

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRON TECHNOLOGY, INC. and
MICRON SEMICONDUCTOR PRODUCTS, INC.,
Petitioner

v.

PALISADE TECHNOLOGIES, LLP,
Patent Owner.

Case No. IPR2025-01008
U.S. Patent No. 8,327,051

PETITIONER'S REQUEST FOR DIRECTOR REVIEW

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¹ Four-digit pin citations that begin with 0 are the page stamps added by Micron in the bottom right corner of the exhibits. All other pin citations are to original page, column, paragraph, or line numbers.

² On November 18, 2025, the Board denied Petitioner’s request to provide exhibits (Paper No. 17) and also denied Petitioner’s request to provide hyperlink citations to public information (Paper No. 18) in support of its arguments. Ex-3101. The hyperlinks were provided solely for the Director’s convenience, directing him to publicly available information relevant to his evaluation of the Request.

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I. INTRODUCTION

Petitioners Micron Technology, Inc. and Micron Semiconductor Products, Inc. (collectively, “Micron”) are quintessential American success stories. Since 1978 in a basement in Boise, Idaho, with capital investment from a small group of local farmers, ranchers, and small businessmen, Micron Technology has grown and emerged as a top player in the international semiconductor industry and anchors the U.S. in that important market—Micron is our nation’s only domestic manufacturer of semiconductor memory, delivering memory solutions that power cutting-edge technology (artificial intelligence (AI), data centers, electric vehicle systems, and more). As applauded by the Trump administration, Micron’s \$200 billion multiyear, multisite U.S. build-out will support up to 90,000 direct and indirect U.S. jobs across Idaho, New York, California, Colorado, Georgia, Minnesota, Texas, and Virginia, the latter of which hosts the country’s only high-volume memory-fabrication facility. Government leaders, including the Secretary of Commerce, the Secretary of State, the Speaker of the House, and the President have noted that a domestic semiconductor supply, including memory, is essential to U.S. economic and national security interests.

Against that backdrop, using *inter partes* review (IPR) to resolve patent-quality concerns serves America First priorities by reducing uncertainty that chills capital investment and slows the expansion of critical domestic capacity. Notably,

U.S. manufacturing expansion efforts by Micron and others can be increasingly jeopardized by efforts of nonpracticing entities (NPEs) to enjoin manufacturing or render such manufacturing economically uncompetitive. Here, Palisade Technologies, LLP (“Palisade”) seeks an injunction barring Micron from manufacturing its dynamic random-access memory (DRAM) in the United States; such an injunction could make Micron’s planned investments impossible. Yet, Micron’s efforts to efficiently and effectively address attacks on its innovative products and continued investments have come to a halt because of the Board’s reliance on a categorical bias against reviewing “old” patents, and failure to consider the *Fintiv* factors. If the Board declines to review patents asserted by NPEs with undisclosed backers who aim to shut down the only U.S. DRAM manufacturer, under what circumstances will the Board use its resources? This Request explains how the Board’s reliance on the age of a patent to find “settled expectations” is inconsistent with recent guidance and decisions requiring party-specific evidence of reliance. No such evidence supports Palisade claiming “settled expectations” where it acquired patents just two months before filing suit against Micron.

Micron respectfully requests the Director review the Board’s discretionary denial of institution. Director review and institution would promote patent quality, conserve judicial and agency resources, and safeguard the economic and national-security interests tied to a robust domestic semiconductor memory supply chain and

tens of thousands of American jobs.

II. COMPELLING ECONOMIC AND NATIONAL SECURITY INTERESTS WARRANT INSTITUTION

Compelling economic and national-security interests strongly favor director review and institution. In March 2025, the Office highlighted several arguments for consideration in discretionary denial requests for IPR and post-grant review (PGR), including “compelling economic, public health, or national security interests,” as well as “other considerations bearing on the Director’s discretion.” Interim Processes for PTAB Workload Management, 2–3 (Mar. 26, 2025). As explained below, Micron’s expansion of its domestic manufacturing capacity advances significant U.S. economic and security objectives, which are jeopardized by institution denial. The Institution Decision erred by dismissing these factors after a superficial analysis.

