

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICRON TECHNOLOGY, INC., AND MICRON MEMORY JAPAN, INC.,
Petitioners

v.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY
Patent Owner

Case: IPR2015-01087
U.S. Patent No. 6,057,221

**AFFIDAVIT OF THOMAS R. MAKIN IN SUPPORT OF
MOTION FOR *PRO HAC VICE* ADMISSION**

Mail Stop PATENT BOARD
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Submitted Electronically via the Patent Review Processing System

1. I, Thomas R. Makin, am more than twenty-one years of age, am competent to present this affidavit, and have personal knowledge of the facts set forth herein.

2. This affidavit is given in support of the Motion by Petitioners Micron Technology, Inc. (“Micron”) and Micron Memory Japan, Inc. (“Micron Memory Japan”) for *Pro Hac Vice* Admission of Thomas R Makin.

3. I am a partner at the law firm of Kenyon & Kenyon LLP (“Kenyon”).

4. I am an experienced litigation attorney, and have been an attorney at Kenyon for nearly 15 years. I have experience litigating patent infringement cases in many district courts and before the U.S. International Trade Commission. I have been counsel at trial and Markman hearings, and with respect to patent-related summary judgment proceedings and other patent-related hearings and pleadings concerning, *inter alia*, patent validity and infringement issues.

5. I received a Bachelor’s of Science degree in Engineering in 1997 and have several years of experience litigating patents specifically directed to semiconductor devices (and fabrication thereof), including for clients Micron, Elpida Memory, Inc. (“Elpida”), Nichia Corp., Olympus, and Sony Electronics, Inc.

6. I am lead trial counsel for Petitioners Micron and Micron Memory Japan in co-pending district court litigation against the Patent Owner, *MIT v. Micron Tech., Inc. et al.*, Civil Action No. 1:15-cv-10374, filed on February 12, 2015, in the U.S. District Court for the District of Massachusetts, which involves the same patent at issue in this proceeding (U.S. Patent No. 6,057,221 or the “’221 patent”).

7. I have been actively involved in all aspects of the aforementioned district court litigation, including Petitioners’ on-going factual investigation and development of their non-infringement and invalidity positions regarding the claims of the ’221 patent, and have consequently gained in-depth familiarity with the subject matter at issue in this proceeding.

8. In 2012 and 2013, I represented Elpida, which has been succeeded by Petitioner Micron Memory Japan, in licensing negotiations with Patent Owner Massachusetts Institute of Technology (“MIT”) relating to the ’221 patent.

9. Through this representation, which included presenting invalidity and non-infringement positions to MIT, I acquired further familiarity with the claims of the ’221 patent that are the subject matter of this proceeding.

10. I have stayed up-to-date regarding the documents filed and actions taken to date in the present matter, Case No. IPR2015-01087, and have carefully reviewed Petitioners’ petition.

11. I am a member in good standing of the State Bar of New York, as well as the following Federal Courts:

United States District Court for the Eastern District of New York
United States District Court for the Southern District of New York
United States Court of Appeals for the Federal Circuit

12. I have never been suspended or disbarred from practice before any court or administrative body.

13. I have never made an application for admission to practice before any court or administrative body that has been denied.

14. No sanctions or contempt citations have been imposed against me by any court or administrative body.

15. I have read and will comply with the Office Patent Trial Practice Guide and the Board's Rules of Practice for Trials set forth in part 42 of Title 37 of the Code of Federal Regulations.

16. I understand that I will be subject to the USPTO Rules of Professional Conduct as set forth in 37 C.F.R. §§ 11.101 *et. seq.* and disciplinary jurisdiction under 37 C.F.R. § 11.19(a).

17. I have applied to appear *pro hac vice* in the following proceedings before the United States Patent and Trademark Office in the last three (3) years:

IPR2013-00412, IPR2013-00413, IPR2013-00414, IPR2013-00415, IPR2013-

00416, IPR2013-00417, IPR2013-00419, IPR2013-00420, IPR2013-00421,
IPR2013-00422, IPR2013-00423, and IPR2013-00424.

18. I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Executed on June 9, 2015.

A handwritten signature in black ink, appearing to read 'Thomas R. Makin', written over a horizontal line.

Thomas R. Makin