

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ZTE (USA) Inc.,  
Samsung Electronics Co., Ltd., and  
Samsung Electronics America, Inc.,

Petitioner,

V.

Evolved Wireless, LLC,

Patent Owner

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Case IPR2016-01342  
Patent 8,218,481

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**PATENT OWNER'S PRELIMINARY RESPONSE TO  
PETITIONERS' PETITION FOR INTER PARTES REVIEW OF  
UNITED STATES PATENT NO. 8,218,481**

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Pursuant to 37 C.F.R. § 42.107, Patent Owner Evolved Wireless, LLC submits this Preliminary Response to the above-captioned Petition for *Inter Partes* Review of U.S. Patent No. 8,218,481 (“Pet.”).

## I. INTRODUCTION

The Petition should be denied because it presents the same or substantially the same prior art and arguments previously presented to the Board in case IPR2016-00758 (“the 758 Case”) and the Board should therefore exercise its discretion under 325(d) to deny institution. The petition in the 758 Case (“the 758 Petition”) and the instant Petition both include ZTE (USA) Inc. (“ZTE”) among the petitioners. The instant Petition was filed shortly after Evolved Wireless filed its Patent Owner Preliminary Response in the 758 Case, in which Evolved Wireless identified deficiencies in the 758 Petition. In filing the instant Petition, ZTE used Evolved Wireless’s Patent Owner Preliminary Response to the 758 Petition as a road map to correct flaws in its earlier-filed petition.

The Board has now issued its Institution Decision in the 758 Case, instituting as to certain claims and denying as to others. Consideration of the instant Petition with respect to the instituted claims is an inefficient use of the Parties’ and the Board’s limited resources. The same or substantially the same art and arguments are already before the Board in an instituted *inter partes* review,

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