

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,[†]

Petitioner,

v.

NETLIST, INC.,

Patent Owner

IPR2022-00996
Patent 11,016,918 B2

PETITIONER'S MOTION TO EXCLUDE

[†] 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.

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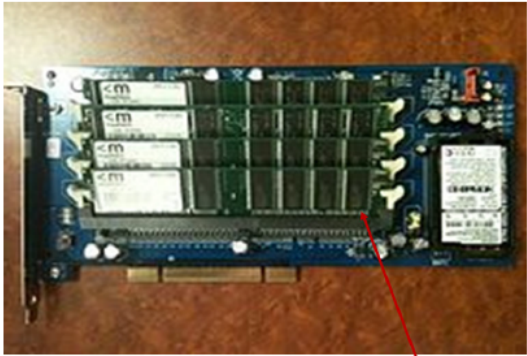
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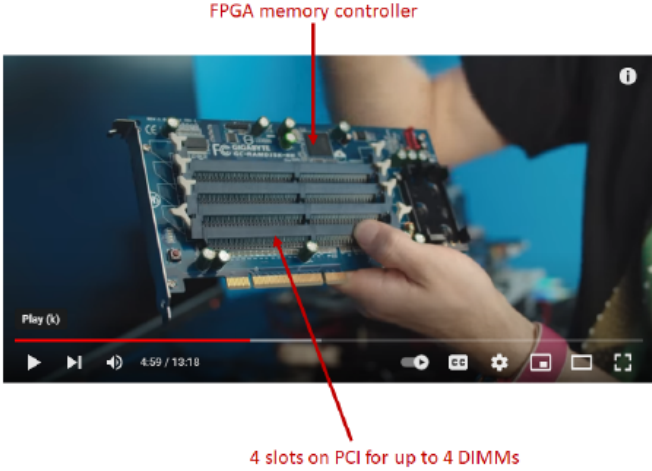
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I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(c) and the Federal Rules of Evidence (FRE), which apply here, *see* 37 C.F.R. § 42.62, Petitioner hereby moves to exclude materials referenced with three URLs submitted with the Patent Owner Sur-Reply on August 4, 2023 (Paper No. 31), which Petitioner timely objected to on August 11, 2023 (Paper No. 32):

<u>Page of Sur-Reply (Paper 31)</u>	<u>URL</u>
Page 1 n.2:	² “Main memory” is commonly known as RAM. https://www.pcmag.com/encyclopedia/term/main-memory#:~:text=Main%20memory%20is%20the%20primary,to%20the%20capacity%20of%20RAM.
Page 24:	 <p>4 slots on PCI populated with 4 DIMMs</p> https://upload.wikimedia.org/wikipedia/commons/e/ef/IRAM13a.JPG

<u>Page of Sur-Reply</u> <u>(Paper 31)</u>	<u>URL</u>
Page 26:	 <p>(https://www.youtube.com/watch?v=bYbCYgYZVT8&t=147s)</p>

II. ARGUMENT

A. Evidence not properly submitted as exhibits is improper (37 C.F.R. § 42.63(a))

Patent Owner failed to submit the materials cited via these URLs as exhibits, as required under 37 C.F.R. § 42.63(a), which states that “[e]vidence consists of affidavits, transcripts of depositions, documents, and things” and further that “[a]ll evidence *must* be filed in the form of an *exhibit*.” *Id.* (emphasis added). In a similar situation, the Board has granted a motion to exclude citations to URLs (where no corresponding exhibit was filed) because “the content of the URL is transitory...” and, thus, permitting the URL in the brief “would leave ambiguity in [the] record.” *Applied Materials, Inc. v. Ocean Semiconductor LLC*, IPR2021-01340, Paper 52, at 61–62 (PTAB Feb. 7, 2022) (granting “Petitioner’s motion to exclude the URL cited at page 8 of Patent Owner’s Sur-reply” and holding that

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