

PROPOSAL FOR REPRESENTATION · PRIVILEGED & CONFIDENTIAL

Netlist, Inc. v. Micron Technology, Inc.

No. 8:26-cv-02167-JWH-KES · C.D. Cal., Southern Division

FILED

August 10, 2026

SERVED

August 20, 2026

RESPONSE DUE

September 10, 2026

PATENTS ASSERTED

2

Every statement in this deck is labeled

We have separated verified record from professional judgment throughout. Nothing here asks you to take an inference on faith.

RECORD

Docket Navigator record

A coded field, docket entry, or filed document.
Verifiable at the cited link. We have opened each one.

OUR READ

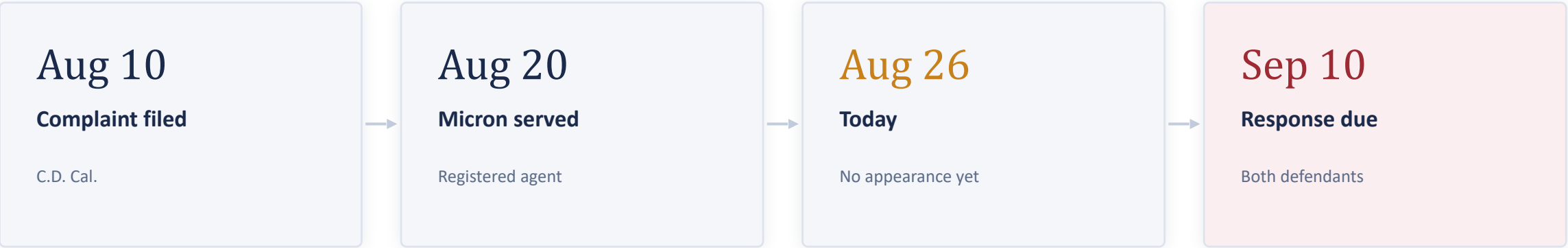
Our analysis

An inference, projection, or strategic judgment.
Reasonable and reasoned. Not a fact of record.

Three things we have not yet verified

- Whether the '523 final written decision confirmed all 34 claims or cancelled some
- Whether the '407 sits in the same patent family as the '523
- Whether the ITC has instituted Inv. No. 337-TA-3930

Fourteen days to a response deadline



RECORD

Docket entry 13 records service on August 20 on Alex Jenkins, registered agent, with answer due September 10 for both Micron Technology, Inc. and Micron Semiconductor Products, Inc. The docket shows no notice of appearance for either defendant as of August 26.

OUR READ

The response is not the real deadline. The decisions that shape this case for the next two years, forum, stay sequencing, and IPR timing, all have to be made inside the same fourteen days. That is the work we are proposing to take on.

Three matters, filed inside 48 hours

Matter	Filed	Forum	Micron's role	Patents
Netlist v. Micron 8:26-cv-02167	Aug 10	C.D. Cal. Judge Holcomb	Defendant	'523 '407
Micron v. Netlist 1:26-cv-01014	Aug 10	D. Del. Judge Hall	Plaintiff (DJ)	'523 '407 '632
Inv. No. 337-TA-3930	Aug 11	ITC No ALJ assigned	Respondent	'523 '407 '731 '366

RECORD

Micron and Netlist share 63 patent matters in Docket Navigator dating to April 2021, including roughly fifteen IPR petitions filed by Micron. Judge Hall already has eight related Netlist cases.

OUR READ

Delaware is Micron's chosen ground and Judge Hall knows the history. That is the predicate for a first-to-file or Section 1404(a) argument out of California, and Judge Holcomb has granted both convenience transfers he has ruled on.

Two patents, opposite risk profiles

U.S. 10,217,523

Multi-mode memory module with data handlers

10 cases asserted since 2020

2 IPRs instituted

13 terms construed

0 adverse rulings, ever

U.S. 12,675,407

Memory module with local clock signals

5 cases, all since July 2026

0 IPRs instituted

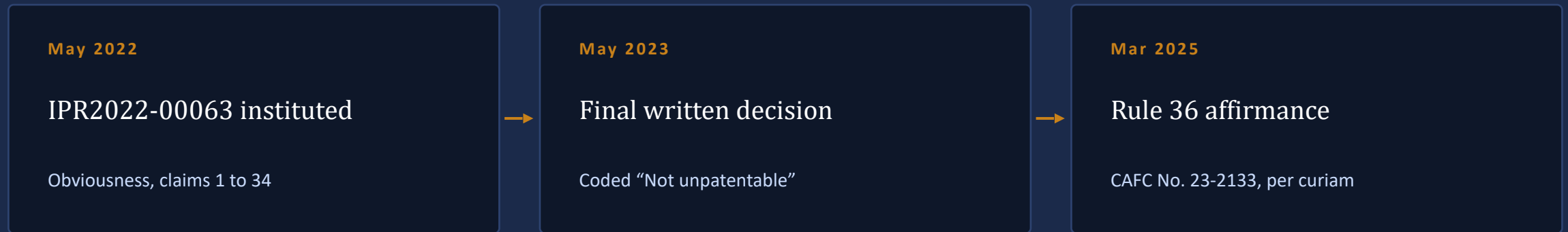
0 terms construed

0 rulings of any kind

OUR READ

The defense has to be built patent by patent. One theory across both will underserve each.

