

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS, INC., LG ELECTRONICS USA, INC., LG
ELECTRONICS MOBILECOMM USA, INC., SONY CORPORATION, SONY
ELECTRONICS INC., SONY MOBILE COMMUNICATIONS AB, AND SONY
MOBILE COMMUNICATIONS (USA) INC.,

Petitioners

v.

MEMORY INTEGRITY, LLC,

Patent Owner

Inter Partes Review

Patent 7,296,121 B2

**MOTION FOR JOINDER UNDER
35 U.S.C. 315(c) AND 37 C.F.R. § 42.22 AND 42.122(b)
TO RELATED *INTER PARTES* REVIEW IPR2015-00163**

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

LG Electronics, Inc., LG Electronics, USA, Inc., LG Electronics Mobilecomm USA, Inc., Sony Corporation, Sony Electronics Inc., Sony Mobile Communications AB, and Sony Mobile Communications (USA) Inc. (“Petitioners”) respectfully submit this Motion for Joinder, together with a Petition for *Inter Partes* Review of U.S. Patent No. 7,296,121 (“the LG-Sony Petition”) filed contemporaneously herewith. Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R § 42.122(b), Petitioners request institution of an *inter partes* review and joinder with the *inter partes* review in *Apple et al. v. Memory Integrity, LLC*, IPR2015-00163 (the “Apple IPR”), which was instituted on May 8, 2015 and concerns the same patent, U.S. Patent No. 7,296,121 (“the ’121 patent”). Petitioners’ request for joinder is timely. The LG-Sony Petition is also narrowly tailored to the same claims, prior art, and grounds of unpatentability that are the subject of the Apple IPR. In addition, Petitioners are willing to streamline discovery and briefing. Petitioners submit that joinder is appropriate because it will not prejudice the parties to the Apple IPR while efficiently resolving the question of the ’121 patent’s validity in a single proceeding.

II. STATEMENT OF MATERIAL FACTS

1. On November 1, 2013, Memory Integrity filed civil actions against Amazon.com, Inc., Apple Inc., ASUSTek Computer Inc. et al., Blackberry Limited

et al., Fuhu Inc., Fujitsu Limited et al., Google Inc. et al., HTC Corp. et al., Huawei Device USA Inc. et al., Intel Corp., Lenovo Group Ltd. et al., LG Electronics, Inc. et al., Motorola Solutions Inc., Samsung Electronics Company Ltd. et al., Sony Corporation et al., Toshiba Corp. et al., ZTE Corp. et al., with Civil Action Nos. 1:13-cv-01795 through 1:13-cv-01811, respectively.

2. On November 26, 2013, Memory Integrity filed civil actions against Archos S.A. et al., Barnes & Noble Inc. et al., Hisense International Co. Ltd et al., and Microsoft Corp., with Civil Action Nos. 1:13-cv-01981 through 1:13-cv-01984.

3. On October 28, 2014 Apple Inc.; HTC Corp. and HTC America, Inc.; Samsung Electronics Co. Ltd, Samsung Electronics America, Inc., Samsung Telecommunications America, LLC; and Amazon.com, Inc. filed a petition (the “Apple Petition”) for *inter partes* review requesting cancellation of claims 1-6, 8-12, and 15-25 of the ’121 patent.

4. On May 8, 2015, the Board instituted Apple’s Petition, finding that a reasonable likelihood existed that the Apple Petition would prevail in showing the unpatentability of claims 4-6, 11, and 19-24 of the ’121 patent.

III. STATEMENT OF REASONS FOR RELIEF REQUESTED

A. Legal Standard

The Board has the authority under 35 U.S.C. §315(c) to join a properly filed *inter partes* review petition to an instituted *inter partes* review proceeding. *See* 35

U.S.C. §315(c). A motion for joinder must be filed within one month of the Board instituting an original *inter partes* review. 37 C.F.R. §42.122(b). In deciding whether to exercise its discretion, the Board considers factors including: (1) the reasons why joinder is appropriate; (2) whether the new petition presents any new grounds of unpatentability; (3) what impact, if any, joinder would have on the trial schedule for the existing review; and (4) how briefing and discovery may be simplified. *See Macronix Int'l Co. v. Spansion*, IPR2014-00898, Paper 14, at 4 (Aug. 13, 2014) (quoting *Kyocera Corporation v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (April 24, 2013)).

B. Petitioners' Motion for Joinder is Timely

This Motion for Joinder is timely because it is filed within one month of the May 8, 2015 institution decision of the Apple IPR. *See* 37 C.F.R. §42.122(b). The one-year bar set forth in 37 C.F.R. §42.101(b) does not apply to the LG-Sony Petition because this Motion for Joinder is filed concurrently with the LG-Sony Petition. 37 C.F.R. §42.122(b); *Samsung Elecs. Co. v. Va. Innovation Scis., Inc.*, IPR2014-00557, Paper 10 at 15 (June 13, 2014).

C. Each Factor Weighs in Favor of Joinder

Each of the four factors considered by the Board weighs in favor of joinder. Specifically, the LG-Sony Petition does not present any new grounds of unpatentability, rather it is substantively identical to the Apple Petition; joinder

will have minimal if any impact on the schedule, as all issues are substantively identical and Petitioners will accept an “understudy” role; finally, the briefing and discovery will be simplified by resolving all issues in a single proceeding.

Accordingly, joinder is appropriate.

1. Joinder Is Appropriate

Joinder with the Apple IPR is appropriate because the LG-Sony Petition involves the same patent, challenges the same claims, relies on the same expert declaration, and is based on the same grounds and combinations of prior art submitted in the Apple Petition. Further, the LG-Sony Petition relies solely on grounds from the Apple Petition that the Board instituted on May 8, 2015. The LG-Sony Petition is substantively identical to the Apple Petition, containing only minor differences related to formalities of different parties filing the petition. There are no changes to the facts, citations, evidence, or arguments presented in the Apple Petition. Since these proceedings are substantively identical, good cause exists for joining this proceeding with the Apple IPR so that the Board can resolve all grounds in both the LG-Sony and Apple Petitions in a single proceeding.

2. Petitioners Propose No New Grounds of Unpatentability

The LG-Sony Petition does not present any new grounds of unpatentability. The LG-Sony Petition is substantively identical to the Apple Petition, except that it only includes grounds the Board instituted. The LG-Sony Petition presents the

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