

From: [Arvind Jairam](#)
To: [Trials](#)
Cc: [Micron-Vervain_OHS](#); [Lang, Jason](#); [Vervain-Mic-MS](#)
Subject: IPR2021-01547 and -01548

Your Honors,

Patent Owner writes to seek guidance from the Board as to the procedure for handling the following situation regarding confidential information in IPR2021-01547 and IPR2021-01548.

In each of these IPRs, Petitioner filed a Motion to Seal (Paper No. 23 in the -01547 proceeding; Paper No. 22 in the -01548 proceeding) requesting that Ex. 1063 be sealed. In each of its Motions to Seal, Petitioner stated that “[t]he entire Exhibit ... contains highly detailed, sensitive, confidential, and non-public information concerning the design, development, functionality, and operation of a Micron eMMC product,” “Petitioner guards such information closely and has not made, and does not intend to make, this information publicly available,” and “the information sought to be sealed by this Motion has not been published or otherwise made publicly available.” (-01547 Motion to Seal at 2; -01548 Motion to Seal at 2.) However, in its Replies (Paper No. 24 in the -01547 proceeding; Paper No. 23 in the -01548 proceeding), which Petitioner filed publicly, Petitioner included text from that exhibit. (See -01547 Reply at 9-10 (citing Ex. 1063 at 18-21); -01548 Reply at 9 (citing Ex. 1063 at 18-21).) Patent Owner believes that Petitioner has waived confidentiality of Ex. 1063 by including text from that exhibit in its publicly-filed Replies.

Patent Owner intends to discuss Ex. 1063 (including text thereof) in its Sur-Replies, which are due November 18. In light of the uncertainty regarding the status of Ex. 1063 as noted above, Patent Owner requests guidance from the Board as to whether the Sur-Replies (which will discuss Ex. 1063, including text therein) should be filed publicly or whether Patent Owner needs to file a motion to seal in these proceedings. If a motion to seal is needed, Patent Owner additionally requests guidance as to whether both (1) sealed and (2) redacted, public versions of the Sur-Replies should be filed. Patent Owner appreciates the Board’s guidance regarding this issue.

Patent Owner has conferred with Petitioner about this issue prior to sending this email. Petitioner’s position is as follows:

Petitioner-Micron disagrees that it waived confidentiality of Ex. 1063. As its motions to seal explain, Ex. 1063 includes confidential details on the inner workings of Micron’s eMMC products. *E.g.*, Ex. 1063, p. 3 (MCRNVE0029116), p. 5 (MCRNVE0029009 diagram). Petitioner replies include a small quote to Ex. 1063 only for the general notion that these products use dynamic wear leveling to direct the Board to the relevant aspects of Ex. 1063. Paper No. 24, -01547 proceeding, Reply at 9-10; Paper No. 23, -01548 proceeding, Reply at 9. The replies in no way make Ex. 1063 public and amount to any waiver. Petitioner understands that Patent Owner intends to discuss the details of Ex. 1063 in its sur-replies. Petitioner understands that Patent Owner is unsure whether it can file its sur-replies publicly in view of this, and Petitioner does not know what details Patent Owner intends to discuss. In view of this, Petitioner proposes that Patent Owner files its sur-replies under seal (or at least the portions discussing Ex. 1063), and within two weeks of filing, Petitioner will work with Patent Owner to determine what redactions, if any, are necessary to the sur-replies. Petitioner will

then file public versions with any necessary redactions at this time, along with a motion to seal (since it is Micron's confidential information, Petitioner-Micron believes that it is the proper party to submit any supporting rational in a motion to seal).

Respectfully,
Arvind Jairam
Counsel for Patent Owner