

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MOTOROLA MOBILITY, LLC
Petitioner

v.

SOFTVIEW, LLC
Patent Owner

Case IPR2013-00256
Patent 7,461,353

Before, SCOTT R. BOALICK, BRYAN F. MOORE, and
BRIAN J. McNAMARA, *Administrative Patent Judges*.

McNAMARA, *Administrative Patent Judge*.

ORDER

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

BACKGROUND

Motorola Mobility LLC (Petitioner) requests *inter partes* review of claims 1, 33, 36, 43, 48, 51, 52, 58, 59, 66, 118, 138, 139, 149, 183, 252, 283, and 317 of US Patent 7,461,353 (the '353 patent) pursuant to 35 U.S.C. §§ 311 et seq. Petitioner represents that the instant Petition asserts the same grounds of unpatentability as those on which the Board initiated *inter partes* review in *Kyocera Corporation v. Softview LLC*, Case IPR2013-00007 (the Kyocera IPR). Petitioner has separately moved that the instant proceeding be joined with the Kyocera IPR (Motion for Joinder). We have jurisdiction under 35 U.S.C. §314.

During a teleconference on May 29, 2013, the Board set June 17, 2013 as the date for SoftView LLC (Patent Owner) to exercise its option of filing a Patent Owner's Preliminary Response under 37 C.F.R. §42.107(b) in the instant proceeding. Patent Owner did not file a Patent Owner's Preliminary Response.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a) which provides as follows:

THRESHOLD -- The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Petitioner challenges the claims on the same grounds as those on which we have already instituted IPR 2013-00007. In that case, we instituted *inter partes*

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review on the following grounds: (i) claims 1, 33, 36, 43, 48, 51, 52, 58, 59, 118, 138, 139, 149, 183, 252, 283 and 317 as obvious based on the combination of Zarus and Pad++ ; (ii) claims 1, 33, 36, 43, 48, 51, 52, 58, 59, 118, 138, 139, 149, 183, 252, 283 and 317 as obvious based on the combination of Zarus, Tsutsumitake, and Hara; (iii) claim 66 as obvious based on the combination of Zarus, Pad++ and SVG; and (iv) Claim 66 based on the combination of Zarus, Tsutsumitake, Hara and SVG. We did not institute *inter partes* review on the following asserted grounds: (i) claims 33, 43, 58, 183 and 283 based on the combination of Zarus, Pad++ and SVG ; (ii) claims 33, 43, 58, 183 and 283 based on the combination of Zarus, Tsutsumitake, Hara and SVG; and (iii) claims 33, 43, 183 and 283 based on the combination of Zarus, Hara, Tsutsumitake, and SVF; and (iv) claims 33, 43, 183, and 283 based on the combination of Zarus, Hara, Tsutsumitake and VML

We incorporate by reference our decision instituting IPR2013-00007 and grant the instant Petition challenging claims 1, 33, 36, 43, 48, 51, 52, 58, 59, 66, 118, 138, 139, 149, 183, 252, 283, and 317 under 35 U.S.C. § 103 on the same grounds as those on which we instituted *inter partes* review in IPR2013-00007. We do not authorize *inter partes* review on any other grounds. In a separate decision, entered today, we also grant Petitioner's Motion for Joinder.

SUMMARY

I. The Petition is GRANTED as to the following grounds asserted under 35 U.S.C. § 103:

Claims 1, 33, 36, 43, 48, 51, 52, 58, 59, 118, 138, 139, 149, 183, 252, 283 and 317 based on the combination of Zarus and Pad++;

Claims 1, 33, 36, 43, 48, 51, 52, 58, 59, 118, 138, 139, 149, 183, 252, 283 and 317 based on the combination of Zarus, Tsutsumitake, and Hara;

Claim 66 based on the combination of Zarus, Pad++ and SVG;

Claim 66 based on the combination of Zarus, Tsutsumitake, Hara and SVG.

II. We do not authorize an *inter partes* review on any other grounds.

ORDER

In consideration of the foregoing, it is hereby:

ORDERED that the Petition is granted,

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(a) an *inter partes* review of the '353 patent is hereby instituted, commencing on the entry date of this Order, and pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial,

FURTHER ORDERED that the trial is limited to the grounds identified in Section I. of the above Summary, and no other grounds are authorized.

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