

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**YANGTZE MEMORY TECHNOLOGIES COMPANY, LTD.,**  
Petitioner

v.

**MICRON TECHNOLOGY, INC.,**  
Patent Owner

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IPR2025-00500  
U.S. Pat. 10,475,737

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**PATENT OWNER'S AUTHORIZED RESPONSE TO PETITIONER'S  
REQUEST FOR DIRECTOR REVIEW**

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## EXHIBIT LIST

EXHIBIT NO.	DESCRIPTION
2001	Press Release, Micron, <i>Micron and Intel Unveil New 3D NAND Flash Memory</i> (Mar. 26, 2015) (“Micron ‘3D NAND Flash Memory’ Press Release”)
2002	Press Release, Micron, <i>Micron and WekaIO Win Best of Show Award at the Flash Memory Summit 2019</i> (Aug. 29, 2019) (“Micron ‘Best of Show Award’ Press Release”)
2003	Micron Technology, Inc., Annual Report (Form 10-K) (Oct. 4, 2024)
2004	National Integrated Circuit Industry Development Promotion Outline (Ministry of Industry and Information Technology): Ministry of Industry and Information Technology, <i>The Ministry of Industry and Information Technology Officially Announced the “National Integrated Circuit Industry Development Promotion Outline”</i> (Jun. 26, 2014) ( <a href="https://www.cac.gov.cn/2014-06/26/c_1111325916.htm">https://www.cac.gov.cn/2014-06/26/c_1111325916.htm</a> ) (“National IC Development Promotion Outline”)
2005	Certified English Translation of EX2004 (National IC Development Promotion Outline)
2006	KAREN M. SUTTER ET AL., CONG. RSCH. SERV., R47558, SEMICONDUCTORS AND THE CHIPS ACT: THE GLOBAL CONTEXT (2023)
2007	Alex He, <i>Case Study: From Paper Tiger to Real Tiger? The Development of China’s Semiconductor Industry</i> , CENTRE FOR INT’L GOVERNANCE INNOVATION 14 (2021)

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2008	<p>What kind of enterprise is a state-owned enterprise? (State-owned Assets Supervision and Administration Commission of the State Council (SASAC)):</p> <p>State-Owned Assets Supervision and Administration Commission of the State Council (SASAC), <i>Definition of “State-Owned Enterprise”</i> (July 4, 2019) (<a href="https://www.sasac.gov.cn/n2588040/n2590387/n9854212/c11647665/content.html">https://www.sasac.gov.cn/n2588040/n2590387/n9854212/c11647665/content.html</a>) (“SASAC Definition”)</p>
2009	Certified English Translation of EX2008 (SASAC Definition)
2010	<p>Notice of the State Council on Issuing “Made in China 2025”:</p> <p>China’s State Council, <i>Notice of the State Council on Issuing “Made in China 2025”</i> (May 19, 2015) (<a href="https://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm">https://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm</a>) (“Made in China 2025”)</p>
2011	Certified English Translation of EX2010 (Made in China 2025)
2012	KAREN M. SUTTER, CONG. RSCH. SERV., R46767, CHINA’S NEW SEMICONDUCTOR POLICIES: ISSUES FOR CONGRESS (2021)
2013	<p>Accelerating the realization of high-level scientific and technological self-reliance (People):</p> <p>Liu Yuanchun et al., <i>Accelerating the Realization of High-Level Scientific and Technological Self-Reliance</i>, PEOPLE (July 15, 2024) (<a href="http://paper.people.com.cn/zgjzk/html/2024-07/15/nw.zgjzk_20240715_1-05.htm">http://paper.people.com.cn/zgjzk/html/2024-07/15/nw.zgjzk_20240715_1-05.htm</a>) (“People’s Paper Article”)</p>
2014	Certified English Translation of EX2013 ( <i>People’s Paper Article</i> )
2015	<p>Yangtze Memory Technologies Co. Ltd. Officially Established (YMTC):</p> <p>YMTC, <i>Yangtze Memory Technologies Co. Ltd. Officially Established</i> (Aug. 1, 2016) (<a href="https://www.ymtc.com/cn/news/28.html">https://www.ymtc.com/cn/news/28.html</a>) (“YMTC Press Release”)</p>