A. Securing a domestic supply of memory is essential to AI, critical infrastructure, and national security

Micron is a cornerstone of the U.S. semiconductor industry and the nation’s only domestic fabricator of semiconductor memory. Ex-1040. Its DRAM and NAND products are foundational to AI, hyperscale data centers, high-performance computing, automotive platforms (including EVs and ADAS), IoT, and telecommunications. A disruption to domestic memory supply would reverberate through these sectors, increasing costs, elongating lead times, and weakening U.S.

competitiveness in AI and other strategic technologies. Multiple administrations have noted the importance of domestic semiconductor manufacturing capacity to protect national and economic security interests. The Department of Commerce has recognized that “an investment in Micron will strengthen U.S. economic and national security by bolstering a reliable domestic supply of the leading-edge DRAM chips.” Secretary Lutnick stated on June 12, 2025, “Micron’s planned investment will ensure the U.S. advances its lead across critical industries like AI, automotive, and aerospace & defense.” *See also* Ex-1043. The 2020-23 chip supply chain disruption reduced production of autos, electronics, medical devices, and other products, highlighting the economic and national-security risks of concentrating semiconductor production capacity in non-U.S. markets. Moreover, Micron employs a U.S. workforce of more than 10,000 across Idaho (headquarters and R&D) and throughout the country, and it maintains the country’s only high-volume semiconductor memory-fabrication facility in Virginia. Ex-1039; Ex-1056; Ex-1040; *see* Ex-1040 (Senator Warner: “As the only U.S.-based...manufacturer of memory, Micron plays a critical role in strengthening our domestic semiconductor supply chain.”). Keeping those facilities operating and expanding (e.g., increasing the U.S. share of memory fabricated in America, as proposed, from 2% to 12%) is directly aligned with national policy to build and maintain resilient semiconductor supply chains.

B. Long-term U.S. investments and jobs at stake, and national security, manufacturing, and AI priorities may be jeopardized

Micron’s investment in the American workforce, technology industry, and economy started in 1978 in Boise, Idaho, and continues to this day. This summer, Micron announced its \$150B U.S. manufacturing expansion and \$50B commitment to R&D programs. This multi-site, multi-year investment into the U.S. economy will support as many as 90,000 direct and indirect jobs nationwide. Ex-1041. The Trump Administration applauded Micron’s investment as “another big win for American workers, national security, and leadership in the world.” *Id.*; *see* Ex-1042 (Secretary Lutnick noting Micron’s commitment to Idaho, New York, and Virginia represented a “huge win for our economy, national security, and American workers”). Government leaders have recognized these projects as advancing economic and security objectives by ensuring the United States has secure access to the memory technologies that underpin AI, networking, autonomous systems, defense systems, and critical infrastructure.

But Micron’s investments depend on predictable access to markets and capital and on patent quality review processes that prevents weak claims from interfering with U.S. growth in memory technology. Allowing a patent that Palisade has not practiced, licensed, or commercially applied—and the validity of which is tainted by examiner error—to escape review and allowing Palisade to impose litigation costs and market risk on Micron would both chill Micron’s investment and slow expansion

precisely where public policy warrants acceleration. Micron expects to onshore up to 40% of its global DRAM manufacturing through its New York mega-fab and two fabs in Boise. Allowing an unpracticed, commercially unused patent like Palisade's to jeopardize the largest domestic manufacturing expansion in decades—through potential injunctions—sets back such efforts and poses an unacceptable national and economic security risk. An injunction based on patents that never should have issued could disadvantage U.S. manufacturers relative to foreign markets not subject to similar injunctions from IP litigation, thus encouraging further offshoring of this critical sector.

President Trump has highlighted the national security priorities of the United States' leadership in AI. Micron supports efforts to secure and expand U.S. AI leadership. As stated by The White House in its AI Action Plan: "It is a national security imperative for the United States to achieve and maintain unquestioned and unchallenged global technological dominance." The Plan highlights how AI will enable Americans to make advances in medicine, energy, education, mathematics, science, and communication. The Plan also underscores the importance of domestic investment in AI technologies and manufacturing as "crucial" to these efforts, noting "America must bring semiconductor manufacturing back to U.S. soil" to generate jobs, reinforce U.S. technological leadership, and protect supply chains.

