### UNITED STATES PATENT AND TRADEMARK OFFICE

# **BEFORE THE PATENT TRIAL AND APPEAL BOARD**

# QUALCOMM INCORPORATED Petitioner

v.

BANDSPEED, INC. Patent Owner

IPR2015-01580 U.S. Patent 7,477,624

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

## **TABLE OF AUTHORITIES**

### Cases

Bandspeed, Inc. v. Broadcom Corporation, 1:14-cv-00433
Bandspeed, Inc. v. Marvell Semiconductor, Inc., 1:14-cv-00434
Bandspeed, Inc. v. MediaTek, Inc., 1:14-cv-00435
Bandspeed, Inc. v. Qualcomm Incorporated et al, 1:14-cv-00436
Bandspeed, Inc. v. STMicroelectronics NV et al, 1:14-cv-00437
Bandspeed, Inc. v. Texas Instruments Incorporated, 1:14-cv-00438
Rules and Statutes
35 U.S.C. § 315(b)4, 5
35 U.S.C. § 315(c)
35 U.S.C. § 316(a)(11)7
Other Authorities
37 C.F.R. § 2.196
37 C.F.R. § 42.100(c)
37 C.F.R. § 42.122(a)
37 C.F.R. § 42.122(b)
157 CONG. REC. S1376 (daily ed. Mar. 8, 2011)5
PTAB Proceedings
Dell Inc. v. Network-1 Security Solutions, Inc., IPR2013-00385

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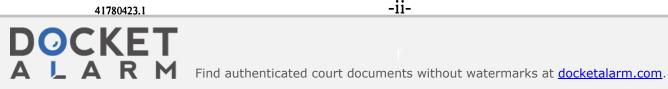
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## I. STATEMENT OF RELIEF REQUESTED

Petitioner Qualcomm Incorporated ("Qualcomm") respectfully submits this Motion for Joinder together with a Petition for *Inter Partes* Review of U.S. Patent No. 7,477,624 ("Petition"). Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Qualcomm requests *inter partes* review and joinder with *Marvell Semiconductor, Inc. v. Bandspeed, Inc.*, Case IPR2015-00315 (the "'315 IPR"), in which trial was instituted on Grounds 1, 2, 3 (as modified pursuant to the institution decision), and 4, of the '315 IPR petition on June 11, 2015. Qualcomm's petition is in all material respects the same as the petition in the '315 IPR. No new arguments, no new patent claims and no new grounds of unpatentability are added by Qualcomm's Petition. Qualcomm's Motion for Joinder and accompanying Petition are being filed within one month of the decision instituting trial in the '315 IPR, and are therefore timely.

Qualcomm is filing this petition and joinder motion to ensure that the initiated trial is completed in the event that the current petitioners in the '315 IPR reach settlement with the Patent Owner. Joinder is appropriate here because Qualcomm's Petition is the same as the '315 IPR petition on which the Board instituted trial. Additionally, joinder will not adversely impact the trial schedule in the '315 IPR, as Qualcomm's legal theories and analysis are identical to those in the '315 IPR and Qualcomm relies on the same expert declaration relied on by the existing



Petitioners in the '315 IPR. Consequently, no additional expert discovery will be required if joinder is allowed, simplifying discovery. Furthermore, Qualcomm will adhere to all applicable deadlines set forth by the June 11, 2015 Scheduling Order currently in place in the '315 IPR. Qualcomm will coordinate with counsel for the '315 IPR petitioners regarding the consolidation of all filings and will not submit any separate filings unless Qualcomm's position differs from the position of the '315 IPR petitioners, in which case Qualcomm would limit any additional filing to seven (7) pages or less.<sup>1</sup> See Nintendo of America Inc., v. Babbage Holdings LLC IPR 2015-00568 (allowing joinder in when this provision was requested). This procedure and continued cooperation of counsel will greatly simplify briefing if the Board permits joinder. Moreover, Qualcomm would be prejudiced if the Board denies the motion for joinder because of the possibility that all petitioners will reach a settlement and successfully move to terminate the proceedings prior to the issuance of a final determination.

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