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>
2016	Certified English Translation of EX2015 (YMTC Press Release)
2017	Testimony of Stephen Ezell (VP, Global Innovation Policy – Information Technology & Innovation Foundation) Before the U.S.-China Economic and Security Review Commission (Apr. 14, 2022)
2018	Yahoo! Finance, South China Morning Post, Tech War: China’s Top Memory Chip Maker YMTC Gets US\$7 Billion From State-Backed Investors (Mar. 2, 2023) (“ <i>Yahoo!</i> Article”)
2019	Yangtze Memory Increases Capital and Expands Capacity to RMB 100 Billion, Big Fund Phase II Forms a Partnership with Local Hubei State-owned Assets (Baidu): <i>Baidu, Yangtze Memory Increases Capital and Expands Capacity to RMB 100 Billion, Big Fund Phase II Forms a Partnership with Local Hubei State-owned Assets</i> (Mar. 2, 2023) ( <a href="https://baijiahao.baidu.com/s?id=1759256650733024656&amp;wfr=spider&amp;for=pc">https://baijiahao.baidu.com/s?id=1759256650733024656&amp;wfr=spider&amp;for=pc</a> ) (“ <i>Baidu</i> Article”)
2020	Certified English Translation of EX2019 ( <i>Baidu</i> Article)
2021	YMTC’s Rule 7.1 Corporate Disclosure Statement (Nov. 9, 2023), <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , C.A. No. 5:23-cv-05792-VKD (N.D. Cal.)
2022	Wuhan Optics Valley Financial Holding Group Co., Ltd. 2024 Tracking Rating Report (Lianhe Credit Rating Co., Ltd.): Lianhe Credit Rating Co., Ltd., Wuhan Optics Valley Financial Holding Group Co., Ltd., 2024 Tracking Rating Report (Jun. 28, 2024) (“2024 Tracking Rating Report”)
2023	Certified English Translation of EX2022 (2024 Tracking Rating Report)

EXHIBIT NO.	DESCRIPTION
2024	<p>Focusing on Key Points and Making Breakthroughs in Innovation, Hubei Solidly Promotes the Deepening and Improvement Actions to Go Deeper and More Concrete (State owned Assets Supervision and Administration Commission of the State Council (SASAC)):</p> <p>State-Owned Assets Supervision and Administration Commission of the State Council (SASAC), <i>Focusing on Key Points and Making Breakthroughs in Innovation, Hubei Solidly Promotes the Deepening and Improvement Actions to Go Deeper and More Concrete</i> (Mar. 25, 2024)  (<a href="http://www.sasac.gov.cn/n4470048/n29955503/n30329277/n30329358/c30380577/content.html">www.sasac.gov.cn/n4470048/n29955503/n30329277/n30329358/c30380577/content.html</a>) (“Statement of China’s State Council”)</p>
2025	<p>Certified English Translation of EX2024 (Statement of China’s State Council)</p>
2026	<p>Yangtze Memory’s “Double 11 Performance” Surpassed Samsung’s for the First Time (Sina Finance):</p> <p>Sina Finance, <i>Yangtze Memory’s “Double 11 Performance” Surpassed Samsung’s for the First Time</i> (Nov. 12, 2024)  (<a href="https://finance.sina.com.cn/roll/2024-11-12/doc-incvupap6483110.shtml">https://finance.sina.com.cn/roll/2024-11-12/doc-incvupap6483110.shtml</a>) (“Sina Finance Article”)</p>
2027	<p>Certified English Translation of EX2026 (<i>Sina Finance</i> Article)</p>
2028	<p>Yangtze Memory Technologies Co., Ltd. 2024 Campus Recruitment (Southeast University):</p> <p>Southeast University, <i>Yangtze Memory Technologies Co., Ltd. 2024 Campus Recruitment</i> (Mar. 13, 2024) (<a href="https://seu.91job.org.cn/substation/lectureDetail?xjhid=1000000000301932&amp;xxdm=10286">https://seu.91job.org.cn/substation/lectureDetail?xjhid=1000000000301932&amp;xxdm=10286</a>) (“Southeast Univ., YMTC 2024 Campus Recruitment”)</p>
2029	<p>Certified English Translation of EX2028 (Southeast Univ., YMTC 2024 Campus Recruitment)</p>

