

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC.,
Petitioner,

v.

DELAWARE DISPLAY GROUP LLC,
Patent Owner.

Case IPR2015-01666
Patent 7,434,973 B2

Before THOMAS L. GIANNETTI, MIRIAM L. QUINN, and
BEVERLY M. BUNTING, *Administrative Patent Judges*.

BUNTING, *Administrative Patent Judge*.

DECISION

Institution of *Inter Partes* Review and Grant of Motion for Joinder
37 C.F.R. § 42.108
37 C.F.R. § 42.122(b)

I. INTRODUCTION

LG Electronics, Inc. (“Petitioner” or “LG Electronics”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–5 (“the challenged claims”) of U.S. Patent No. 7,300,194 B2 (Ex. 1001, “the ’194 patent”), and concurrently filed a Motion for Joinder (Paper 3, “Mot.”). The Motion for Joinder seeks to join this proceeding with *LG Display Co., Ltd. v. Delaware Display Group LLC*, Case IPR2014-00506 (“the LGD IPR”). Mot. 1. Patent Owner filed a Preliminary Response (Paper 7), as well as an Opposition to the Motion for Joinder (Paper 8). In addition, the parties jointly filed a paper indicating that should joinder be granted, Petitioner would limit the instant petition to the grounds, arguments and evidence of record in the LGD IPR, and Patent Owner would not oppose. Paper 9, 1. For the reasons described below, we institute an *inter partes* review of the challenged claims and grant Petitioner’s Motion for Joinder.

II. INSTITUTION OF *INTER PARTES* REVIEW

The Petition in this proceeding asserts the same grounds as those on which we instituted review in IPR2015-00506, plus one additional ground.¹ Pet. 17. On July 6, 2015, we instituted a trial in IPR2015-00506 on the following alleged ground of unpatentability: anticipation of claims 1–5 by Shinohara.² *LG Display Co., Ltd. v. Delaware Display Group LLC*, Case IPR2015-00506, slip. op. at 24 (PTAB July 6, 2015) (Paper 8) (“’506 Decision”).

¹ As discussed *supra*, Petitioner agreed to abandon this additional ground should this proceeding be joined with the LGD IPR. Paper 9, 1.

² Shinohara, US 6,167,182, issued Dec. 26, 2000 (Ex. 1010).

In view of the identity of the challenge in the instant Petition and in the petition in the IPR2015-00506, we institute an *inter partes* review in this proceeding on the same ground as we instituted *inter partes* review in IPR2015-00506. We do not institute *inter partes* review on any other grounds.

III. GRANT OF MOTION FOR JOINDER

An *inter partes* review may be joined with another *inter partes* review, subject to the provisions of 35 U.S.C. § 315(c), which governs joinder of inter partes review proceedings:

(c) JOINDER.—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.

As the moving party, Petitioner bears the burden of proving that it is entitled to the requested relief. 37 C.F.R. § 42.20(c). A motion for joinder should: (1) set forth the reasons joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; and (3) explain what impact (if any) joinder would have on the trial schedule for the existing review. *See* Frequently Asked Question H5, <http://www.uspto.gov/patentsapplication-process/appealing-patentdecisions/trials/patent-reviewprocessing-system-prps-0>.

The Petition in this proceeding has been accorded a filing date of August 5, 2015 (Paper 4), which is within thirty days of the date of institution in IPR2015-00506, which was instituted on July 6, 2015. The

Petition, therefore, satisfies the joinder requirement of being filed within one month of our instituting a trial in IPR2015-00506. 37 C.F.R. § 42.122.

In its Motion for Joinder, Petitioner contends joinder is appropriate because “this *inter partes* review proceeding raises the same ground of unpatentability on which the Board instituted review in IPR2015-00506.” Mot. 5. Petitioner represents that joinder will not prevent the Board from completing its review of the LGD IPR “within the statutorily prescribed timeframe” (*Id.*) and that joinder “promotes efficiency by avoiding duplicative reviews and filings of similar unpatentability issues across multiple PTAB proceedings” (*Id.* at 6). According to Petitioner, the Board can accomplish this by requiring consolidated filings and coordination among petitioners. *Id.* at 6–7.

Although Patent Owner opposes joinder, Patent Owner states that it “would withdraw its opposition in the event that (1) the additional ground (the Parker Publication in view of Pelka) is not instituted in this IPR; and (2) the schedule does not substantially change in the LGD IPR.” Opp. 1. As indicated above, Petitioner agrees not to pursue this additional ground, should we grant its motion for joinder. Paper 9, 1.

Joinder is discretionary based on the particular circumstances of each proceeding. In the instant proceeding, we agree with Petitioner that joinder with IPR2015-00506 would promote the efficient resolution of these proceedings. Petitioner agrees to pursue the same challenge as presented in IPR2015-00506, thus, the substantive issues in IPR2015-00506 would not be unduly complicated by joining with this proceeding because joinder merely introduces the same ground in which we instituted trial in IPR2015-00506,

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where all of the prior art is of record. Finally, Patent Owner will be able to address the challenges in a single proceeding.

We acknowledge that Patent Owner has filed its Response to the Petition in IPR2015-00506, and Petitioner has filed its Reply. IPR2015-00506, Papers 19–20. Both parties have requested oral argument, which is scheduled for March 1, 2015. Papers 21–23. As the grounds on which we are instituting trial in the instant proceeding are identical to those on which we instituted trial in IPR2015-00506, as is the expert declaration, joinder of this proceeding with IPR2015-00506 should not affect that paper, the Scheduling Order in IPR2015-00506 (IPR2015-00506, Paper 9), nor the Joint Stipulation to modify Due Date 2. (IPR2015-00506, Paper 19).

IV. ORDER

In view of the foregoing, it is

ORDERED that Petitioner's Motion for Joinder is granted;

FURTHER ORDERED that IPR2015-01666 is hereby instituted and joined with IPR2015-00506;

FURTHER ORDERED that the ground on which IPR2015-00506 was instituted is unchanged and no other grounds are included in the joined proceeding;

FURTHER ORDERED that the Scheduling Order entered in IPR2015-00506 (Paper 9) and Joint Stipulation to modify Due Date 2 (Paper 19) shall govern the schedule of the joined proceedings;

FURTHER ORDERED that, throughout the joined proceeding, and LG Electronics, Inc. and LG Display Co. Ltd. will file papers, except for motions that do not involve the other party, as a single, consolidated filing;

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