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Attorneys for Defendant Micron Electronics, Inc.

U.S. DISTRICT &
COURT BY COURTS

04 JUL 27 PM 5:57

FILED FOR JEFF GARDNER
Clerk U.S. District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

KIMBERLEY SMITH, MICHAEL B.
HINCKLEY, JACQUELINE T.
HLADUN, MARILYN J. CRAIG,
JEFFERY P. CLEVENGER, and
TIMOTHY C. KAUFMANN, individually
and on behalf of those similarly situated,

Plaintiffs,

vs.

MICRON ELECTRONICS, INC., a
Minnesota corporation,

Defendant.

Case No. CIV 01-0244-S-BLW

**REPLY BRIEF RE: DEFENDANT'S
MOTION TO STRIKE CONSENTS AND
DISMISS CLAIMANTS**

Defendant Micron Electronics, Inc. ("MEI" or "Defendant"), by and through its counsel, Stoel Rives LLP, hereby files this Reply Brief regarding its Motion to Strike Consents and Dismiss Claimants filed on June 14, 2004 (the "Motion") (Docket No. 189). Plaintiffs filed their

**REPLY BRIEF RE: DEFENDANT'S MOTION TO
STRIKE CONSENTS AND DISMISS CLAIMANTS - 1**

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Response to the Motion on July 7, 2004 (the "Response") (Docket No. 206). A hearing on the Motion has been set for August 10, 2004, although as indicated further below it may not be necessary to proceed to a hearing on the Motion because the issues have been framed by the parties in a manner capable of resolution by the Court without a hearing.

Except as it pertains to one claimant, Julie Gardner, Plaintiffs do not object to the relief sought by the Motion. Response, pp. 1-2. Plaintiffs do not object to the relief sought by Defendant regarding the other 20 claimants subject to the Motion. *Id.*

Defendant acknowledges that circumstances relating to Ms. Gardner have changed since filing of the Motion. Accordingly, Defendant therefore will withdraw its request for relief with respect to Ms. Gardner only.

Therefore, based on the Motion and supporting Affidavit, as well as the non-objection by Plaintiffs to the relief sought (other than with respect to Ms. Gardner), it is appropriate at this time for the Court to enter an Order striking the consents and dismissing claimants Kevin Aubert, Ryan Ball, Heidi M. Brady, Carlisle Burnette, John Caprai, Dennis Christensen, Heather Elliott, Beverly J. Hilliard, Kurt Kluessendorf, Erick Little, Carren Mattson, Mark McKenzie, Ginger North, Jeff Parrish, Michael Schoonveld, Carly D. Seader, Matthew Severson, Kurt Swanson, Robert S. Wood and Patrick Worthington. As indicated above, Defendant hereby withdraws its request to strike the consent and dismiss claimant Julie Gardner.

Defendant has submitted with this Reply a revised and proposed Order for entry by the Court consistent with granting the Motion on the foregoing basis.

DATED this 27th day of July, 2004.

STOEL RIVES LLP



Kim Dockstader

Attorney for Defendant Micron Electronics, Inc.

**REPLY BRIEF RE: DEFENDANT'S MOTION TO
STRIKE CONSENTS AND DISMISS CLAIMANTS - 2**

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UNITED STATE DISTRICT COURT
DISTRICT OF IDAHO

Transcript Designation and Ordering Form

U.S. Court of Appeals Case No. 04-35537 U.S. District Court No. CV-03-00103-BLW
Short Case Title Mott v. United Instruments Rec'd U.S. Courts Filed
Date Notice of Appeal Filed by Clerk of District Court June 22, 2004

JUL 28 2004

SECTION A - To be completed by party ordering transcript

Cameron S. Burke
Clerk, Idaho

HEARING DATE	COURT REPORTER	PROCEEDINGS
<u>September 11, 2003</u>	<u>Vicki Jones</u>	<u>Sentencing</u>
		<u>Opening Statements</u>
		<u>Trial/Testimony</u>
		<u>Closing Arguments</u>
		<u>Jury Instructions</u>
		<u>Pre-Trial Proceedings</u>
		<u>Motion Hearing</u>
		<u>Other (please specify)</u>

(attach additional page for designations if necessary)

- I do not intend to designate any portion of the transcript and will notify all counsel of this intention.
- As retained counsel (or litigant proceeding in pro per), I request a copy of the transcript and guarantee payment to the reporter of the cost thereof upon demand. I further agree to pay for work done prior to cancellation of this order.
- As appointed counsel I certify that an appropriate order authorizing preparation of the Transcript at the expense of the United States has been, or within 5 days hereof will be, obtained and delivered to the reporter. I agree to recommend payment for work done prior to cancellation of this order.

Date transcript ordered July 21, 2004 Estimated completion date August 23, 2004
Signature of Attorney Bruce A. Lampert Printed Name Bruce A. Lampert
Address 11870 Airport Way, Broomfield, CO 80021 Phone Number (303) 465-3663

SECTION B - To be completed by Court Reporter

I, Vicki Jones have received this designation.

Arrangements for payment were made on

Arrangements for payment have not been made pursuant to FRAP 10(b).

Approximate Number of Pages in Transcript 77 Due Date 8/28/04

SECTION C - To be completed by Court Reporter

When the transcript is filed, complete and submit to the U.S. District Court with the completed transcript. District Court will not file the transcript without this completed form.

Date Transcript Filed _____ Court Reporter's Signature _____

SECTION D

U.S. District Court Clerk: I certify that the record is available in the office of the U.S. District Court.

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By: _____
(U.S. District Court Clerk) (Date) (Deputy Clerk)

This is the CERTIFICATE OF RECORD. A copy should be transmitted to the Court of Appeals by the District Clerk when the transcript is filed and the record is complete in the District Court.