

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

ARENDI S.A.R.L.,
Patent Owner.

Case No. IPR2014-01518
Patent No. 6,323,853

**SAMSUNG'S REPLY TO ARENDI'S OPPOSITION TO SAMSUNG'S
MOTION FOR JOINDER UNDER 35 U.S.C. § 315(C) AND
37 C.F.R. §§ 42.22 AND 42.122(B)**

In a communication dated January 9, 2015, the Board authorized Petitioner Samsung Electronics Co., Ltd. (“Samsung”) to file the present reply to the opposition to the motion for joinder to IPR2014-00452 (“the Google IPR”) filed by Patent Owner Arendi S.A.R.L. (“Arendi”) (Paper 7).

Arendi presents three arguments in opposition to joinder, none of which is meritorious. *First*, Arendi argues that joinder will “disrupt the Google IPR schedule and introduce burdens of additional depositions and redundant filings.” *Id.* at 6. To alleviate any concerns that this could be the case, Samsung agrees to take on a “limited ‘understudy’ role” without a separate opportunity to actively participate. *Sony Corp., et al. v. Network-1 Security Solutions, Inc.*, IPR2013-00495, Paper 13, p. 6. In particular, Samsung agrees to:

1. Refrain from filing its own substantive papers as long as the Petitioners in the Google IPR remain in the proceeding;
2. Refrain from requesting or reserving additional deposition time, or re-conducting depositions, such as the deposition of Patent Owner’s expert, already conducted by Petitioners in the Google IPR;
3. Refrain from requesting or reserving any additional oral hearing time; and
4. Assume an understudy role as long as the Petitioners in the Google IPR remain in the proceeding.

In essence, Samsung requests that the Board merely join it as a party to the Google IPR. *Target Corp. v. Destination Maternity Corp.*, IPR2014-00508, Paper

18, pp. 10-11. Samsung agrees to subordinate itself into an understudy role, allowing the Petitioners in the Google IPR to lead the proceeding, absent settlement and termination of the Petitioners in that proceeding. The Petitioners in the Google IPR have no objection to joining Samsung in such an “understudy” role.

Given an “understudy” role for Samsung, the Google IPR can continue to progress on its existing schedule, and there will be no “redundant and wasteful effort” or “additional attorney and expert witness fees and expenses.” Paper 7, pp. 26-27. With Samsung in an “understudy” role, there would be no need for another Patent Owner Response, no need to re-depose Patent Owner’s expert, and no need to revise the schedule already agreed to by Arendi and the Google IPR Petitioners. Therefore, joinder of Samsung in an “understudy” role would neither “unduly delay the resolution of the proceeding” nor “be discernibly prejudicial” to Arendi. *Id.* at 25-26.

Second, Arendi’s argument that the petition should be denied because it “duplicates the grounds” of the Google IPR weighs in favor of joinder, not against it. *Id.* at 2. As Arendi admits, “almost Samsung’s entire petition has been copied and pasted from the Google IPR’s original petition,” “Samsung raises the same issues presented by the Google IPR,” and “Samsung uses the same expert, Dennis Allison, and submits a declaration by Mr. Allison that . . . makes the same

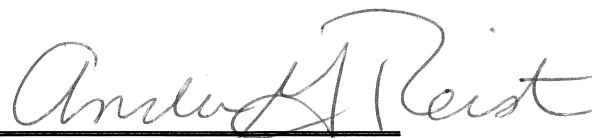
substantive statements regarding Goodhand, Padwick, and the alleged invalidity of claims 1-79 of the ‘853 Patent.” *Id.* at 3-4. As Arendi’s admissions make clear, Samsung’s petition and declaration will introduce *no new substantive issues*. Therefore, joining Samsung as a party to the Google IPR where those same issues will be litigated is entirely proper, and it is unnecessary to invoke 35 U.S.C. § 325(d) to avoid a “duplicate” proceeding.

Third, Arendi argues that it was somehow improper for Samsung to “rely upon joinder” even though Samsung was not time-barred. *Id.* at 6. As the Board recognizes, nothing in 35 U.S.C. § 315(c) limits joinder only to parties who are otherwise time-barred. *Target Corp.*, IPR2014-00508, Paper 18 at 10 (“If an *inter partes* review of a particular patent is underway at the Board, a time-barred petitioner (*as well as a non-time-barred petitioner*) may request to join it as a party.”) (emphasis added).

Joinder to IPR2014-00452 will introduce no new substantive issues, and, with Samsung’s circumscribed “understudy” role, will not complicate or delay that proceeding. Therefore, joinder is appropriate, and Samsung requests that its Motion be granted.

Date: January 16, 2015

Respectfully submitted,

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