It has already beaten Samsung, and the Federal Circuit affirmed



RECORD

Across 26 recorded accusations on the '523, every resolved one is either a settlement or a Netlist win. No tribunal has ever held this patent invalid or not infringed.

OUR READ

A Rule 36 affirmance leaves no reasoning to distinguish. Samsung spent its best obviousness art and lost. Micron's Section 315(b) window on this patent runs to roughly August 2027, so an IPR remains available, and a Section 103 theory now has to clear a bar a sophisticated competitor already failed.

To verify first: the FWD itself, to confirm whether all 34 claims were confirmed or some cancelled. The coded determination does not say.

Seven weeks old, and untested anywhere

Nov 2024	Dec 2025	Apr 2026	Jul 2026	Aug 2026
Application filed	Restriction requirement, 15pp	Notice of allowance	Issued	Asserted

RECORD

Zero PTAB institutions. Zero determinations. Zero construed terms. The prosecution record shows a restriction requirement, an election, and allowance, with no substantive office action on the merits.

OUR READ

A 15-page restriction implies the application held multiple distinct inventions, which usually means divisionals are pending. More patents from this family are likely coming. A first-action allowance also means the examiner built a thin record, which cuts both ways on validity.

The open question that changes the strategy

Docket Navigator holds no claim text, so it cannot establish whether the '407 shares a family with the '523. If it does, the '523's Rule 36 affirmance becomes an asset for Netlist on both patents. We resolve this from the file wrappers before any substantive advice.

Judge Holcomb tells you how to win a stay

“It is this Court's practice to deny motions to stay until after the PTAB decides to institute review.”

Entropic Communications v. DirecTV, Apr. 17, 2023

186

patent cases

14

stay rulings

7 / 7

granted / denied

4.4

months to rule

RECORD

The 7 to 7 split tracks institution rather than chance. In three separate cases, CR Laurence, Longitude v. Amazon, and Entropic v. Cox, the same motion was denied pre-institution and granted post-institution. He has also conditioned a stay on a co-defendant accepting Section 315(e) estoppel, and denied one stay outright for a Local Rule 7-3 meet-and-confer failure.

OUR READ

A stay motion filed before an institution decision is a four-month loss. The sequence has to be IPR petition, then institution, then stay motion. Anyone who files it in the wrong order has spent a third of a year to be told what the judge already published.

Slower than his district, and he rarely tries patent cases

1

jury trial in 186
patent cases

Third quartile

40.2 months

to claim construction, against 20.7 for the district. A meaningful share of his patent cases take three years or more to reach Markman.

OUR READ

Two consequences. This case will almost certainly resolve without a verdict, so the engagement should be priced and staffed around reaching a favorable off-ramp. And his pace makes it very likely the ITC investigation finishes first, which strengthens every argument for pausing California.

Section 1659 is mandatory, not discretionary

Both patents asserted in California are also in the ITC complaint. On timely application after institution, a district court stay under 28 U.S.C. § 1659 is not left to the judge's discretion.

The precedent

30 days

Inv. No. 337-TA-1511: complaint filed June 15, 2026, Notice of Institution July 15, 2026.

Applied to 337-TA-3930

Sept 10, 2026

Projected institution, filed August 11. The same day the California response is due.

RECORD

Inv. No. 337-TA-3930 asserts the '523, the '407, the '731 and the '366. Docket Navigator shows no ALJ assigned, in contrast to Inv. Nos. 337-TA-1472 and 337-TA-1511, which both have one.

OUR READ

The absent ALJ assignment is our basis for reading 337-TA-3930 as not yet instituted. The September 10 projection applies the 1511 cadence and is an estimate, not a docketed date. Confirm both before relying on the convergence.

The first thirty days

01

Days 1 to 5

Resolve the '407 family question

Pull both file wrappers and the '523 final written decision. This determines whether one defense or two.

02

Days 3 to 10

Confirm ITC institution and preserve Section 1659

Track the 337-TA-3930 docket daily. Prepare the stay application to file the moment institution issues.

03

Days 5 to 14

Respond in California

Answer or move, with the transfer and first-to-file record built from the Delaware docket.

04

Days 10 to 30

Set the IPR sequence

Scope petitions on the '407 first, where the record is open. Calendar the Section 315(b) bar at August 2027.

OUR READ

Sequencing is the whole engagement. Every item above is ordered by what forecloses options if it slips.

WHAT WE BRING

We did this work before the meeting

The record, verified

Every number in this deck traces to a Docket Navigator field we opened. Where the record stops, we said so.

The judge, read closely

His stay practice is published in his own orders. We found it, and we know what it means for sequencing.

The three fronts, connected

California, Delaware and the ITC are one problem. Section 1659 is the lever, and the timing is the risk.

The ask

Engage us this week so the Section 1659 application is drafted and ready before institution issues.