

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAP America Inc.,

Petitioner,

v.

Clouding IP, LLC

Patent Owner.

IPR2014-00306

Patent 6,738,799

**MOTION FOR JOINDER PURSUANT TO 35 U.S.C. § 315(c) and 37 C.F.R.
§ 42.122(b)**

Mail Stop PATENT BOARD, PTAB

Commissioner for Patents

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Petitioner SAP America Inc., (“SAP” or “Petitioner”) respectfully requests joinder pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) of the above-captioned *inter partes* review (hereinafter “IPR”) with the pending *inter partes* review concerning the same patent in *Unified Patents, Inc. v. Clouding IP, LLC*, Case IPR2013-00586 (“Unified IPR”), which was instituted on March 21, 2014. Joinder is appropriate because it will promote efficient and consistent resolution of the validity of a single patent and will not prejudice the parties to the Unified IPR. Absent joinder, SAP may be prejudiced because their interests will not be adequately represented in the Unified IPR.

This Motion for Joinder is timely under 37 C.F.R. §§ 42.22 and 42.122(b), as is submitted within one month of March 21, 2014, the date that the Unified IPR was instituted.

II. STATEMENT OF MATERIAL FACTS

1. On August 17, 2013, Clouding IP, LLC (“Clouding” or “Patent Owner”), which purports to be the owner of U.S. Patent No. 6,738,799 (the “’799 Patent”), filed a complaint accusing SAP of infringing several patents, including the ‘799 patent. *Clouding IP, LLC v. SAP AG, et al.*, D. Del., Case No. 1:13-cv-01456 (hereinafter, “the Underlying Litigation”).

2. Unified Patents, Inc. (“Unified”) filed its petition for *inter partes* review of the ’799 Patent on September 16, 2013 (“The Unified Petition”).
IPR2013-00586, Paper 1.

3. Clouding has not asserted the ’799 Patent against Unified. IPR2013-00586, Paper 1 at 4.

4. The Unified Petition included the following six grounds for invalidity:

- a) Claims 1, 5, 9, 10, 12, 16, 20, 21, 23, 24, 30 and 31 Are Rendered Obvious by Balcha in view of Miller under 35 U.S.C. § 103
- b) Claims 37 and 42 Are Anticipated by Balcha under 35 U.S.C. § 102(e)
- c) Claims 6-8 and 17-19 Are Rendered Obvious by Balcha, Miller and Freivald under 35 U.S.C. § 103
- d) Claims 1, 12, 23, 24, 30, 31, 37, and 42 Are Anticipated by Williams under 35 U.S.C. § 102(e)
- e) Claims 5-10 and 16-21 Are Rendered Obvious by Williams in View of Miller under 35 U.S.C. § 103
- f) Claims 1, 12, 23, 30, 37, and 42 are Rendered Obvious by Balcha in view of Freivald under 35 U.S.C. § 103

IPR2013-00586, Paper 1.

5. The Board instituted the Unified IPR on March 21, 2014 for each of the above-listed grounds (a) – (e), and for ground (f) as to claims 37 and 42. The

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