UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTORNICS, CO., LTD., SAMSUNG ELECTRONICS AMERICA, INC., AND SAMSUNG SEMICONDUCTOR, INC., Petitioners

V.

RAYTHEON COMPANY,
Patent Owner

Case IPR2016-00739

Patent 5,591,678

PRELIMINARY RESPONSE TO PETITION FOR *INTER PARTES*REVIEW OF U.S. PATENT NO. 5,591,678



EXHIBIT LIST

EXHIBIT	<u>DESCRIPTION</u>
2001	Defendants' Invalidity Contentions and Disclosures
	Pursuant to Patent Rules 3-3 and 3-4, October 2, 2015



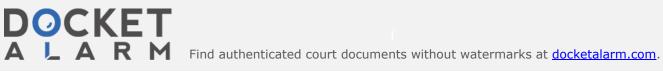
TABLE OF CONTENTS

			Page(s)	
I.	INTRODUCTION		1	
II.	'678	'678 PATENT BACKGROUND		
III.	RELEVANT RELATED MATTERS			
	A.	District Court Litigation	3	
	B.	IPR 2015-01201	4	
	C.	IPR2016-00209	5	
	D.	IPR2016-00739	6	
	E.	Petitioners Are Attempting to Frustrate the Litigation	8	
IV.	THE BOARD SHOULD DENY INSTITUTION		9	
V.	CONCLUSION13		13	



TABLE OF AUTHORITIES

	Page(s)
Cases	
Butamax Advanced Biofuels LLC v. Gevo, Inc., IPR2014-00581, Paper 8 (PTAB October 14, 2014)	9, 12-13
In re Giacomini, 612 F.3d 1380 (Fed. Cir. 2010)	7
In re Hilmer, 359 F.2d 859 (1966)	7
Intelligent Bio-Systems, Inc. v. Illumina Cambridge Limited, IPR2013-00324, Paper 19 (PTAB November 21, 2013)	9, 11, 12
LG Electronics, Inc. v. ATI Technologies ULC, IPR2015-00327, Paper 15 (PTAB September 2, 2015)	9, 11
Medtronic, Inc. v. Nuvasive, Inc., IPR2014-00487, Paper 8 (PTAB September 11, 2014)	10
Unilever, Inc. v. The Procter & Gamble Co. IPR2014-00506, Paper 17 (PTAB July 7, 2014)	9, 12
Statutes	
35 U.S.C. § 102(e)	4
35 U.S.C. § 313	1
35 U.S.C. §314(a)	9, 11
35 U.S.C. § 325(d)	1, 9
Other Authorities	
37 C.F.R. § 42.107	1
37 C F R 8 42 108(a)	1 11



Raytheon Company ("Patent Owner"), respectfully submits this Preliminary Response to the Petition seeking *inter partes* review of U.S. Patent No. 5,591,678 (the "'678 Patent"). This filing is timely under 35 U.S.C. § 313 and 37 C.F.R. § 42.107, because it is within three months of the March 21, 2016 date of the Notice granting the Petition a filing date. IPR2016-00739, Paper 4.

I. INTRODUCTION

Patent Owner respectfully submits that the Board should deny *inter partes* review of the '678 Patent under 35 U.S.C. §§ 314(a) and 325(d) and 37 C.F.R. § 42.108(a). In two different proceedings, the Board has already instituted *inter partes* review of claims 1-18 of the '678 patent – the same claims challenged in the present proceeding – based on fourteen (14) separate grounds. Petitioner has not explained how the present Petition does not include substantially the same arguments as those contained in the already-pending IPRs. Rather a review of the Petition shows it raises the same arguments that are being reviewed in the instituted IPRs, including arguments that will be rendered moot by the pending IPRs. The present Petition is yet another part of a serial IPR filing strategy being employed by Petitioner and other parties accused of infringing the '678 Patent.

By filing this Petition almost ten months after the first of numerous petitions filed by cooperating defendants, Petitioner and the three other co-defendants are relying upon this redundant petition to gain a tactical advantage in extending a stay



DOCKET

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.