C. Alignment with the Office’s patent-quality mission and precedent

The Director’s recent guidance and decisions recognize that compelling economic interests weigh against discretionary denial, particularly where the patent has not been commercialized, licensed, marked, or otherwise applied by the current owner in the petitioner’s technology space, and the current owner acquired the patent recently and is a litigation-focused entity. *See Shenzhen Tuozhu Tech. Co., Ltd. v. Stratasys Inc.*, IPR2025-00531, Paper 10, 3 (P.T.A.B. July 17, 2025) (“Shenzhen”) (“This evidence weighs against Patent Owner’s claim of strong settled expectations....”); *Intel Corp. v. Proxense LLC*, IPR2025-00327, Paper 12, 2–3 (Director June 26, 2025) (“Intel”). Recent decisions also recognize that an examiner’s error weighs against discretionary denial. *See Xencor, Inc. v. Merus N.V.*, IPR2025-00604 and -00605, Paper 12, 3 (P.T.A.B. July 17, 2025) (“Xencor”). As stated on October 24, 2025 by Deputy Director Stewart, “The original purpose of the [America Invents Act] was for the office to correct errors that it made.”

Those facts are present here. *See generally* Paper 13, 3, 6–10. Palisade was formed in July 2024, acquired the ’051 patent in August 2024, and sued Micron in October 2024, almost immediately thereafter. Ex-1041; Ex-1040. It has no products or services in the relevant markets, and Palisade denies that any prior owner practiced the patent, let alone sold a product marked with the ’051 patent number.

Moreover, Palisade has not disclosed its funding sources, who stand to benefit from assertion of the '051 patent (and others) and who direct Palisade's efforts to shut down Micron's U.S. DRAM manufacturing ability. Director Squires, during his nomination process, pledged to protect American businesses against "abusive patent troll tactics." PTAB integrity hinges on knowing who is behind an IPR; it is compromised when the party seeking discretionary denial of IPRs conceals "who funds it, directs it, and/or benefits from it," because "any opacity in that chain of control invites exploitation," which may result in economic disruption and barriers to U.S. national security interests. *Memo to All PTAB Judges Designating Corning Optical as Precedential*, 4 (Squires Oct. 28, 2025). IPR corrects examiner error and removes weak patent claims, supporting these economic, national-security, and public-interest goals by avoiding unwarranted risks to U.S. supply chains and by reducing uncertainty that could deter further expansion and investment into U.S. memory manufacturing. Micron should be able to utilize IPR to protect its technology and investments against attacks from NPEs who do not advance economic or national-security interests. Proceeding to a review on the merits will promote accuracy, consistency, and efficient allocation of Office and judicial resources. In short, the economic stakes, the U.S. public interest in secure access to memory technology, and the Office's policies all point in the same direction—director review and IPR institution.

III. NO PARTY HAS LEGITIMATE “SETTLED EXPECTATIONS,” AND THE BOARD’S SOLE RELIANCE ON “SETTLED EXPECTATIONS” CANNOT STAND AGAINST ECONOMIC AND NATIONAL-SECURITY INTERESTS

The Board’s denial credited Patent Owner’s “settled expectations” based largely on the age of the patent. Paper 15, 2–3. That approach directly contravenes the Administration’s national and economic security priorities and the Office’s recent Director and panel decisions emphasizing that settled expectations must be grounded in concrete, *party-specific* facts and the totality of circumstances, not in the mere passage of time. *Supra* § II; *see Shenzhen*, 3; *Intel*, 2–3. A categorical, age-based presumption of “settled expectations” creates, in practice, immunity for older patents. This contradicts the AIA’s design, which subjects all issued patents—regardless of age—to error correction through IPR when the merits warrant it. If “settled expectations” can arise after merely six years from issuance, IPR would not be available for the vast majority of issued patents older than six years—a result clearly inconsistent with Congressional intent.

