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 CORRECTED REQUEST FOR DIRECTOR REVIEW

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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.[2]

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[2] *See* https://www.reuters.com/world/us/us-plans-mandate-11-ratio-domestically-manufactured-imported-chips-wsj-reports-2025-09-26/ (White House

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;[3] such an injunction could make Micron's planned investments impossible. Yet, Micron's efforts to efficiently and effectively address attacks on its innovative

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Spokesperson Desai: "America cannot be reliant on foreign imports for the semiconductor products that are essential for our national and economic security."); https://www.linkedin.com/posts/u-s-department-of-commerce_secretary-howard-lutnick-for-national-security-activity-7363631604285472769-0_wi/; https://www.washingtonpost.com/opinions/2024/09/09/marco-rubio-made-in-china-threat/; https://mikejohnson.house.gov/news/documentsingle.aspx?DocumentID=1587.

[3] Second Amended Complaint (Redacted), *Palisade Techs, LLP v. Micron Tech., Inc., et al.*, No. 7:24-cv-00262 (W.D. Tex. Jul. 28, 2025), ECF No. 56, ¶ 17.

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.

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.[4] 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

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[4] https://www.micron.com/about/blog/applications/ai/why-memory-and-storage-matter-for-ai; https://www.micron.com/markets-industries/automotive?srsltid=AfmBOopAl2F0Jvu5SJ9CHsMwlaPVQwBNh61Hqb6SpvGkBJYmT-2E6Kb4; https://www.micron.com/markets-industries/industrial?srsltid=AfmBOoqfio2fNzRgJ9smy8sYFP3YRf_BnRkKTGpF_2Z3fj7ajdhuM3t-.

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."[5] The 2020-23 chip supply chain disruption reduced production of autos, electronics, and medical devices, highlighting the economic and national-security risks of concentrating semiconductor production capacity in non-U.S. markets.[6]

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

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[5] https://www.nist.gov/chips/micron-new-york-clay; https://investors.micron.com/news-releases/news-release-details/micron-and-trump-administration-announce-expanded-us-investments (Secretary Lutnick: "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.

[6] https://www.tandfonline.com/doi/full/10.1080/00207543.2024.2387074#d1e882; https://europartnersgroup.com/global-motion/semiconductors-crisis-the-great-supply-chain-disruption/.

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 unacceptable economic and national-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.

President Trump has highlighted that U.S. leadership in AI is a national security priority. Micron supports securing and expanding that leadership, which is critical to national and economic security: "It is a national security imperative for the United States to achieve and maintain unquestioned and unchallenged global technological dominance."[7] The Trump Administration's "America's AI Action Plan" emphasizes AI's benefits across medicine, energy, mathematics, science, and

[7] https://www.whitehouse.gov/wp-content/uploads/2025/07/Americas-AI-Action-Plan.pdf.

communication, and underscores how "crucial" these efforts are to generating jobs, reinforcing U.S. technological leadership, and protecting 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 an NPE. *See Shenzhen Tuozhu Tech. Co., Ltd. v. Stratasys Inc.*, IPR2025-00531, Paper 10, 3 (P.T.A.B. July 17, 2025) ("Shenzhen"); *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.[8] *See Xencor, Inc. v. Merus N.V.*, IPR2025-00604 and -00605, Paper 12, 3 (P.T.A.B. July 17, 2025) ("Xencor").

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.

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[8] https://www.law360.com/ip/articles/2403525/ (Deputy Director Stewart).

Moreover, Palisade has not disclosed its funders, beneficiaries, or those directing its efforts to block Micron's U.S. DRAM manufacturing—"abusive patent troll tactics" that undermine American businesses.[9] PTAB integrity depends on transparency; it is compromised when a party seeking discretionary denial conceals "who funds it, directs it, and/or benefits from it," because "any opacity in that chain of control invites exploitation," risking economic disruption and national-security harms.[10] IPRs correct examiner error and remove weak claims, protecting U.S. supply chains and reducing uncertainty that deters investment in domestic memory manufacturing. Micron should be able to use IPRs to defend its technology and investments against NPE attacks that do not advance economic or national-security interests. Proceeding to a merits review will promote accuracy, consistency, and efficient use of Office and judicial resources. The economic stakes, the public interest in secure access to memory technology, and Office policy all point to director review and IPR institution.

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[9] https://www.judiciary.senate.gov/imo/media/doc/2025-05-21_qfrresponses_squires.pdf, 5 (Squires Response to Senator Grassley).

[10] https://www.uspto.gov/sites/default/files/documents/Precedential_designation_of_Corning_Optical_Communications_RF_LLC_v._PPC_Broadband_Inc_Memo_-_Dated_10_28_25.pdf.

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 improperly equates patent age to "settled expectations." 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 the mere passage of time. *Supra* § II; *see* *Shenzhen*, 3; *Intel*, 2–3. A categorical, age-based presumption effectively immunizes older patents and contradicts the AIA, which subjects all issued patents—regardless of age—to error correction through IPR when warranted. If "settled expectations" arise after as few as six years, IPR would be foreclosed for most older patents, contrary to 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.