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>
2030	<p>Yangtze Memory Technologies Co., Ltd. 2020 Campus Recruitment Introduction (Wuhan University of Science and Technology):  Wuhan University of Science and Technology, <i>Yangtze Memory Technologies Co., Ltd. 2020 Campus Recruitment Introduction</i> (Sept. 10, 2019) (<a href="https://wust.91wllm.cn/teachin/view/id/97310">https://wust.91wllm.cn/teachin/view/id/97310</a>) (“Wuhan Univ. of Sci. and Tech., YMTC 2020 Campus Recruitment Introduction”)</p>
2031	<p>Certified English Translation of EX2030 (Wuhan Univ. of Sci. and Tech., YMTC 2020 Campus Recruitment Introduction)</p>
2032	<p>Yangtze Memory 2025 Campus Recruitment (China University of Petroleum (Beijing)):  China University of Petroleum, <i>Yangtze Memory 2025 Campus Recruitment</i> (Feb. 20, 2025) (<a href="https://career.cup.edu.cn/job/view/id/618140">https://career.cup.edu.cn/job/view/id/618140</a>) (“China Univ. Of Petroleum, YMTC 2025 Campus Recruitment”)</p>
2033	<p>Certified English Translation of EX2032 (China Univ. Of Petroleum, YMTC 2025 Campus Recruitment)</p>
2034	<p>U.S. Chip Equipment Suppliers Suspend Business Activities at Yangtze Memory (Wall Street Journal – China):  Yoko Kubota et al., <i>U.S. Chip Equipment Suppliers Suspend Business Activities at Yangtze Memory</i>, WALL STREET JOURNAL CHINA (Oct. 13, 2022) (<a href="https://cn.wsj.com/articles/美国供应商暂停在中国长江存储科技的业务活动-11665617406">https://cn.wsj.com/articles/美国供应商暂停在中国长江存储科技的业务活动-11665617406</a>) (“<i>WSJ China Article</i>”)</p>
2035	<p>Certified English Translation of EX2034 (<i>WSJ China Article</i>)</p>
2036	<p>Letter from Michael T. McCaul, Member of Congress, and Bill Hagerty, U.S. Senator, to the Honorable Gina Raimondo, U.S. Commerce Secretary (July 12, 2021)</p>

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>
2037	Demetri Sevastopulo, <i>Bipartisan Group Urges US Blacklist for “Beijing-Directed” Chipmaker</i> , FINANCIAL TIMES (Sept. 20, 2022) ( <a href="https://www.ft.com/content/173eb5b7-c211-4fa8-af8e-93382ed12836">https://www.ft.com/content/173eb5b7-c211-4fa8-af8e-93382ed12836</a> ) (“ <i>Financial Times Article</i> ”)
2038	U.S. Senator Charles E. Schumer, <i>With Chinese Chip Companies Threatening National Security And Jobs, Schumer Announces President Has Heeded His Call And Will Add YMTC - One Of China’s Leading Chip Makers - To A Trade Blacklist; Administration Action Will Strengthen National Security And Protect The Domestic Chip Industry</i> (Dec. 16, 2022) (“Schumer Statement”)
2039	U.S. Department of Defense, <i>DOD Releases List of People’s Republic of China (PRC) Military Companies in Accordance with Section 1260H of the National Defense Authorization Act for Fiscal Year 2021</i> (Jan. 31, 2024) ( <a href="https://www.defense.gov/News/Releases/Release/article/3661985/dod-releases-list-of-peoples-republic-of-china-prc-military-companies-in-accord/">https://www.defense.gov/News/Releases/Release/article/3661985/dod-releases-list-of-peoples-republic-of-china-prc-military-companies-in-accord/</a> )
2040	U.S. Department of Defense, <i>Entities Identified as Chinese Military Companies Operating in the United States in accordance with Section 1260H of the William M. (“Mac”) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116-283)</i> ( <a href="https://media.defense.gov/2024/Jan/31/2003384819/-1/-1/0/1260H-LIST.PDF">https://media.defense.gov/2024/Jan/31/2003384819/-1/-1/0/1260H-LIST.PDF</a> )
2041	<i>Intentionally Omitted</i>
2042	U.S. Postal Service, <i>Postal Facts, USPS Fact #59</i> (Apr. 22, 2024)
2043	<i>Intentionally Omitted</i>
2044	<i>Oversight of the USPTO: Hearing Before the Subcomm. On Intellectual Property</i> , 118th Cong. (2023) (Testimony of Katherine Vidal, Undersecretary of Commerce for IP and Director of USPTO)

