Trials@uspto.gov
571-272-7822

Paper 26
Entered: November 23, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP INC.,
Petitioner,

v.

MOBILE TELECOMMUNICATIONS TECHNOLOGIES, LLC,
Patent Owner.

Case IPR2016-00766
Patent 5,659,891

Before MEREDITH C. PETRAVICK, SCOTT A. DANIELS, and MIRIAM L. QUINN, *Administrative Patent Judges.*

PETRAVICK, *Administrative Patent Judge*.

DECISION
Granting Motion for Joinder
37 C.F.R. § 42.122

INTRODUCTION

The Arris Group Inc. ("Arris") filed a Petition requesting *inter partes* review of claims 1–5 of U.S. Patent No. 5,659,891 ("the '891 Patent"). Paper 1 ("Arris Pet."). Pursuant to 37 C.F.R. § 42.122(b), Arris filed a Motion for Joinder, seeking to join the instant proceeding with *Aruba*

Networks, Inc. v. Mobile Telecommunications Technologies, LLC, Case IPR2016-00768 (PTAB). Paper 19 ("Mot."). Aruba Networks, Inc., Hewlett Packard Enterprise Company, and HP Inc. (collectively, "Aruba") filed a nearly identical Petition requesting *inter partes* review of claims 1–5 the '891 Patent. IPR2016-00768, Paper 1 ("Aruba Pet."). We instituted *inter partes* review of claims 1–5 of the '891 Patent, issuing one Decision for both proceedings. Paper 13, 2. Patent Owner filed a notice stating that it does not oppose joinder of the *inter partes* reviews. Paper 23. For the reasons set forth below, the Motion for Joinder is granted.

ANALYSIS

The Board, acting on behalf of the Director, has the discretion to join an *inter partes* review with another *inter partes* review. *See* 35 U.S.C. § 315(c). Joinder may be authorized when warranted, but the decision to grant joinder is discretionary. 35 U.S.C. § 315(c); 37 C.F.R. § 42.122. When exercising its discretion, the Board is mindful that patent trial regulations, including the rules for joinder, must be construed to secure the just, speedy, and inexpensive resolution of every proceeding. *See* 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b). The Board considers the impact of both substantive issues and procedural matters on the proceedings. As the moving party, Arris bears the burden to show that joinder is appropriate. 37 C.F.R. §§ 42.20(c), 42.122(b).

In its Motion for Joinder, Arris contends that joinder, in this particular situation, is appropriate because: "it will promote efficiency by avoiding duplicative reviews and filings of the same invalidity issues across two cases" (Mot. 6); Arris's Petition is substantively identical to Aruba's Petition

filed in IPR2016-00768 (*see id.* at 5); Aruba agrees to consolidated filings and discovery (*id.* at 6–7); and joinder would not affect the schedule in IPR2016-00768 (*see id.* at 6).

The substantive issues in IPR2016-00768 would not be affected by joinder, because Arris's Petition is substantively identical to Aruba's Petition filed in IPR2016-00768. Arris's Petition asserts identical grounds of unpatentability, challenging the same claims of the '891 Patent. *Compare* Arris Pet. 4 with Aruba Pet. 4. Arris also submits the same Declaration of Dr. Apostolos Kakaes as filed in IPR2016-00768. *Compare* Ex. 1003, with IPR2016-00768, Ex. 1003. We instituted the instant *inter partes* review based on the same grounds for which we instituted trial in IPR2016-00768, issuing one Decision for both. Paper 13. Therefore, Arris's Petition raises no new issues beyond those already before us in IPR2016-00768.

Further, conducting a single joined proceeding for reviewing claims 1–5 of the '891 Patent is more efficient than conducting multiple proceedings, eliminating duplicate filings and discovery. Arris indicates that Aruba agrees to consolidated filings for all substantive papers and that Aruba agrees to be responsible for the consolidated filings. *See* Mot. 7. Arris indicates that it will file "separate filings, if any, of no more than seven pages directed to only to points of disagreement with [Aruba]." *Id.* The Motion for Joinder does not indicate that any such disagreements exists at this time. Thus, we do not authorize Arris to file any separate papers. Arris may request a conference call with the Board should a disagreement between Arris and Aruba arise to request authorization for a separate filing at that time.

Arris indicates that Arris and Aruba (collectively, Petitioners) will coordinate and work together to conduct the cross-examination of any witnesses produced by Patent Owner and the redirect of any witnesses produced by Petitioners, within the timeframe normally allotted by our Rules for one party. *Id.* at 7. Arris also indicates that Petitioners will coordinate the presentation of any arguments during oral argument (if requested). *Id.*

Joinder will not require any change to the trial schedule in IPR2016-00768, allowing the trial still to be completed within one year. We issued one Scheduling Order for both proceedings. *See* Paper 15.

Given that Arris's Petition raises no new issues, and Petitioners agree to consolidated filings and discovery, the impact of joinder on IPR2016-00768 will be minimal, and joinder will streamline the proceedings, reducing the costs and burdens on the parties and the Board. For the foregoing reasons, Arris has met its burden of demonstrating that joinder of the instant proceeding with IPR2016-00768 is warranted under the circumstances.

ORDER

Accordingly, it is:

ORDERED that the Motion for Joinder with IPR2016-00768 is granted;

FURTHER ORDERED that the instant proceeding is joined with IPR2016-00768;

FURTHER ORDERED that the grounds of unpatentability on which a trial was instituted in IPR2016-00768 are unchanged;

FURTHER ORDERED that the Scheduling Order for IPR2016-00768 (Paper 14) shall govern the joined proceeding;

FURTHER ORDERED that the instant proceeding is joined and terminated under 37 C.F.R. § 42.72, and all further filings in the joined proceeding shall be made only in IPR2016-00768;

FURTHER ORDERED that, throughout IPR2016-00768, Petitioners will file papers, except for motions which do not involve the other parties, as consolidated filings; Aruba will identify each such filing as a consolidated filing and will be responsible for completing all consolidated filings; the page limits set forth in 37 C.F.R. § 42.24 will apply to all consolidated filings; no individual Petitioner will receive any additional pages in addition to the page limits set forth in 37 C.F.R. § 42.24 for one party, unless otherwise ordered by the Board;

FURTHER ORDERED that, unless otherwise ordered by the Board[1], Patent Owner will conduct the cross-examination of witnesses, as well as the redirect examination of any witness it produces, in the timeframes set forth in 37 C.F.R. § 42.53(c);

FURTHER ORDERED that Petitioners collectively will coordinate to conduct the cross-examination of any witnesses produced by Patent Owner and the redirect examination of any witnesses produced by Petitioners, within the timeframes set forth in 37 C.F.R. § 42.53(c) for one party; no individual Petitioner will receive any cross-examination or redirect examination time in addition to the time normally allotted by 37 C.F.R. § 42.53(c) for one party;

---

[1] The timeframe for the cross-examination of Dr. Kakaes was extended to 10 hours by order of the Board. Paper 22.

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.