

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 IPR2016-01280
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 IPR2016-01209
37 C.F.R. § 42.108 and 37 C.F.R. § 42.122(a)

INTRODUCTION

We have instituted trial in IPR2016-01209. The Petition herein states that it “is identical in substance to the petition that Apple Inc. et al. filed on June 20, 2016 in IPR2016-01209 (‘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 IPR2016-01209, 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 Zhuang175;
2. Whether claims 4 and 9 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang175 and Popović;
3. Whether claims 1–3, 5–8, and 10 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang175 and Hou;
4. Whether claims 4 and 9 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang175, Hou, and Popović;

5. Whether claims 6–8 and 10 are unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang175 and Fukuta; and
6. Whether claim 9 is unpatentable under 35 U.S.C. § 103 as having been obvious over Zhuang175, Fukuta, 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 IPR2016-01209;

FURTHER ORDERED that all future filings are to be made in IPR2016-01209, using the combined case caption as attached to this Decision;

FURTHER ORDERED that Petitioner and the Petitioner in IPR2016-01209 (“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 IPR2016-01209 (e.g., by filing an appearance in that case), and that only a single attorney may be designated as lead counsel for Petitioners;

IPR2016-01209
Patent 7,746,916 B2

FURTHER ORDERED that a copy of this Decision shall be entered in the record of IPR2016-01209.

IPR2016-01209
Patent 7,746,916 B2

W. Karl Renner
Roberto J. Devoto
FISH & RICHARDSON P.C.
IPR00035-0006IP2@fr.com
PTABInbound@fr.com

Charles McMahon
Hersh Mehta
MCDERMOTT WILL & EMERY
cmcMahon@mwe.com
hmehta@mwe.com

James Glass
Kevin Johnson
Todd Briggs
John McKee
QUINN EMANUEL URQUHART & SULLIVAN, LLP
jimglass@quinnemanuel.com
kevinjohnson@quinnemanuel.com
toddbriggs@quinnemanuel.com
johnmckee@quinnemanuel.com

Stephen Korniczky
Martin Bader
Ericka Schulz
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
skorniczky@sheppardmullin.com
mbader@sheppardmullin.com
eschulz@sheppardmullin.com

PATENT OWNER:

Cyrus Morton
Ryan M. Schultz
ROBINS KAPLAN LLP
cmorton@robinskaplan.com
rschultz@robinskaplan.com

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.