

Paper No. _____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CISCO SYSTEMS, INC. and AVAYA, INC.
Petitioner

v.

STRAIGHT PATH IP GROUP, LLC
Patent Owner

Case IPR2015-1007
U.S. PATENT NO. 6,009,469
CLAIMS 1-3, 5-6, 9-10, 14, 17-18
Title: Graphic User Interface For Internet Telephony Application

PETITIONER'S MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c) AND 37 C.F.R. § 42.22 AND § 42.122(b)

I. INTRODUCTION

Cisco Systems, Inc. (“Cisco”) and AVAYA Inc., (“AVAYA,” and collectively with Cisco, “Petitioner”) submit the present Motion for Joinder pursuant to 37 C.F.R. § 42.122(b), which authorizes the filing of a “motion under § 42.22, no later than one month after the institution date of any *inter partes* review for which joinder is requested.” 37 C.F.R. § 42.122(b). Petitioner submits that the present Motion for Joinder is timely filed because it is being filed no later than one month after institution of the *inter partes* review proceeding with which joinder is sought.

Petitioner hereby moves for joinder of the present petition for *inter partes* review **IPR2015-1007** (the “PETITIONER IPR”) with **IPR2014-01367** (the “SAMSUNG IPR”), filed by Samsung Electronics Co., Ltd., Samsung Electronics America, Inc., and Samsung Telecommunications America, LLC (collectively, “Samsung”). The PETITIONER IPR is identical to the SAMSUNG IPR in all substantive respects, includes identical exhibits to the SAMSUNG IPR, and relies upon the same expert declarant as the SAMSUNG IPR. Samsung does not oppose this motion.

II. BACKGROUND AND RELATED PROCEEDINGS

The PETITIONER IPR and the SAMSUNG IPR are among a family of *inter partes* review proceedings relating to U.S. Patent Nos. 6,108,704; 6,009,469; and

6,131,121 that have been asserted by Straight Path IP Group, LLC (“Straight Path”) against numerous defendants.

The complaints in 3:14-cv-04312-WHA (*Straight Path IP Group, Inc. v. Cisco Systems, Inc.*) and 3:14-cv-04309-WHA (*Straight Path IP Group, Inc. v. Avaya, Inc.*) were first served on September 30, 2014. Accordingly, all petitions for *inter partes* review that have been filed by Petitioner are timely as prescribed by 35 U.S.C. § 315(b). Further, neither Cisco nor AVAYA has filed a civil action challenging the validity of a claim of the ’469 patent.

Currently, the family of *inter partes* review proceedings relating to the above identified Straight Path patents consists of the following proceedings that involve Cisco, Avaya, and Samsung:

Cisco/Avaya IPRs			Samsung IPRs		
Patent	Reference	Filed	Reference	Filed	Claims in IPR
6,108,704	2015-1011	4/6/2015	2014-01366	8/22/2014	1, 11-12, 14, 16, 22-23, 27, 30-31
6,009,469	2015-1007	4/6/2015	2014-01367	8/22/2014	1-3, 5-6, 9-10, 14, 17-18
6,131,121	2015-1006	4/6/2015	2014-01368	8/22/2014	6, 8, 10, 11, 13, 14

In addition to the present Motion for Joinder, Petitioner is presently filing Motions for Joinder for the other above-mentioned Petitioner petitions with the corresponding petitions filed by Samsung, subject to the same conditions sought by this motion. Samsung does not oppose the motions.

III. DISCUSSION

If the Director institutes an *inter partes* review, Petitioner respectfully requests that the Board exercise its discretion to grant joinder of the PETITIONER IPR and SAMSUNG IPR proceedings pursuant to 35 U.S.C. § 315(c), 37 C.F.R. § 42.22, and 37 C.F.R. § 42.122(b). In support of this motion, Petitioner proposes consolidated filings and other procedural accommodations designed to streamline the proceedings.

1. Reasons Joinder Is Appropriate

Joinder is appropriate in this case because it is the most expedient way to secure the just, speedy, and inexpensive resolution of the related proceedings. *See* 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b). Intentionally, the PETITIONER IPR is substantively identical to the corresponding SAMSUNG IPR in an effort to avoid multiplication of issues before the Board. Given the duplicative nature of these petitions, joinder of the related proceedings is appropriate. As discussed below, Petitioner will agree to consolidated filings and discovery, and procedural

concessions, which Samsung does not oppose and which do not prejudice Straight Path.

a. Substantively Identical Petitions

Petitioner represents that the PETITIONER IPR is identical to the SAMSUNG IPR in all substantive respects. It includes identical grounds, analysis, and exhibits and relies upon the same expert declarant and declaration as the SAMSUNG IPR. Accordingly, if instituted, maintaining the PETITIONER IPR proceeding separate from that of the SAMSUNG IPR would entail needless duplication of effort.

b. Consolidated Filings and Discovery

Because the grounds of unpatentability in the PETITIONER IPR and SAMSUNG IPR are the same, the case is amenable to consolidated filings. Petitioner will agree to consolidated filings for all substantive papers in the proceeding (*e.g.*, Reply to the Patent Owner's Response, Opposition to Motion to Amend, Motion for Observation on Cross Examination Testimony of a Reply Witness, Motion to Exclude Evidence, Opposition to Motion to Exclude Evidence and Reply). Specifically, Petitioner will agree to incorporate its filings with those of Samsung in a consolidated filing, subject to the ordinary rules for one party on page limits. Samsung and Petitioner will be jointly responsible for the consolidated filings.

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