

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ZTE (USA) INC., SAMSUNG ELECTRONICS CO., LTD., SAMSUNG
ELECTRONICS AMERICA, INC., HTC CORPORATION, and
HTC AMERICA, INC.
Petitioner,

v.

EVOLVED WIRELESS LLC,
Patent Owner.

Case IPR2016-01277
Patent 7,746,916 B2

Before CHRISTOPHER L. CRUMBLEY, PATRICK M. BOUCHER, and
TERRENCE W. McMILLIN, *Administrative Patent Judges*.

McMILLIN, *Administrative Patent Judge*.

DECISION

Instituting *Inter Partes* Review and Consolidating with IPR2016-01208
37 C.F.R. § 42.108 and 37 C.F.R. § 42.122(a)

INTRODUCTION

We have instituted trial in IPR2016-01208. The Petition herein states that it “is identical in substance to the petition that Apple Inc. et al. filed on June 20, 2016 in IPR2016-01208 (‘the Apple proceeding’),” and is “limited to the same claims, grounds, arguments, and evidence presented in the Apple proceeding.” Pet. 1. Petitioner states that it intends to seek joinder with the Apple proceeding under 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22, and 42.122(b). *Id.*

For the reasons expressed in our Decision instituting trial in the Apple proceeding, we likewise determine that the record in this proceeding establishes a reasonable likelihood that Petitioners will prevail in showing that claims 1–10 of U.S. Patent No. 7,746,916 B2 (“the ’916 patent”) are unpatentable. We, therefore, institute trial as we did in IPR2016-01208, and consolidate the two *inter partes* reviews, pursuant to 35 U.S.C. § 315(d) and 37 C.F.R. § 42.122(a). A motion for joinder is not required.

ORDER

It is

ORDERED that pursuant to 35 U.S.C. § 314, an *inter partes* review is hereby instituted on the following grounds:

1. Whether claims 1–3, 5–8, and 10 are unpatentable under 35 U.S.C. § 102 as having been anticipated by Zhuang327;
2. Whether claims 6–8 and 10 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang327;
3. Whether claims 4 and 9 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang327 and Popović;
4. Whether claims 1–3, 5–8, and 10 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang327 and Hou; and

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5. Whether claims 4 and 9 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang327, Hou, and Popović;

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(d) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial on the grounds of unpatentability authorized above; the trial commences on the entry date of this Decision; and

FURTHER ORDERED that pursuant to 35 U.S.C. §315(d) and 37 C.F.R. § 42.122(a), this *inter partes* review is hereby consolidated with the trial in IPR2016-01208;

FURTHER ORDERED that all future filings are to be made in IPR2016-01208, using the combined case caption as attached to this Decision;

FURTHER ORDERED that Petitioner and the Petitioner in IPR2016-01208 (“Petitioners”) will share all time permitted for depositions and will file all papers, except for papers that do not involve the other petitioner, as a consolidated paper, and that consolidated papers will not be given additional pages or words unless otherwise authorized by the Board;

FURTHER ORDERED that, if a petitioner wishes to make statements or provide information or material separately from the other petitioner in a consolidated paper, the paper must identify and attribute such separate statements and information or material clearly;

FURTHER ORDERED that, for purposes of accessing the electronic record, counsel for Petitioner will be added as backup counsel of record of the Petitioner in IPR2016-01208 (e.g., by filing an appearance in that case), and that only a single attorney may be designated as lead counsel for Petitioners;

FURTHER ORDERED that a copy of this Decision shall be entered in the record of IPR2016-01208.

PETITIONER:

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¹ IPR2016-01277 has been consolidated with this proceeding.