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Paper 13
Entered: February 23, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

EVOLVED WIRELESS LLC,
Patent Owner.

Case IPR2016-00758[1], IPR2016-01342, IPR2016-01349[2]
Patent 8,218,481 B2

Before WILLIAM V. SAINDON, CHRISTOPHER L. CRUMBLEY, PETER P. CHEN, and TERRENCE W. McMILLIN, *Administrative Patent Judges*

McMILLIN, *Administrative Patent Judge*

CONSOLIDATION ORDER
35 U.S.C. § 315(d); 37 C.F.R. § 42.122(a)

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[1] IPR2017-00068 and IPR2017-00106 have been joined with IPR2016-00758.
[2] IPR2016-00981 has been joined with IPR2016-01349.

Six petitions for *inter partes* review of U.S. Patent No. 8,218,481 B2 ("the '481 patent") have been filed: IPR2016-00758, IPR2016-00981, IPR2016-01342, IPR2016-01349, IPR2017-00068, and IPR2017-00106. Decisions to institute trial have been rendered in each of these proceedings. In addition, IPR2016-00758, IPR2017-00068, and IPR2017-00106 have been joined, and IPR2016-00981 and IPR2016-01349 have been joined.

On December 19, 2016, a conference call was held among counsel for the Petitioners in all six of the proceedings related to the '481 patent; counsel for Patent Owner; and Judges Saindon, Crumbley, Boucher, Chen, and McMillin. During the conference call, consolidation of the proceedings related to the '481 patent was discussed, and we requested that the parties further consider and discuss ways to promote the efficient resolution of these proceedings. An Order to that effect was entered in which the parties were ordered to provide us with alternative proposals and schedules for the proceedings. *See, e.g.*, IPR2016-00758, Paper 20. On December 29, 2016, we received an email setting forth alternative proposals and schedules including a "Joint Scheduling Proposal" from the parties. Pursuant to the "Joint Scheduling Proposal," the parties request that the proceedings be

consolidated and a single schedule be set in the proceedings relating to the '481 patent. *Id*.

Under 35 U.S.C. § 315(d)[3] and 37 C.F.R. § 42.112(a),[4] when there are multiple proceedings involving the same patent, the Board may consolidate the proceedings. In the case of joinder, the Board has the authority to modify the schedule including the 1 year final determination time period. *See* 35 U.S.C. § 316(a)(11); 37 C.F.R. § 42.100(c).

On the record before us, in particular the agreement between the parties, and in order to more efficiently resolve the pending proceedings relating to the '481 patent, we hereby consolidate IPR2016-00758, IPR2016-01342, and IPR2016-01349.

Accordingly, it is hereby:

ORDERED that IPR2016-00758, IPR2016-01342, and IPR2016-01349 are consolidated for trial;

FURTHER ORDERED that all future filings shall be made in IPR2016-00758, using the combined case caption as attached to this decision;

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[3] 35 U.S.C. § 315(d) provides: "Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of an inter partes review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding."

[4] 37 C.F.R. § 42.122(a) provides: "Where another matter involving the patent is before the Office, the Board may during the pendency of the *inter partes* review enter any appropriate order regarding the additional matter including providing for the stay, transfer, consolidation, or termination of any such matter."

FURTHER ORDERED that the respective grounds for trial in IPR2016-00758, IPR2016-01342, and IPR2016-01349 remain unchanged, and trial in the consolidated IPR2016-00758 proceeding shall proceed on the following grounds of unpatentability:

1. Whether claims 1, 2, 8, and 9 are unpatentable under 35 U.S.C. § 102(a) or (b) as having been anticipated by Panasonic 792;
2. Whether claims 3 and 10 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 792 and Panasonic 114;
3. Whether claims 6 and 13 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 792, Panasonic 114, and Chu;
4. Whether claims 1 and 2 are unpatentable under 35 U.S.C. § 102(a) and (b) as having been anticipated by Panasonic 700;
5. Whether claim 3 is unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 700 and Panasonic 114;
6. Whether claims 4 and 6 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 700, Panasonic 114, and Chu;
7. Whether claims 8 and 9 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 700 and Motorola 595;
8. Whether claim 10 is unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 700, Panasonic 114, and Motorola 595;
9. Whether claims 11 and 13 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over Panasonic 700, Panasonic 114, Chu, and Motorola 595;
10. Whether claims 1 and 15 are unpatentable under 35 U.S.C. § 102(a) and (b) as having been anticipated by IEEE802.16-2004;
11. Whether claims 1 and 15 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004 and IEEE802.16e-2005;

12. Whether claims 2–4 and 6 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004 and Tan;

13. Whether claims 2–4 and 6 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004, IEEE802.16e-2005, and Tan;

14. Whether claims 8 and 16 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004 and Chou;

15. Whether claims 8 and 16 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004, IEEE802.16e-2005, and Chou;

16. Whether claims 9–11 and 13 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004, Chou, and Tan; and

17. Whether claims 9–11 and 13 are unpatentable under 35 U.S.C. § 103(a) as having been obvious over IEEE802.16-2004, IEEE802.16e-2005, Chou, and Tan;

FURTHER ORDERED that the Petitioners in the consolidated IPR2016-00758 proceeding shall file each paper, except for a motion that does not involve another party, as a single, consolidated filing; shall identify each such filing as a consolidated filing; and any such consolidated filing will be subject to double the word counts and page limits set forth in 37 C.F.R. § 42.24, although more words or pages may be granted upon a showing of good cause;

FURTHER ORDERED that for any consolidated filing, if one or more Petitioners wishes to file an additional paper, authorization to file any such additional paper must be requested from the Board; and no additional paper may be filed unless the Board grants such authorization;

FURTHER ORDERED that any filings by Patent Owner in the consolidated IPR2016-00758 proceeding shall be subject to double the word

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