EXHIBIT NO.	DESCRIPTION
2045	Press Release, DOJ Office of Public Affairs, Taiwan Company Pleads Guilty to Trade Secret Theft in Criminal Case Involving PRC State-Owned Company (Oct. 28, 2020) ( <a href="https://www.justice.gov/archives/opa/pr/taiwan-company-pleads-guilty-trade-secret-theft-criminal-case-involving-prc-state-owned">https://www.justice.gov/archives/opa/pr/taiwan-company-pleads-guilty-trade-secret-theft-criminal-case-involving-prc-state-owned</a> ) (“DOJ Press Release”)
2046	Notice of the State Council on Issuing Policies to Promote the High-quality Development of the Integrated Circuit Industry and Software Industry in the New Era: China’s State Council, <i>Notice of the State Council on Issuing Policies to Promote the High-quality Development of the Integrated Circuit Industry and Software Industry in the New Era</i> (Aug. 4, 2020) ( <a href="https://www.gov.cn/zhengce/content/2020-08/04/content_5532370.htm">https://www.gov.cn/zhengce/content/2020-08/04/content_5532370.htm</a> ) (“State Council Notice on Policies to Promote Development of IC”)
2047	Certified English Translation of EX2046 (State Council Notice on Policies to Promote Development of IC)
2048	Declaration of Karen Lee, Translator (Mar. 10, 2025)
2049	Declaration of Fei-Xue Qian, Translator (Mar. 10, 2025)
2050	Email from Andrew Kellogg (PTAB) regarding IPR2025-00098 and IPR2025-00099: Request for Leave to File Preliminary Reply, dated April 7, 2025
2051	Declaration of Jared Bobrow in Support of Patent Owner’s Motion for Admission <i>Pro Hac Vice</i>
2052	U.S. Patent No. 9,929,175 to Tang et al.
2053	U.S. Patent No. 9,564,471 to Tang et al.
2054	U.S. Patent No. 9,318,430 to Tang et al.
2055	U.S. Patent No. 8,945,996 to Tang et al.

<b>EXHIBIT NO.</b>	<b>DESCRIPTION</b>
2056	Redline comparison of specification of U.S. Patent No. 8,945,996 to U.S. Patent No. 10,475,737
2057	Order Granting Motion to Dismiss Counterclaims, Dkt. No. 78, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , C.A. No. 5:23-cv-05792-VKD (N.D. Cal. July 16, 2024)
2058	Counterclaim Defendants' Reply in Support of Their Motion to Dismiss Counterclaims, Dkt. No. 53, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , C.A. No. 5:23-cv-05792-VKD (N.D. Cal. Apr. 2, 2024)
2059	MTI's Unopposed Motion to Modify the Case Schedule to Permit MTI to Reassert Counterclaims, Dkt. No. 213, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , C.A. No. 5:23-cv-05792-VKD (N.D. Cal. Jan. 29, 2025)
2060	YMTC's Statement of Non-Opposition to MTI's Unopposed Motion to Modify the Case Schedule to Permit MTI to Reassert Counterclaims, Dkt. No. 224, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , C.A. No. 5:23-cv-05792-VKD (N.D. Cal. Feb. 6, 2025)
2061	Order Granting Motion to Stay Case Pending Inter Partes Review, Dkt. No. 243, <i>Yangtze Memory Technologies Company, Ltd. v. Micron Technology, Inc.</i> , C.A. No. 5:23-cv-05792-VKD (N.D. Cal. Mar. 14, 2025)
2062	U.S. Patent No. 10,872,903 to Tang et al.
2063	U.S. Patent No. 8,803,214 to Tang et al.

