

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD, MICRON TECHNOLOGY, INC.,
MICRON SEMICONDUCTOR PRODUCTS, INC., and
MICRON TECHNOLOGY TEXAS LLC,¹
Petitioner,

v.

NETLIST, INC.,
Patent Owner.

Case No. IPR2022-00996
Patent No. 11,016,918

PATENT OWNER'S REQUEST FOR DIRECTOR REVIEW

¹ Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC filed a motion for joinder and a petition in IPR2023-00406 and have been joined as petitioners in this proceeding.

TABLE OF CONTENTS

	<u>Page(s)</u>
I. INTRODUCTION	1
II. BACKGROUND	2
III. ARGUMENT.....	7
A. The Board Abused Its Discretion by Making a Case Dispositive Factual Finding That Contradicts the Petition and Is Contrary to Evidence Patent Owner Sought to Enter into the Record.....	7
B. The Petition Did Not Suggest That the Encoded Information Received by the AMB are Data, Address, and Control Signals.....	7
C. The Board Declined to Enter into the Record Contrary Evidence Patent Owner Sought to Admit.....	9
D. Patent Owner Never Conceded that the FBDIMM AMB Receives Data, Address, or Control Signals in Any Form	11
E. The Board Effectively Absolved Petitioners of Their Obligations Under 37 C.F.R. § 42.104	12
IV. CONCLUSION.....	15

TABLE OF AUTHORITIES

	<u>Page(s)</u>
Cases	
<i>Ariosa Diagnostics v. Verinata Health, Inc.</i> , 805 F.3d 1359 (Fed. Cir. 2015)	13
<i>Brand v. Miller</i> , 487 F.3d 862 (Fed. Cir. 2007)	14
<i>Fanduel, Inc. v. Interactive Games LLC</i> , 966 F.3d 1334 (Fed. Cir. 2020)	15
<i>Garmin Int’l, Inc. v. LoganTree, LP</i> , 825 F. App’x 894 (Fed. Cir. 2020)	8
<i>Harmonic Inc. v. Avid Tech., Inc.</i> , 815 F.3d 1356 (Fed. Cir. 2016)	9
<i>Intelligent Bio-Systems, Inc. v. Illumina Cambridge Ltd.</i> , 821 F.3d 1359 (Fed. Cir. 2016)	13
<i>SAS Inst., Inc. v. Iancu</i> , 138 S. Ct. 1348 (2018).....	12
<i>Ultratec, Inc. v. CaptionCall, LLC</i> , 872 F.3d 1267 (Fed. Cir. 2017)	10
<i>VirnetX Inc. v. Mangrove Partners Master Fund, Ltd.</i> , 778 F. App’x 897 (Fed. Cir. 2019)	11
<i>In re Zurko</i> , 258 F.3d 1378 (Fed. Cir. 2001)	15
Statutes	
35 U.S.C. § 312(a)(3).....	13

TABLE OF AUTHORITIES
(Cont'd)

Page(s)

Regulations

37 C.F.R. § 42.51(b)(1)(iii).....	10
37 C.F.R. § 42.71(d)	1
37 C.F.R. § 42.104	1, 12
37 C.F.R. § 42.123(b)	9

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Patent No. 11,016,918

Pursuant to 37 C.F.R. § 42.71(d) and the Revised Interim Director Review Process of July 24, 2023, Patent Owner respectfully requests Director Review of the Board's Final Written Decision (Paper 49 ("FWD")).

I. INTRODUCTION

The Board's Final Written Decision finding claims 1-30 of the '918 Patent unpatentable should be reversed for at least two reasons: 1) the Board abused its discretion by making a case dispositive finding that is contrary to the position argued in the Petition and contrary to admissions by two of Petitioner Micron's corporate representatives in district court proceedings that Patent Owner sought to enter into the record, and 2) the Board effectively absolved Petitioners of their obligations under 37 C.F.R. § 42.104 to "specify where each element of the claim is found in the prior art patents or printed publications relied upon" by making a dispositive finding contrary to the Petition.

This Request presents important issues of policy and practice that require Director Review: whether a case dispositive finding that is inconsistent with the Petition and contrary to the testimony of two of Petitioner Micron's corporate representatives that the Board declined to enter into the record is an abuse of discretion. To be clear, Patent Owner in no way seeks to impugn the integrity or professionalism of the Panel. The questions presented in this request are not the subject of clear guidance from the Director.

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