Palisade cannot plausibly claim settled expectations. After more than a decade in which the ’051 patent was never asserted, Palisade was formed, acquired the ’051 patent a month later, and filed suit two months later. *See* Paper 13, 6–7; Ex-1041; Ex-1040; Ex-1037. For the twelve years before Palisade’s acquisition of the ’051 patent, the patent was never subject to any patent infringement proceeding or validity

challenge. Thus, any “settled expectation” based on the patent’s age alone certainly could not inure to Palisade’s benefit.

Further, unlike the patent owners in many denials based on “settled expectations,” Palisade did not acquire the patent before issuance. *See* Paper 13, 7. Nor does the record show any investment-backed reliance by Palisade in practicing the patent, developing a product, or building a licensing program. Recent decisions recognize that such inaction weighs against a patent owner’s claims of reliance, particularly where the patent has not been asserted or where no product is marked in the petitioner’s “particular technology space.” *Shenzhen*, 3. Those considerations apply here.

Settled expectations, likewise, do not apply to Micron under the Director’s framework. Micron first learned of the ’051 patent when Palisade filed suit in October 2024. Micron filed its Petition months later—well within the statutory deadline. *See* 35 U.S.C. § 315. Moreover, the ’051 patent was issued to a different owner (SanDisk, then Western Digital, both of whom elected not to assert the patent against Micron) and remained there until August 2024. Ex-1047. Micron considered acquiring SanDisk and frequently collaborated with Western Digital; Micron had no reason to anticipate assertion of a patent that lay dormant for twelve years. *See* Paper 13, 7–8, 11–12 (citing Ex-1045, 2, 13). Also, the Office has granted between 47,000 to 68,000 semiconductor patents each year since 2021; the sheer volume of

semiconductor patents renders the “settled expectations” framework unworkable for manufacturers like Micron.

More broadly, Congress designed post-grant proceedings (*e.g.*, IPR) to improve patent quality and permit review for error regardless of the passage of time. *See Thryv, Inc. v. Click-To-Call Techs., LP*, 590 U.S. 45, 54 (2020); Bayh-Dole Act, Pub. L. No. 96–517, 94 Stat. 3015 (1980). No patent owner has a settled expectation that administrative revocation proceedings—which have existed in some form since 1980—will not apply to their patent. As an owner of over 60,000 patents itself, Micron recognizes that patent owners do not have a settled expectation to be free from post-issuance administrative review that Congress created to correct examination errors and to ensure only valid claims remain in force.

In addition, the premise that age alone creates “settled expectations” is economically harmful and legally unsound. Older patents are more likely to contain invalid claims that escaped initial examination, and most (93%) IPR unpatentability determinations rely on prior art first presented in IPR. Treating age as a bar insulates the patent claims most in need of administrative review and invites abuse by NPEs who acquire dormant patents and leverage the threat of litigation to extort industry players. These effects undercut innovation and investment.

Finally, the AIA already embodies Congress’s choices about the timing of post-grant proceedings. Congress limited post-grant reviews (PGRs) to a nine-month

window but imposed no age bar on IPRs.³ *See* 35 U.S.C. § 321(c). Thus, an age bar through “settled expectations” overrides congressional intent. If applied categorically (like here), such a rule exceeds statutory bounds, which—at minimum—requires evidence-based notice-and-comment rulemaking. *See* Exec. Order No. 14,215, 90 Fed. Reg. 10447 (Feb. 24, 2025). If “settled expectations” is considered, it should not extend beyond fact-specific considerations grounded in a patent owner’s actual reliance, not present here.

IV. THE INSTITUTION DECISION DID NOT PROPERLY CONSIDER EXAMINER ERROR OR OTHER *FINTIV* FACTORS

The Institution Decision states that Micron’s arguments regarding examiner error, *Fintiv* factors, or the Petition’s merits “are not persuasive,” without explanation. Paper 15, 2–3. The analysis fails to properly consider Micron’s arguments and evidence of record, which warrants referral and institution.

