seek discovery on the issue.

Undue delay: Under Rule 15, "delay alone no matter how lengthy is an insufficient ground for denial of leave to amend." *United States v. Webb*, 655 F.2d 977, 980 (9th Cir. 1981). In any event, Dropbox has not unduly delayed in filing a motion to add these allegations. As discussed above, Dropbox moved to amend promptly after learning of the facts underlying its defense. *See* p. 5, *supra*. If there is any delay in this issue being presented, it is on the part of Synchronoss, which has not produced the relevant documents even though it has obviously been reckoning with the issue for some time in connection with its 2017 10-K filing.

Prejudice to the opposing party: "While all these factors are relevant, the crucial factor is the resulting prejudice to the opposing party." *Howey v. United States*, 481 F.2d 1187, 1190 (9th Cir. 1973). "Unless undue prejudice to the opposing party will result, a trial judge should

ordinarily permit a party to amend its complaint." *Id*. Here, Synchronoss would not suffer any undue prejudice if the Court allows Dropbox to file its Amended Answer.

Futility of amendment: Amendment is futile when "no set of facts can be proved under the amendment to the pleadings that would constitute a valid and sufficient claim or defense." *Miller v. Rykoff-Sexton Inc.*, 845 F.2d 209, 214 (9th Cir. 1988). As discussed, the unclean hands doctrine "is not bound by formula or restrained by any limitation that tends to trammel the free and just exercise of discretion." *Precision Instrument*, 324 U.S. at 815. There are a number of facts that could, and do, support Dropbox's asserted defense. Accordingly, the proposed amendment is not futile.

Whether the party has previously amended the pleading: Dropbox has not previously amended its Answer.

IV. CONCLUSION

For the foregoing reasons, Dropbox respectfully requests that the Court permit Dropbox to file an Amended Answer.

Dated: August 6, 2018

Respectfully submitted,

By: /s/ *Christopher J. Mandernach*

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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 **[PROPOSED] ORDER GRANTING MTI'S UNOPPOSED MOTION TO MODIFY THE CASE SCHEDULE TO PERMIT MTI TO REASSERT COUNTERCLAIMS**
MICRON TECHNOLOGY, INC., Counterclaim Plaintiff, v. YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD., and YANGTZE MEMORY TECHNOLOGIES, INC., Counterclaim Defendants.	

Before the Court is the Unopposed Motion of Micron Technology, Inc. ("MTI") and defendant Micron Consumer Products Group, LLC (collectively, "Micron") to Modify the Case Schedule to Permit MTI to Reassert Counterclaims.

After considering the Motion and relief requested therein, and good cause having been shown, **IT IS HEREBY ORDERED** that MTI's Motion to Modify the Case Schedule to Permit MTI to Reassert Counterclaims is **GRANTED**.

Dated: _____ _____

Hon. Rita F. Lin
United States District Judge

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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 **DECLARATION OF JASON LANG IN SUPPORT OF MTI'S UNOPPOSED MOTION TO MODIFY THE CASE SCHEDULE TO PERMIT MTI TO REASSERT COUNTERCLAIMS**
MICRON TECHNOLOGY, INC., Counterclaim Plaintiff, v. YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD., and YANGTZE MEMORY TECHNOLOGIES, INC., Counterclaim Defendants.	

I, Jason Lang, declare as follows:

1. I am an attorney with the law firm of Orrick, Herrington & Sutcliffe LLP, counsel of record to Defendant and Counterclaim Plaintiff, Micron Technology, Inc. and Defendant Micron Consumer Products Group, LLC ("Micron") in the above-captioned matter. I am a member in good standing of the Bar of the State of California. I make this declaration based on my personal knowledge, unless otherwise noted. If called as a witness, I could and would testify competently to the matters set forth herein.

2. I make this declaration in support of MTI's Unopposed Motion to Modify the Case Schedule to Permit MTI to Reassert Counterclaims.

3. Exhibit A is a true and correct copy of a document YMTC served on MTI on December 20, 2024, as Attachment A to its Second Supplemental Responses to First Set of Interrogatories (Nos. 12-14).

4. Exhibit B is a true and correct redlined copy of MTI's Second Amended Counterclaims that MTI seeks to file.

5. Exhibit C is a true and correct copy of DI 198 filed in *Synchronoss Techs., Inc. v. Dropbox, Inc.*, Case No. 16-cv-00119-HSG-KAW (N.D. Cal.) on Aug. 6, 2018.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 29th day of January, 2025, in Menlo Park, CA.

/s/ Jason Lang
Jason Lang