

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)

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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.¹ 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.

Any additional costs incurred by the existing parties to the '315 IPR will be minor and do not outweigh the prejudice to Qualcomm that would result from a denial of joinder. Accordingly, joinder is appropriate and will not prejudice any

¹ Qualcomm will continue on this basis unless and until the '315 IPR is terminated as to all other petitioners. Qualcomm would further forego the contingent request for additional briefing if needed in order to allow for joinder.

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