

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RELOADED GAMES, INC.
(Petitioner)

v.

PARALLEL NETWORKS LLC
(Patent Owner)

Case No. IPR2014-00950

Patent No. 7,188,145

Inventors:

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Filed January 12, 2001

For: Method and System for
Dynamic Distributed Data Caching

Patent Owner's Opposition to
Petitioner's Motion for Joinder
Under 35 U.S.C. § 315(c) and
37 C.F.R. § 42.122(b)

Mail Stop: PATENT BOARD
Patent Trial and Appeal Board
US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

**Patent Owner's Opposition to Petitioner's Motion for Joinder
Under 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b)
CASE No: IPR2014-00950**

I. Introduction

Petitioner's motion should be denied because the petition at issue is not proper and because joinder is not supported by the factors that the Patent Trial and Appeal Board (the "Board") should consider in determining whether to allow joinder. The petition filed in IPR2014-00950 (the petition and proceeding being referred to herein as "the '950 Petition" and "the '950 IPR", respectively) sets forth arguments that are made out of turn and in violation of rules and regulations that govern *inter partes* review (IPR) proceedings. Moreover, there is no reason that the contentions of the '950 Petition could not have been included in the original petition submitted in IPR2014-00136 (such petition and proceeding being referred to herein as "the '950 Petition" and "the '950 IPR", respectively), which addresses the same parties, the same patent, the same prior art, and the same claims.

In the '950 Petition, Petitioner requests the institution of a new IPR based on its petition filed more than a year after the institution of the related district court case and more than eight months after requesting *inter partes* review of the '145 Patent in the '136 Petition. See IPR2014-00950, Paper No. 3. Concurrently, Petitioner moves to join the '950 IPR with the already-instituted '136 IPR. The '950 Petition challenges only claims of U.S. Patent No. 7,188,145 (the '145 Patent)

that were challenged in the '136 Petition and relies on art that is also cited in the '136 Petition.

35 U.S.C. Section 315(c) controls such motions, and provides that: "If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314." In the instant case, the Patent Owner submits that the '950 Petition is not permitted under the rules, and that Petitioner's motion for joinder must therefore be denied.

II. Facts

- On May 9, 2013, the Patent Owner asserted the '145 Patent against Petitioner. See Complaint, Case No. 1:13-cv-00827-RGA, ECF No. 1 (Ex. 1009).
- Petitioner was served on May 15, 2013. See Declaration of Mailing as to Service, Case No. 1:13-cv-00827-RGA, ECF No. 5 (Ex. 2002).
- On November 11, 2013, Petitioner filed a sixty page Petition for Inter Partes Review of the '145 Patent in IPR2014-00136. IPR2014-00136, Paper No. 4.

- The ‘136 Petition alleged that all of the claims of the ‘145 Patent were either anticipated or obvious and specifically, that claims 2-4, 6-7, 10, 16-18, 20-21, 24, and 29-36 were obvious over U.S. Patent No. 6,341,311 (“Smith”) in view of U.S. Patent No. 6,256,747 (“Inohara”). See IPR2014-00136, Paper No. 4 at 34-50.
- Patent Owner filed its Preliminary Response on February 19, 2014. IPR2014-00136, Paper No. 9.
- On May 16, 2014, the Board instituted Inter Partes Review of claims 2-4, 6, 7, 10, 16-18, 20, 21, 24, and 29-36 of U.S. Patent No. 7,188,145 and entered its initial scheduling order. IPR2014-00136, Paper Nos. 15 and 16.
- The initial scheduling order gave the Patent Owner until August 12, 2014, to submit its response to the Petition together with any Motion to Amend the ‘145 Patent. IPR2014-00136, Paper No. 16, at 6. Neither the initial scheduling order nor the amended scheduling order referred to below provide for any filing by Petitioner prior to the Patent Owner’s Response following the Board’s Decision.
- Petitioner filed a thirty-four page petition in IPR2014-00950 on June 13, 2014, requesting institution of a second IPR. IPR2014-00950, Paper No. 3.

- The ‘950 Petition alleges that all of the claims of the ‘145 Patent are either anticipated or obvious and specifically, that claims 1, 4, 5, 8, 9, 11-15, 18, 19, 22, 23, and 25-28 are obvious over U.S. Patent No. 6,341,311 (“Smith”) in view of U.S. Patent No. 6,256,747 (“Inohara”). See IPR2014-00950, Paper No. 3.
- Together with the ‘950 Petition, Petitioner filed its Motion for Joinder, requesting that the Board consider additional argument set forth in the ‘950 Petition in the proceedings of the ‘136 IPR. IPR2014-00950, Paper No. 4 (motion for joinder).
- On July 2nd, Petitioner requested a conference call with the board to discuss the logistics of joinder in the event Petitioner’s motion was granted.
- On July 8, 2014, the Board, *sua sponte*, without setting a conference call, and without first ruling on the motion for joinder, issued an amended scheduling order in the ‘136 IPR requiring patent owner to file a preliminary response to the ‘950 Petition by July 31, 2014.

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