## I. INTRODUCTION

The Director should deny Petitioner’s request for Director review of the Decision Denying Institution of *Inter Partes* Review (“IPR”) (“Decision”).<sup>1</sup> Petitioner’s disagreement with the Decision is not a basis for Director Review.

Petitioner argues that the dismissal without prejudice of the challenged patents from the parallel district court action supports overturning the Decision. In taking this position, Petitioner fails to mention that shortly before the district court stayed the parallel action, Micron filed an *unopposed* motion to reinstate those patents. Indeed, in its initial Opposition (Paper 8) (“Opp.”) to Patent Owner’s request for discretionary denial, Petitioner advances arguments in which it assumes that the challenged patents *will be reasserted and tried* in the district court case. Opp. at 16-17. Petitioner’s request also does not mention that Micron’s dismissal in district court resulted from Petitioner’s discovery deficiencies and misrepresentations. Specifically, Petitioner had (a) improperly withheld discovery from Micron showing that Petitioner had made infringing sales, and (b) made misrepresentations to the

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<sup>1</sup> “Decision” refers to Paper 11 in each of IPR2025-00498 and IPR2025-00499 (“-498 IPR” and “-499 IPR”) for US 8,803,214 (“’214 patent”), Paper 10 in IPR2025-00500 (“-500 IPR”) for US 10,475,737 (“’737 patent”), and Paper 10 in IPR2025-00501 (“-501 IPR”) for US 10,373,974 (“’974 patent”).

court about its sales and shipment activity in the U.S.

Next, Petitioner incorrectly portrays the claims of the challenged patents as “substantially similar” to claims of other patents over which the PTAB has instituted IPR proceedings. Rather, as Petitioner acknowledged in its Opposition, the claims merely have some “overlap in claimed subject matter.” Similarly, Petitioner argues that the Examiner erred by “overlooking” Petitioner’s prior art during prosecution of the challenged patents. Paper 11 (“Request”) at 7-9. But Petitioner’s argument faults the Examiner for not discovering the prior art, not for the evaluation of the art of record. *See id.*; Opp. at 9-15. At bottom, Petitioner is asking the Director to perform a merits analysis based solely on attorney allegations. This request, which directly contravenes the Stewart Memo’s bifurcated process, should be rejected.<sup>2</sup>

Finally, Petitioner argues in cursory fashion that the new interim process violates the APA and Petitioner’s due process rights. Petitioner had several chances to brief these alleged violations—including in its initial Opposition—but chose not to. Petitioner waived these arguments.

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<sup>2</sup> March 26, 2025, Interim Processes for PTAB Workload Management (available at <https://www.uspto.gov/sites/default/files/documents/InterimProcesses-PTABWorkloadMgmt-20250326.pdf>) (“Stewart Memo”)

Because Petitioner has not set forth any grounds warranting review of the Decision, the Director should deny Petitioner's Request.

## II. ARGUMENT

### A. The Decision's Reliance On Settled Expectations Is Consistent With Other Director Decisions, And Other Factors Do Not Weigh In Favor Of Institution

Petitioner's Request fails for a host of reasons, including that it mischaracterizes the Decision, relies on misleading or incomplete information, and merely rehashes unsuccessful and improper arguments from its Opposition.

