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Reg. No. 42,557

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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INTEL CORPORATION, GLOBALFOUNDRIES U.S., INC.,  
AND MICRON TECHNOLOGY, INC.

Petitioners

v.

DANIEL L. FLAMM,

Patent Owner

CASE IPR2017-0281  
U.S. Patent No. RE40,264 E

**PATENT OWNER'S PRELIMINARY RESPONSE**  
**UNDER 37 C.F.R. § 42.107**  
**Claims 37-50 & 67**

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Daniel L. Flamm, Sc.D., the sole inventor and owner of the U.S. Patent No. RE40,264 (“the ‘264 patent”), through his counsel, submits this preliminary response pursuant to 37 C.F.R. § 42.107 and asks that the Patent Trial and Appeals Board decline to institute *inter partes* review on the instant petition because the petition fails to show a reasonable likelihood that any challenged claim is unpatentable.

## **I. Introduction**

This is not the first challenge to the validity of the ‘264 patent through *inter partes* review. Lam Research Corp. sells tools used in semiconductor manufacturing to entities such as the Petitioners and Samsung Electronics Co., Ltd. Lam filed seven IPRs directed toward the ‘264 patent.<sup>1</sup> Lam also commenced an action in the Northern District of California seeking a declaration that neither it nor its products infringe the ‘264 patent. For its part, Samsung Electronics Co., Ltd. filed two more petitions for *inter partes* review<sup>2</sup> and Petitioners have now filed a total of four more petitions directed toward the ‘264 patent. That makes a total of thirteen petitions for *inter partes* review directed toward one patent, invented and owned by an individual, Dr. Daniel Flamm.

The Board either declined to institute or instituted and then terminated, on a

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<sup>1</sup> IPR2015-01759; IPR2015-01764; IPR2015-01766; IPR2015-01768; IPR2016-0468; IPR2016-0469; and IPR2016-0470

<sup>2</sup> IPR2016-01510 and IPR2016-0512.

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