

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD, MICRON TECHNOLOGY, INC.,
MICRON SEMICONDUCTOR PRODUCTS, INC., and
MICRON TECHNOLOGY TEXAS LLC¹
Petitioner,

v.

NETLIST, INC.,
Patent Owner.

Case No. IPR2022-00999
Patent No. 11,232,054

**PATENT OWNER'S REPLY TO OPPOSITION TO MOTION TO SUBMIT
SUPPLEMENTAL INFORMATION PURSUANT TO 37 C.F.R. §42.123(b)**

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Patent Trial and Appeal Board
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¹ Micron Technology, Inc., Micron Semiconductor Products, Inc. and Micron Technology Texas LLC filed a motion for joinder and a petition in IPR2023-00405 and have been joined as petitioners in this proceeding.

For the first time in its Opposition, Petitioner formally seeks a construction of “power, data, address, and control signals” that includes “encoded data” and “encoded packet[s]” of data. The specification makes no reference to “encoded data” or “encoded packets” as “power, data, address, and control signals.” Petitioner is unable to identify a single passage in the specification describing these specific signals as being encoded signals. This is not an accident. Using encoded data packets requires a de-coding functionality on the module, which is nowhere disclosed. This is not a picayune dispute. One of the insights in the specification is that control signals can be passed to both volatile (DRAM) and non-volatile (Flash) memory on the module. EX1001, 12:44-51; 13:47-56. There is no discussion of how this could occur in the specification (or in the record before the PTAB) if encoded packets were sent. And to be clear, the claims do not just recite “signals,” and the question is not whether encoded data packets are “signals.” The claims recite very specific types of signals: “power, data, address, and control signals.” The question is whether encoded data packets are these four specific signals. Not whether an encoded data packet is generically a “signal.” Mr. Holbrook admitted “encoded data” is different than “signals” plural. Attachment A, 53:7-13. This testimony is relevant because for the first time on reply Petitioner attempted to correct a clear defect in its Petition: the Petition points to “signals” from the AMD to the memory devices as satisfying the limitation, while ignoring the relevant interface is between the off-module

memory controller and the edge of the module. Petition, 23-25; POR, 14-18. Once this was pointed out, Petitioner said for the first time on reply that encoded data packets satisfy the limitation. Reply, 8-9. But there is nothing in the Petition, the expert declaration submitted with the Petition, nor the expert testimony that supported this pivot.

The Opposition assertion that this is just “extrinsic evidence” and that “undue reliance on extrinsic evidence poses the risk that it will be used to change the meaning of claims” Opp. at 4. But it is Petitioner that is seeking to construe “power, data, address, and control signals” as “encoded packets.” If the Petitioner is claiming that the “power, data, address, and control signals” should be decided solely on the intrinsic record, then the Petition fails. There is nothing in the intrinsic record that treats “power, data, address, and control signals” as “encoded packets.”

The transcript is admissible under FRE 801(d)(2) as Petitioner Micron is a party to both the litigation and this IPR, and Micron designated Mr. Holbrook as its corporate representative on “all facts and circumstances” relating to non-infringement, which necessarily requires an understanding of the claims. The transcript is also admissible under FRE 804(b)(3) as a “statement against interest” where Mr. Holbrook was “unavailable” under at least FRE 804(a)(5)(B). Mr. Holbrook was not identified until August 3 and not made available for deposition until August 30, well after the close of discovery in this proceeding. Mot. at 4.

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Dated: October 18, 2023

Respectfully submitted,

By /Jonathan Lindsay/

H. Annita Zhong (Reg. No. 66,530)
Jonathan Lindsay (Reg. No. 45,810)
Jason Sheasby (*pro hac vice*)
IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067
Tel: (310) 277-1010
Fax: (310) 203-7199

Attorneys for Patent Owner
Netlist, Inc.

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CERTIFICATE OF SERVICE

I hereby certify, pursuant to 37 C.F.R. section 42.6, that on October 18, 2023, a complete copy of the foregoing document **PATENT OWNER'S REPLY TO OPPOSITION TO MOTION TO SUBMIT SUPPLEMENTAL INFORMATION PURSUANT TO 37 C.F.R. §42.123(b)** was served by electronic mail, as agreed to by the parties, upon the following:

Eliot D. Williams, Reg. No. 50,822
Theodore W. Chandler, Reg. No. 50,319
Ferenc Pazmandi, Reg. No. 66,216
Brianna L. Potter, Reg. No. 76,748
DLSamsungNetlistIPRs@BakerBotts.com

Juan C. Yaquian
Michael Rueckheim
Winston-IPR-Netlist@winston.com

/Susan M. Langworthy/
Susan M. Langworthy