At the outset, Petitioner incorrectly states that the Decision relied only on "strong settled expectations' for Patent Owner alone to deny institution." Request at 2. The Decision states that it was "based on a holistic assessment of all of the evidence and arguments presented." Decision at 2-3. The Decision notes that "[s]ome factors counsel against discretionary denial" and provided an example. *Id.*, 2. The Deputy Chief found that Petitioner failed to "provide persuasive reasoning why an *inter partes* review is an appropriate use of Board resources." *Id.*

If the Director were to reconsider "settled expectations" or the parties' other arguments, the Director also should consider other arguments in Micron's Briefing, including: (1) Petitioner is not a statutorily authorized "person" entitled to file an

IPR petition;<sup>3</sup> (2) Petitioner failed to identify the Chinese Government as a real party-in-interest; and (3) institution should be denied under § 314(a) based on significant foreign policy and national security concerns. *See* Paper 6.<sup>4</sup>

### **1. Petitioner’s “No Parallel Litigation” Argument Only Amplifies Its Prior Misrepresentations**

Petitioner asserts that “there is *no* parallel litigation here concerning these challenged patents,” thus eliminating any risk of inconsistent outcomes. *See* Request at 2-4.<sup>5</sup> This assertion is misleading at best and ignores that *Petitioner did not oppose Micron’s motion to reassert the challenged patents in district court.* Petitioner’s current argument cannot be squared with its own representation to the Board that “the case schedule will likely be further extended to accommodate those additional ’737 patent claims.” *Opp.* at 18. Petitioner even assumed that a trial will occur on the ’737 patent in its prior arguments in this proceeding. *Id.* at 16-18.

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<sup>3</sup> *Return Mail, Inc. v. U.S. Postal Service*, 587 U.S. 618 (2019).

<sup>4</sup> IPRs over patents related to the ’214 and ’737 patents are stayed pending director review of the Board’s Institution Decision related to these issues. *See Yangtze Memory Techs. Co., Ltd. v. Micron Tech., Inc.*, IPR2025-00098, Paper 29 (Aug. 28, 2025); *Yangtze Memory Techs. Co., Ltd. v. Micron Tech., Inc.*, IPR2025-00099, Paper 28 (Aug. 28, 2025).

<sup>5</sup> All emphasis is from the original document unless otherwise noted.

The district court temporarily dismissed the challenged patents from the case as a result of Petitioner’s discovery violations and misleading representations. Ex. 2057. Under the district court’s local rules, Petitioner had a duty to produce sales information for the accused products. However, Petitioner failed to produce any information on its post-complaint sales. What’s more, Petitioner told the District Court that it had made no post-complaint sales: “Micron *knows* that YMTC/YMTI are not selling the accused 3D NAND products in the U.S.” Ex. 2058 at 1. As a result, the district court dismissed Micron’s claims under the challenged patents without prejudice, and Micron—relying upon Petitioner’s representations—did not include the challenged patent in its Second Amended Counterclaims. *See* Ex. 2057. Later, however, Micron discovered that Petitioner had produced incomplete sales information and that Petitioner’s statements to the Court about its sales were false—*it had made post-complaint sales*. Accordingly, Micron filed a motion to reassert the challenged patents. *See* Ex. 2059 at 3-6. Petitioner then filed a statement in district court that it “does not oppose Micron’s motion.” Ex. 2060. The district court’s stay order merely mooted, for the time being, Micron’s unopposed motion to reassert the challenged patents. Petitioner recognizes that Micron will renew its motion and that there will be parallel litigation over the ’737 patent. Opp. at 16-18.

Petitioner’s entire “no parallel litigation” argument fails because it omits two key facts regarding inevitable parallel litigation. First, given Petitioner’s non-

opposition to Micron reasserting the challenged claims, it is highly likely that the district court will allow Micron to *reassert* the challenged claims—a fact Petitioner elsewhere admits (*see supra*). Second, Petitioner omits that it told the Director elsewhere that it intends to move the court to lift the stay. IPR2025-00244, DD Brief (Paper 14), 17; ID (Paper 27) (denying institution). Lifting the stay would create a significant risk of inconsistent outcomes if the Board institutes this IPR.

