

U.S. Patent No. 5,965,924 Claims 1-6, 13, 14 and 16
Petitioner's Motion for Joinder

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INCORPORATED, GLOBALFOUNDRIES INC.,
GLOBALFOUNDRIES U.S. INC., GLOBALFOUNDRIES DRESDEN
MODULE ONE LLC & CO. KG, GLOBALFOUNDRIES DRESDEN MODULE
TWO LLC & CO. KG

Petitioner

v.

DSS Technology Management, Inc.
Patent Owner

Case IPR2016-01313
U.S. Patent No. 5,965,924

PETITIONER'S MOTION FOR JOINDER
UNDER 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22, and 42.122(b)

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I. STATEMENT OF RELIEF REQUESTED

The Petitioners for the present Petition are GLOBALFOUNDRIES Inc., GLOBALFOUNDRIES U.S. Inc., GLOBALFOUNDRIES Dresden Module One LLC & Co. KG, GLOBALFOUNDRIES Dresden Module Two LLC & Co. KG (collectively "GF") and Qualcomm, Incorporated ("Qualcomm"), collectively referred to as "Petitioner." Petitioner respectfully submits this Motion for Joinder together with a Petition for *Inter Partes* Review of claims 1-6, 13, 14 and 16 of U.S. Patent No. 6,784,924 (the "Present Petition" or "Present IPR"). Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner requests *inter partes* review and joinder with *Intel Corporation v. DSS Technology Management, Inc.*, IPR2016-00289 ("Intel" and "the Intel IPR"), which was instituted on June 8, 2016. Joinder is appropriate because it will promote efficient and consistent resolution of the unpatentability grounds at issue and will not prejudice any of the parties to the Intel IPR.

This Motion for Joinder and accompanying Petition are being filed within one month of the decision instituting trial in the Intel IPR, and are therefore timely. Counsel for GF/Qualcomm has conferred with counsel for Intel, and Intel does not oppose joinder.

II. STATEMENT OF MATERIAL FACTS

1. On February 16, 2015, the owner of the '924 Patent, DSS Technology Management, Inc. ("DSS"), sued Intel and other companies (not including GF or Qualcomm) alleging infringement of the '924 Patent.
2. On July 16, 2015, DSS sued Qualcomm and other companies (not including GF) alleging infringement of the '924 Patent. Qualcomm is a competitor to the present Petition.
3. On December 8, 2015, Intel, timely filed a Petition for *inter partes* review challenging claims 1-6, 13, 14 and 16 of the '924 Patent, within a year of Intel being sued on the patent. *See Intel Corporation v. DSS Technology Management, Inc.*, IPR2016-00289, Paper 2 (PTAB Dec. 8, 2015).
4. On June 8, 2016, the Board instituted an *inter partes* review of claims 1-6, 13, 14 and 16 of the '924 Patent. *See Intel*, IPR2016-00289, Paper 12.
5. Concurrently with this motion, GF/Qualcomm timely filed the Present Petition for *inter partes* review challenging claims 1-6, 13, 14 and 16 of the '924 Patent, within a year of Qualcomm being sued on the patent. GF was not sued on the patent.
6. GF/Qualcomm's unpatentability grounds in the Present IPR are identical to the positions in the instituted Intel IPR.

III. STATEMENT OF REASONS FOR REQUESTED RELIEF

A. Legal Standards

The Board has authority under 35 U.S.C. § 315(c) to join a party who files a proper *inter partes* review petition to a previously-instituted *inter partes* review proceeding. This authority is discretionary. 35 U.S.C. § 315(c); 37 C.F.R. § 42.122.

In exercising its discretion to grant joinder, the Board considers the impact of substantive and procedural issues on the proceedings, as well as other considerations, while being “mindful that patent trial regulations, including the rules for joinder, must be construed to secure the just, speedy, and inexpensive resolution of every proceeding.” *Dell Inc. v. Network-1 Sec. Solutions, Inc.*, IPR2013-00385, Paper 17 at 3-4 (PTAB July 29, 2013). The Board should consider “the policy preference for joining a party that does not present new issues that might complicate or delay an existing proceeding.” *Id.* at 10. Under this framework, joinder of the Present IPR with the Intel IPR is appropriate.

The legislative history of the AIA suggests that the joinder may be granted as a matter of right where the later petitioner files an identical petition with identical grounds of unpatentability. *See* 157 CONG. REC. S1376 (daily ed. Mar.

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