A. The Examiner’s Material Error Requires Correction

Recent decisions instruct that patents infected with material errors during prosecution do not warrant the presumption of settled expectations. *See, e.g., Xencor, 3; Anthony, Inc. v. Controltec, LLC*, IPR2025-00559 and -00636, Paper 9, 2 (P.T.A.B. July 16, 2025). Here, the examiner committed material error by failing

³ Even upon learning of the ’051 patent upon Palisade’s assertion, PGR was not available due to its issue date. 35 U.S.C. § 321.

to discover and apply the Diggs and Lin references, which teach the exact features cited by the examiner as justifying allowance. *See* Paper 13, 8–10. The examiner stated that “a thorough search...has been conducted,” but concluded the prior art did not teach the “memory,” “housing,” and both “wherein” clauses. Ex-1004, 29–30. The examiner’s “thorough search” was anything but—it failed to identify well-known publications describing multi-interface memory cards and controllers that handle data transfer across standardized ports. Only because the examiner overlooked references like Diggs and Lin did he allow the claims, a material error.

B. *Fintiv* Factor 4: the IPR “Alternative” to District Court

Although the Institution Decision discussed timing considerations, the Board failed to touch on factor four of *Fintiv*—overlap or stay. Paper 15, 2–3; *see also* Paper 13 § IV.D. Micron filed a *Sotera* stipulation that eliminates overlap for grounds based on patents and printed publications. Ex-1034. This stipulation corresponds to statutory estoppel and ensures that IPR serves as a true alternative for grounds Congress authorized the Board to resolve. 35 U.S.C. § 315(e)(2).

Moreover, the Petition challenges claims that are not asserted in district court, ensuring the Board will address issues not reached elsewhere. *Palo Alto Networks, Inc. v. Centripetal Networks, Inc.*, IPR2021-01149, Paper 10, 10–11 (P.T.A.B. Feb. 22, 2022). To the extent Patent Owner points to system or product prior art, Congress did not authorize the Board to adjudicate such grounds in IPR, and the coexistence

of such district court-only defenses does not undermine the efficiency of the Board's review of printed-publication grounds. *See Ingenico, Inc. v. IOENGINE, LLC*, 136 F.4th 1354, 1365 (Fed. Cir. 2025). This *Fintiv* factor favors institution.

C. *Fintiv* Factor 6: The Petition's Merits Are Strong

The Institution Decision did not analyze the sixth *Fintiv* factor—"other circumstances that impact the Board's exercise of discretion, including the merits." *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11, 6 (P.T.A.B. Mar. 20, 2020). The Petition advances four grounds based on patents and printed publications not considered during prosecution and is supported by expert testimony. Paper 1 §§ VII.A–D.

First, the Diggs reference discloses a portable memory card with standardized connectors (USB mini-A and IEEE-1394) and controller logic that manages data across distinct interfaces. Paper 1 § V.A. The Petition maps the claims to Diggs's disclosures of standardized pin-outs. *Id.* §§ VII.A–B. Second, the Lin reference discloses multi-interface memory card operations (multi-media card, USB, and Mu modes), controller functionality, and standardized protocol implementations. *See id.* §§ VII.C–D. The Petition's discusses a skilled artisan's understanding of the references, well-known standards documents, and expert testimony in finding the '051 claims obvious. The Petition's strength is further evidenced by Palisade's inability to attack the merits. Palisade ignores the references' clear teaching, instead

misstating the nature and extent of Micron's reliance on expert testimony. Paper 11, 19. The Petition's grounds are anchored in the references and contemporaneous standards documents, not impermissible gap-filling. The Petition comfortably satisfies the threshold for institution and this *Fintiv* factor favors institution.

V. CONCLUSION

Micron respectfully requests that the Director consider whether the Office should review Micron's Petition on the merits to determine whether an erroneously issued patent is being used to threaten essential U.S. economic and national-security interests. The Office is in the best position to correct material errors, prevent injustice, and remove substantial barriers to Micron's investments in these interests. The Institution Decision failed to properly consider Micron's arguments and record evidence, but instead merely relied on the age of the '051 patent, which Palisade owned for only two months before asserting it against Micron.

Dated: November 19, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2025, I caused a true and correct copy of the foregoing PETITIONER'S REQUEST FOR DIRECTOR REVIEW to be served electronically on counsel for Patent Owner at the following addresses:

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