At all events, the caselaw on which Petitioner relies to support its position is inapposite. Unlike *Arm Ltd. et al. v. Daedalus Prime LLC*, where the court dismissed the parallel litigation *with prejudice*, the district court here dismissed Patent Owner’s claims without prejudice. IPR2025-00207, Paper 14 at 2 (Aug. 6, 2025) (Director). Given that the case was in its early stages when the court entered the stay (Ex. 2061), the court dismissed Patent Owner’s claims without prejudice, and Petitioner does not oppose Micron’s motion to reassert the claims, it is extremely likely that the court will grant Micron’s motion to re-assert the patents when the stay is lifted. Petitioner assumes this will happen. *See* Opp. at 16-18. *Am. Airlines, Inc. et al. v. Intellectual Ventures I LLC* is inapposite because the petitioner stipulated not to “pursue in the District Court Litigation any ground raised or that could have been reasonably raised in an IPR.” IPR2025-00785, Paper 1 at 45 (Apr. 10, 2025). Here, Petitioner only stipulated not to “pursue the same grounds of invalidity.” Paper 1 at 84 n.14.

## **2. The Institution of IPRs over Related Patents Does Not Favor Institution Because the Claims Are Not Substantially Similar**

Petitioner argues that the Director should refer the '214 patent (the -498 and -499 IPRs) and the '737 patent (the -500 IPR) to the Board to institute IPR because the Board instituted IPRs of patents in the same family. Request at 4-7. The Director should reject this argument because it relies on a mischaracterization of Petitioner's Opposition and the patents' claims. Petitioner argued in its Opposition that there is merely "overlap in claimed subject matter" between the challenged claims and the claims at issue in IPR2025-00098 and IPR2025-00099. *See* Opp. at 5. Now, Petitioner changes tack and argues that the claims are "substantially similar" in their entirety. *See* Request at 4-7. But a claim is not "substantially similar" if it merely has some "overlap in claimed subject matter." The authority that Petitioner cites confirms this. *See id.* at 4-6 (citing *e.g.*, IPR2025-00680, DD Decision (Paper 18) at 3) (relying on claims being "substantially similar").

Petitioner's argument also fails because it does not specify *how* the claims allegedly overlap. Petitioner does not recite any claim language, nor does it compare the specific language of one claim to another. Instead, its Request merely cites to the non-specific statements in its Opposition that the claimed subject matter of one patent overlaps with another. *See* Request at 4-7.

Petitioner no doubt relies on generalities because the specifics—that is, the claims themselves—undermine its position. For example, Claim 1 of the '903 patent

recites “conductive pillars,” “memory cell strings,” and a “conductive channel.” Ex. 2062, Claim 1. None of these terms appears in Claim 1 of the ’214 patent. Ex. 2063, Claim 1. Conversely, Claim 1 of the ’214 patent contains a final clause directed to “data lines,” but the term “data lines” is not in Claim 1 of the ’903 patent. *Compare* Ex. 2063, Claim 1 *with* Ex. 2062, Claim 1.

Comparing Claim 1 of the ’996 patent to Claim 1 of the ’737 fares no better. As an initial matter, Claim 1 of the ’996 patent is directed to a “method of forming circuitry components,” whereas Claim 1 of the ’737 patent is directed to an “integrated circuitry” structure “comprising” various elements. *Compare* Ex. 1001, Claim 1 *with* Ex. 1011, Claim 1. The ’996 patent recites elements, *e.g.*, “removing at least some sacrificial material,” not present in Claim 1 of the ’737 patent. *Id.* Conversely, Claim 1 of the ’737 patent recites terms, *e.g.*, “gate lines,” that are not present in Claim 1 of the ’996 patent. Ex. 1001, Claim 1.

As Petitioner noted in its Opposition brief, there is merely some “overlap in claimed subject matter” and some overlapping terminology, but the analysis above demonstrates that there are many material differences between the patents’ claims. *See* Opp. at 5. This is a far cry from the cases that Petitioner cites in which the claims are virtually identical. *See, e.g., Nintendo Co., Ltd. et al v. Resonant Sys., Inc.*, IPR2025-00680, Paper 15 at 4-7 (Aug. 14, 2025) (the challenged patent’s claims are “patentably indistinct” from (a) claims in a related patent that Patent Owner

disclaimed, and (b) claims in a related patent for which the Board instituted IPR).

