UNITED STATES PATENT AND TRADEMARK OFFICE

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

YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD.,
Petitioner,

v.

MICRON TECHNOLOGY, INC.,
Patent Owner.

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

Before JOHN A. SQUIRES,[2] *Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

ORDER TO SHOW CAUSE

[1] This Order applies to each of the above-listed cases. All citations are to IPR2025-00098. Similar papers and exhibits were filed in IPR2025-00099.
[2] Authority over these cases was previously delegated to Michelle N. Ankenbrand, Acting Vice Chief Judge, due to recusal by Coke Morgan Stewart, then-Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the USPTO. *See* Paper 19 (Notice of Delegation); Paper 29 (Order granting Director Review). That delegation is rescinded in these cases.

Micron Technology, Inc. ("Patent Owner") filed a request for Director Review of the Decision granting institution ("Decision," Paper 15), and Yangtze Memory Technologies Company, Ltd. ("Petitioner" or "YMTC") filed an authorized response. *See* Paper 17 ("DR Request"); Paper 18. On August 28, 2025, Director Review of the Board's Decision was granted. *See* Paper 29.

Patent Owner argues that the Board should have exercised its discretion to deny institution under 35 U.S.C. § 314(a) because: (1) a foreign government controls Petitioner and these Petitions; and (2) the Board declined to exercise its discretion to deny institution based on an incorrect reading of the Supreme Court's ruling in *Return Mail, Inc. v. United States Postal Service*, 587 U.S. 618 (2019). DR Request 7–9. Petitioner responds that the Board considered and correctly rejected Patent Owner's arguments for discretionary denial. Paper 18, 4–5.

"The Director is permitted, but never compelled, to institute an [*inter partes* review]" and "no petitioner has a right to such institution." *Mylan Labs. Ltd. v. Janssen Pharmaceutica, N.V.*, 989 F.3d 1375, 1382 (Fed. Cir. 2021); *see* 35 U.S.C. § 314(a). Petitioner is listed on the Bureau of Industry and Security's Entity List, which "identifies persons . . . reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States." 15 C.F.R. § 744.16; *see* 15 C.F.R. § 744 (Supp. IV 2023) (listing YMTC). Petitioner is ordered to show cause why adjudicating petitions filed by such a designated entity is an appropriate use of the Office's limited resources.

Accordingly, it is:

ORDERED that Petitioner shall file, within fourteen days, a brief of no more than ten pages showing cause why the Petitions should not be denied institution under 35 U.S.C. § 314(a); and

FURTHER ORDERED that Patent Owner is authorized to file, within fourteen days of Petitioner's filing, a brief of no more than ten pages addressing denial of institution.

For PETITIONER:

James L. Davis, Jr.
Christopher M. Bonny
Andrew Radsch
ROPES & GRAY LLP
james.l.davis@ropesgray.com
christopher.bonny@ropesgray.com
andrew.radsch@ropesgray.com

For PATENT OWNER:

Jeremy Jason Lang
Travis Jensen
Jared Bobrow
Josue Guerra
ORRICK, HERRINGTON & SUTCLIFFE LLP
ptabdocketjjl2@orrick.com
t61ptabdocket@orrick.com
ptabdocketj3b3@orrick.com
ptabdocketj5g3@orrick.com