

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Aruba Networks, Inc., Hewlett Packard Enterprise Company, and HP Inc.,
Petitioners

v.

Mobile Telecommunications Technologies, LLC
Patent Owner.

Patent No. 5,915,210

Issued: June 22, 1999

Filed: July 24, 1997

Inventors: Dennis Wayne Cameron, Walter Charles Roehr, Jr., Jai P. Bhagat,
Masood Garahi, William D. Hays, David W. Ackerman

Title: METHOD AND SYSTEM FOR PROVIDING MULTICARRIER
SIMULCAST TRANSMISSION

Inter Partes Review No. IPR2016-00769

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

I. INTRODUCTION

Petitioners move the Patent Trial and Appeal Board (“Board”) for joinder of this *inter partes* review (Case No. IPR2016-00769, “Aruba IPR”) to an earlier *inter partes* review filed by Samsung Electronics Co., Ltd. (Case No. IPR2015-01724, “Samsung IPR”). The Aruba IPR is intentionally identical to the Samsung IPR in all substantive aspects. Both seek *inter partes* (“IPR”) review of claims 1, 7-8, 10, 15-17 and 19 (the “Challenged Claims”) of Mobile Telecommunications Technologies, LLC’s (“PO”) U.S. Patent 5,915,210 (the “’210 patent”). Further, the Aruba IPR and Samsung IPR rely upon the same analytical framework (*e.g.*, same expert declarant, prior art, claim charts, and claim constructions) in addressing the Challenged Claims. Accordingly, resolving the Aruba IPR and Samsung IPR will necessarily involve considering the same issues by all parties and the Board.

Petitioners are filing this petition and joinder motion to ensure that the instituted trial is completed in the event that the petitioner in the Samsung IPR reaches a settlement with the Patent Owner. Joinder of these proceedings also presents the best opportunity to secure the just, speedy, and inexpensive resolution of the related proceedings without any prejudice to the PO. This includes consolidated filings and discovery and eliminating the duplicate hearings and briefing that would surely accompany separate proceedings, which Samsung does

not oppose. Joinder should also provide for case management efficiencies for the Board.

In light of the similarities of the proceedings and the efficiencies that can be realized via joinder, Petitioners respectfully request that the Board join the Samsung IPR and Aruba IPR.

II. BACKGROUND

Samsung filed a petition requesting *inter partes* review of the '210 Patent on August 13, 2015. Samsung IPR, Paper 1. A decision granting institution of that petition was granted on February 16, 2016. Paper 11.

The Samsung IPR and Aruba IPR involve different petitioner groups and real parties-in-interest. *Compare* Samsung IPR, Paper 1 at 1 (identifying real party-in-interest) *with* Aruba IPR, Paper 1 at 1 (identifying real parties-in-interest). However, all such parties are defendants in numerous different infringement lawsuits asserting the '210 Patent and two other patents filed by the PO (collectively, the "PO Patents") in the U.S. District Court for the Eastern District of Texas. *See* Samsung IPR, Paper 1 at 1-2 (listing related matters); Aruba IPR, Paper 1 at 1-2 (listing related matters). The other two PO Patents are U.S. Patent No. 5,590,403 ("403 patent"), and U.S. Patent No. 5,659,891 ("891 patent"), for which there are multiple other pending IPR proceedings. A summary of the IPR proceedings related to the PO Patents is provided below in **Tables 1** and **2**.

Table 1: Related Proceedings

Case	Petition Filed	Petitioner	Patent	Challenged Claims
IPR2013-00306	5/23/2013	Clearwire	'403	1, 10, 11
IPR2014-01032	6/27/2014	Apple	'403	1, 10
IPR2015-00017	10/3/2014	T-Mobile, et al.	'403	1, 10, 11
IPR2014-01035	6/27/2014	Apple	'891	1-5
IPR2015-00018	10/3/2014	T-Mobile, et al.	'891	1-5
IPR2015-01726	8/13/2015	Samsung	'891	1-5
IPR2015-01727	8/13/2015	Samsung	'891	1-5
IPR2015-01036	6/27/2014	Apple	'210	1, 10, 19
IPR2015-00015	10/3/2014	T-Mobile, et al.	'210	1, 10, 19
IPR2015-01724	8/13/2015	Samsung	'210	1, 7-8, 10, 15-17, 19
IPR2015-01725	8/13/2015	Samsung	'210	1, 7-8, 10, 15-17, 19

Table 2: Status of Related Proceedings

Case	Status
IPR2013-00306	Settled.
IPR2014-01032	Institution denied
IPR2015-00017	Institution denied
IPR2014-01035	Settled.
IPR2015-00018	Instituted for claims 1-5 as anticipated by Petrovic and claim 5 as obvious over Petrovic, Raith, and Alakija. Parties settled and case terminated.
IPR2015-01726	Instituted for claims 1-5 as anticipated by Petrovic and claim 5 as obvious over Petrovic, Raith, and Alakija. Case pending.
IPR2015-01727	Institution denied
IPR2015-01036	Settled.
IPR2015-00015	Settled.
IPR2015-01724	Instituted for claims 1, 7, 10, 16, 17, ad 19 as anticipated by Saalfrank, and for claims 8, 15 and 19 as obvious over Saalfrank and Nakamura. Case pending.
IPR2015-01725	Institution denied

In addition to the present motion, Petitioners will be concurrently filing a petition to join another IPR case pertaining to one of the PO patents. Specifically, by separate motion, Petitioners are seeking to join IPR2016-00769 with IPR2015-01726 ('891 patent) on bases parallel to the ones set forth below.

III. LEGAL STANDARD

When more than one petition for *inter partes* review of the same patent is properly filed and those petitions warrant institution, the Board has the authority and discretion to join the proceedings. 35 U.S.C. § 315(c); 37 C.F.R. § 42.122(b). Joinder of one *inter partes* review with another *inter partes* review is appropriate where it secures the just, speedy, and inexpensive resolution of the *inter partes* review proceedings. *See* 37 C.F.R. § 42.1(b).

A petitioner may request joinder, without prior authorization, up to one month after the institution date of the proceeding to which joinder is requested. 37 C.F.R. § 42.122(b) (addressing timing to request joinder); *Taiwan Semiconductor Mfg. Co., Ltd. v. Zond LLC*, IPR2014-00781 and IPR2014-782, Paper 5 at 3 (May 29, 2014) (prior authorization not required before one month deadline). Typically, such a joinder request: (1) sets forth the reasons why joinder is appropriate; (2) identifies any new grounds of unpatentability asserted in the petition; and (3) explains what impact (if any) joinder would have on the trial schedule for the existing review. *See, e.g. Microsoft Corp. v. IPR Licensing, Inc.*, IPR2015-00074,

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