

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.,
Petitioners,

v.

EVOLVED WIRELESS LLC,
Patent Owner.

Cases IPR2016-00758¹
Patent 8,218,481 B2

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

McMILLIN, *Administrative Patent Judge*.

ORDER

Notice of Adjustment of One-Year Pendency Due to Joinder
35 U.S.C. § 316(a)(11); 37 C.F.R. § 42.100(c)

¹ IPR2016-01342 and IPR2016-01349 have been consolidated with IPR2016-00758. IPR2017-00068 and IPR2017-00106 have been joined with IPR2016-00758. IPR2016-00981 has been joined with IPR2016-01349. IPR2017-00927 has been joined with IPR2016-01342.

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Trial in IPR2016-00758 was instituted on September 16, 2016. Paper 12.² Trial in IPR2016-00981 was instituted on November 3, 2016. IPR2016-00981, Paper 10. Trial in IPR2016-01349 was instituted on January 12, 2017. IPR2016-01349, Paper 11. Trial in IPR2016-01342 was instituted on January 20, 2017. IPR2016-01342, Paper 11. Trials in IPR2017-00068 and IPR2017-00106 were instituted and IPR2017-00068 and IPR2017-00106 were joined to IPR2016-00758 on February 23, 2017. Papers 27, 28.³ IPR2016-00981 and IPR2016-01349 were joined on February 23, 2017. IPR2016-00981, Paper 16. Trial was consolidated in IPR2016-000758, IPR2016-01342, and IPR2016-01349 on February 23, 2017. Paper 24. Trial in IPR2017-00927 was instituted and IPR2017-00927 was joined with IPR2016-01342 on July 20, 2017. Paper 37.

All seven of the trials discussed above involve challenges to the claims in US 8,218,481 B2. The date set for oral hearing on these seven trials is October 17, 2017. Paper 36.

Pursuant to 35 U.S.C. § 316(a)(11):

[T]he final determination in an inter partes review [shall] be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that

² Citations to papers without a preceding case number refer to documents entered in IPR2016-00758. These papers may also have been entered in the other proceedings to which they pertain.

³ In these Decisions, the Board noted that joinder would require modification of the trial schedule in IPR2016-00758 and “that all the parties to th[ese] proceeding[s] and IPR2016-00758 have agreed to a modified schedule which we adopt in the Revised Scheduling Order being entered on the same day as this Decision.” Paper 27, 5; Paper 28, 4–5. In the Revised Scheduling Order, oral argument was scheduled *after* September 16, 2017 (one year anniversary of trial institution in IPR2016-00758). Paper 25, 6.

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the Director . . . may adjust the time periods in this paragraph in the case of joinder under section 315(c).
The Director has delegated the authority to adjust the one-year period to the Board. *See* 37 C.F.R. § 42.100(c). In particular, 37 C.F.R. § 42.100(c) provides:

An inter partes review proceeding shall be administered such that pendency before the Board after institution is normally no more than one year. The time can be . . . adjusted by the Board in the case of joinder.

In accordance with 37 C.F.R. § 42.100(c), the Board adjusts the time of pendency before the Board in IPR2016-00758, IPR2016-00981, IPR2016-01342, IPR2016-01349, IPR2017-00068, IPR2017-00106, and IPR2017-00927, which involve joinder, to permit the Board to consider and determine the pending issues. The Board shall issue a Final Written Decision in this proceeding no later than March 15, 2018.

It is

ORDERED that the time of pendency in this proceeding, which involves joinder, is adjusted; and

FURTHER ORDERED that, pursuant to 37 C.F.R. § 42.100(c), the Board exercises its discretion in IPR2016-00758, IPR2016-00981, IPR2016-01342, IPR2016-01349, IPR2017-00068, IPR2017-00106, and IPR2017-00927 and adjusts the due date of the final written decisions in these cases to March 15, 2018.

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