Moreover, unlike in many "settled expectations" denials, Palisade did not

acquire the patent pre-issuance. *See* Paper 13, 7. The record does not show any investment-backed reliance—Palisade did not practice, develop a product, or license—and recent decisions hold such inaction weighs against reliance, especially where the patent was unasserted or no product was marked in the petitioner's particular technology space. *Shenzhen*, 3. That is the case here.

Settled expectations, likewise, do not apply to Micron under the Director's framework. SanDisk, then Western Digital, the owners of the '051 Patent until August 2024, elected not to assert the patent against Micron. Ex-1047. Micron first learned of the '051 patent when Palisade sued in October 2024 and then filed its Petition well within the statutory deadline of 35 U.S.C. § 315. Given Micron's consideration of acquiring SanDisk, its collaboration with Western Digital, and the patent's 12-year dormancy, Micron had no reason to anticipate assertion. *See* Paper 13, 7–8, 11–12 (citing Ex-1045, 2, 13). And with 47,000 to 68,000 semiconductor patents issued annually since 2021,[11] the "settled expectations" framework is unworkable for manufacturers like Micron.

More broadly, Congress designed post-grant proceedings (*e.g.*, IPR) to improve patent quality and permit error correction regardless of age. *See Thryv, Inc.*

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[11] https://www.anaqua.com/resource/anaqua-analysis-of-uspto-patenting-statistics-2024/.

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—existing since 1980—will not apply. As an owner of over 60,000 patents, Micron recognizes there is no settled expectation to be free from post-issuance administrative review to correct examination errors and ensure only valid claims remain in force.[12]

Aged-based "settled expectations" are economically harmful and legally unsound. Older patents disproportionately harbor invalid claims, and most (93%) IPR unpatentability determinations rely on prior art first presented in IPR.[13] Treating age as a bar insulates the patent claims most in need of review and invites NPE abuse—acquiring dormant patents and leveraging litigation threats—while undercutting innovation and investment.

Finally, the AIA already embodies Congress's choices about timing: PGRs are limited to a nine-month window, but Congress imposed no age bar on IPRs.[14]

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[12] https://www.micron.com/about/company/company-timeline?srsltid=AfmBOooDj1Hm6MBkzbw2uvFUuvck19DYcOxQEMopcMQ_VmApJYowidGh.

[13] https://www.uspto.gov/sites/default/files/documents/ppac-aia-ipr-study-20241121.pdf.

[14] Even upon learning of the '051 patent upon Palisade's assertion, PGR was not

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 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 prosecution errors do not warrant a 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 materially erred by failing to discover and apply the Diggs and Lin references, which teach the very features cited to justify allowance. *See* Paper 13, 8–10. Though claiming "a thorough search," the examiner concluded the

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available due to its issue date. 35 U.S.C. § 321.

prior art did not teach the "memory," "housing," and both "wherein" clauses. Ex-1004, 29–30. That search missed publications describing multi-interface memory cards and controllers that handle data transfer across standardized ports. The claims were allowed only because the examiner overlooked references like Diggs and Lin.

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

The Board addressed timing, but not factor four of *Fintiv*—overlap or stay. Paper 15, 2–3; *see also* Paper 13 § IV.D. Micron's *Sotera* stipulation eliminates overlap for patent-and-printed-publication grounds and aligns with 35 U.S.C. § 315(e)(2) estoppel, ensuring IPRs serve as the Congressionally authorized alternative. Ex-1034. The Petition challenges claims not asserted in district court, so the Board will resolve issues not reached there. *Palo Alto Networks, Inc. v. Centripetal Networks, Inc.*, IPR2021-01149, Paper 10, 10–11 (P.T.A.B. Feb. 22, 2022). The coexistence of system-and-product-prior-art defenses elsewhere does not undermine the Board's efficiency in 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 failed to analyze the sixth *Fintiv* factor—"other circumstances that impact the Board's exercise of discretion, including the merits." *Apple v. Fintiv*, IPR2020-00019, Paper 11, 6 (P.T.A.B. Mar. 20, 2020). The Petition

presents four grounds based on patents and printed publications not considered during prosecution, supported by expert testimony. Paper 1 §§ VII.A–D. Diggs discloses standardized connectors and controller logic managing data across interfaces. Paper 1 § V.A; *id.* §§ VII.A–B. Lin discloses multi-interface operations, controller functionality, and standardized protocols. *See id.* §§ VII.C–D. The Petition comfortably satisfies the institution threshold and this *Fintiv* factor favors institution.

V. CONCLUSION

Micron respectfully requests that the Director review the Petition on the merits to address an erroneously issued patent threatening U.S. economic and national-security interests. The Office is in the best position to correct material errors, prevent injustice, and remove 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 17, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 17, 2025, I caused a true and correct copy of the foregoing PETITIONER'S CORRECTED REQUEST FOR DIRECTOR REVIEW to be served electronically on counsel for Patent Owner at the following addresses:

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