UNITED STATES PATENT AND TRADEMARK OFFICE

_____

BEFORE THE PATENT TRIAL AND APPEAL BOARD

_____

SAMSUNG ELECTRONCIS CO., LTD.
Petitioner

v.

SUMMIT 6 LLC
Patent Owner

_____

IPR2016-00029
U.S. Patent 7,765,482

_____

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

Rules and Statutes

Other Authorities

PTAB Proceedings

I.   STATEMENT OF RELIEF REQUESTED

Petitioner Samsung Electronics Co., Ltd. ("Samsung") respectfully submits this Motion for Joinder together with a Petition for *Inter Partes* Review of U.S. Patent No. 7,765,482 ("Petition"). Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Samsung requests *inter partes* review and joinder with *Google, Inc. v. Summit 6, LLC*, Case IPR2015-00806 (the "806 IPR"), in which trial was instituted on Grounds 1 and 2 of the 806 IPR petition on September 9, 2015. Samsung's petition is identical in all material respects to the 806 IPR petition, and is supported by the same expert declaration from the same expert. No new grounds, claims, prior art, arguments, evidence, or witnesses are added by Samsung's Petition. Samsung's Motion for Joinder and accompanying Petition are being filed within one month of the decision instituting trial in the 806 IPR, and are therefore timely.

Samsung previously requested *ex parte* reexamination of the patent at issue in the 806 IPR and this petition. *See* Reexamination Control No. 90/012,987. In that reexamination, Summit 6 had appealed the final rejection of all claims at issue to the Board, and a hearing had been set for November 10, 2015. Patent Owner filed a motion to stay the Samsung-requested reexamination pending the 806 IPR. Paper No. 22, IPR2015-00806. Samsung's request for leave to file an *amicus* brief in opposition to Patent Owner's motion to stay was denied. Ex. 1015. On October

7, 2015, the Board stayed the Samsung-requested reexamination pending the 806 IPR. Paper No. 26, IPR2015-00806.

Samsung is filing this petition and joinder motion to ensure that the instituted trial is completed in the event that the petitioner in the 806 IPR, Google, reaches a settlement with the Patent Owner. Joinder is appropriate here because Samsung's Petition is the same as the 806 IPR petition on which the Board instituted trial. Additionally, joinder will not adversely impact the trial schedule in the 806 IPR, as Samsung's legal theories and analysis are identical to those in the 806 IPR and Samsung relies on the same expert declaration relied on by the existing Petitioners in the 806 IPR. Consequently, no additional expert discovery will be required if joinder is allowed, simplifying discovery. Furthermore, Samsung will adhere to all applicable deadlines set forth in the Scheduling Order currently in place in the 806 IPR, as modified by the stipulation of the parties. Papers 20 and 25, IPR2015-00806. Samsung will coordinate with counsel for Google regarding the consolidation of all filings and will not submit any separate filings, unless and until Google settles with Patent Owner or the 806 IPR is otherwise terminated as to Google. Google does not oppose this motion.

This procedure and continued cooperation of counsel will greatly simplify briefing if the Board permits joinder. Moreover, Samsung would be prejudiced if the Board denies the motion for joinder because of the possibility that Google 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 806 IPR will be minor and do not outweigh the prejudice to Samsung that would result from a denial of joinder. Accordingly, joinder is appropriate and will not prejudice any party to the 806 IPR and will not inhibit the just, speedy and inexpensive determination of the proceedings.

II.   STATEMENT OF MATERIAL FACTS

1.   The '482 Patent has been asserted in multiple infringement lawsuits as follows: *Summit 6 LLC v. Research in Motion et al.*, 3:11-cv-00367, *Summit 6 LLC v. HTC et al.*, 7:14-cv-00014, *Summit 6 LLC v. Apple*, 7:14-cv-00106, *Summit 6 v. Twitter*, 7:15-cv-0062, all in the Northern District of Texas.

2.   On or about March 9, 2011, Samsung Electronics Co, Ltd. agreed to waive service of a complaint in *Summit 6 LLC v. Research in Motion et al.* alleging infringement of the '482 patent. Samsung's wholly owned subsidiary at the time, Samsung Telecommunications America LLC (which subsequently merged into Samsung Electronics America, Inc.), was served with the same complaint on or about February 28, 2011. On September 21, 2015, the Federal Circuit issued an opinion in an appeal of that litigation. The mandate has not yet issued.

3.   Samsung filed a request for *ex parte* reexamination of the '482 patent,

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.