**3. Petitioner’s Broad Arguments About Examiner Error Are Unsupported and Improperly Seek to Convert the Discretionary Denial Phase into a Full-Blown Merits Analysis Based on Attorney Allegations**

Petitioner repeats the argument from its Opposition briefs that the Examiner erred by “overlooking” Petitioner’s prior art during prosecution of the challenged patents. Request at 7-9. But the Examiner did not “overlook” anything, and saying so mischaracterizes the file history. The Examiner simply did not have before it the prior art that Petitioner cites. *See* Ex. 1002.

Petitioner essentially argues that the Examiner erred in not discovering the Jeong reference during prosecution of the challenged patent, which Petitioner alleges discloses “vertical contacts.” *See* Request at 9. Jeong is the primary reference in Grounds 4 and 5 in the -500 IPR. But Petitioner provides nothing more than attorney argument suggesting Jeong discloses the limitation. *See* Opp. at 9-13; Request at 7-9.

The authority Petitioner cites does not support finding Examiner error based on attorney argument alone. In *Microsoft*, the Examiner allowed the patent after initially rejecting its claims as anticipated by a prior art reference (“Lippert”). *Microsoft Corp. v. ParTec AG f/k/a Partec Cluster Competence Ctr. GmbH*, IPR2025-00318, Paper 9 at 3 (June 12, 2025) (Director). There, the Petition leveraged the Examiner’s work and relied on grounds combining Lippert with prior

art allegedly disclosing what the Examiner said Lippert does not disclose. *See Id.*; *id.*, Paper 1 at 2. Here, Petitioner presents new grounds not based in the Examiner’s work. In *Anthony*, the Examiner allowed the patent in a first office action with no rejections. *Anthony Inc. v. Controltec LLC*, IPR2025-00559, Paper 12 at 2 (July 16, 2025) (Director). Here, in contrast, the challenged patent faced rigorous examination and rejection before being allowed. *See Ex. 1002*. Petitioner has made no attempt to explain how the allegedly overlooked art is not cumulative of the art on which the Examiner relied during prosecution. In *Ensung*, the Examiner stated that although a prior art reference (“Karasiuk”) was pertinent, it did not rely on it in a rejection. *Eunsung Glob. Corp. v. HydraFacial LLC*, IPR2025-00445, Paper 14 at 3 (July 10, 2025) (Director). In IPR proceedings, the patent owner admitted that the Examiner had not identified Karasiuk’s most relevant disclosures. *Id.*, Paper 12 at 17-21. Here, Patent Owner has not made any such admission. Finally, in *Xencor*, the Petitioner successfully argued that the Examiner overlooked disclosures in prior art cited in an IDS based on applicant’s misrepresentations about what the art discloses. *Xencor, Inc. v. Merus N.V.*, IPR2025-00604, Paper 12 at 3 (July 17, 2025) (Director); *see also id.*, Paper 8 (Petitioner’s arguments) at 2-3, 10, 14-17. Here, Petitioner does not identify any such misrepresentations.

**B. Petitioner Waived Any Argument That The Decision Violates The APA, Due Process, Or The “*Accardi* Doctrine”**

Petitioner argues that “retroactively” applying the Director’s new interim process in this proceeding violates the APA, Petitioner’s due process rights, and the so-called “*Accardi* doctrine.” Request at 12-15. But Petitioner waived these arguments because it had several opportunities to brief them but chose not to do so. Petitioner first could have requested authorization from the Board to address the interim process (*see* Stewart Memo), but it did nothing. Petitioner then could have made these arguments in the Opposition brief it filed pursuant to the interim process. But nowhere in its more than 30-page Opposition does Petitioner challenge the interim process. *See generally* Opp. Only after the Deputy Chief discretionarily denied institution did Petitioner raise these arguments.

**III. CONCLUSION**

For the foregoing reasons, Micron respectfully requests denial of Petitioner’s Request for Director Review.

Respectfully submitted,

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Dated: September 22, 2025,

**CERTIFICATE OF SERVICE**

The undersigned certifies that on September 22, 2025, a copy of the following was served in its entirety via electronic mail, upon the following attorneys of record for Petitioner:

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*/Karen Johnson/*  
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