

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC., MICROSOFT CORPORATION, MICROSOFT MOBILE OY,  
AND MICROSOFT MOBILE INC. (f/k/a NOKIA INC.),

Petitioner,

V.

EVOLVED WIRELESS LLC,

Patent Owner

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Case IPR2017-00068

Patent 8,218,481

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**PATENT OWNER'S OPPOSITION TO  
PETITIONER'S MOTION FOR JOINDER, AND TO  
PETITIONER'S REQUEST FOR SHORTENED  
RESPONSE TIME FOR PATENT OWNER'S  
PRELIMINARY RESPONSE**

**TABLE OF CONTENTS**

	<b>Page</b>
TABLE OF CONTENTS.....	i
I. Introduction .....	1
II. Statement of Material Facts.....	2
III. The Board Should Deny Petitioner’s Motion Because Petitioner Already Elected Grounds in IPR2016-00981 .....	3
<b>A.</b> Legal Standard.....	4
<b>B.</b> Petitioner Has Failed to Meet Its Burden of Setting Forth the Reasons that Joinder is Appropriate.....	4
IV. The Board Should Deny Petitioner’s Motion as to Ground 2, Claims 4 and 11, Because the Board Did Not Institute Those Grounds in IPR2016-00758.....	5
<b>A.</b> Petitioner’s Grounds for Instituting Claims 4 and 11 are Identical to Rejected Grounds in the Underlying Petition .....	6
<b>B.</b> Petitioner Has Failed to Meet Its Burden of Setting Forth the Reasons that Joinder is Appropriate with Respect to Ground 2, Claims 4 and 11 .....	7
V. The Board Should Deny Petitioner’s Request for a Shortened Response Time for Patent Owner’s Preliminary Response.....	8
<b>A.</b> Petitioner’s Request Is an Improper Motion Because the Board Has Not Authorized the Motion .....	9
<b>B.</b> Petitioner’s Proposed Shortened Schedule Provides Inadequate Time for Patent Owner to Oppose the Motion.....	9
VI. Conclusion .....	10

## TABLE OF AUTHORITIES

	<b>Page(s)</b>
<b>Cases</b>	
<i>Bungie, Inc., v. Acceleration Bay, LLC</i> , IPR2015-00567, Decision Granting Motion for Joinder in Part, Paper 11 (PTAB July 7, 2016).....	4
<i>Dot Hill Systems Corp. v. Crossroads Systems, Inc.</i> , IPR2015-00822, Decision Granting Motion for Joinder in Part, Paper 18 (PTAB Sept. 17, 2015) .....	8
<i>Ion Geophysical Corp. and Ion Int’l S.A.R.L. v. Westerngeco LLC</i> , IPR2015-00567, Decision Granting Motion for Joinder in Part, Paper 14 (PTAB Apr. 23, 2015) .....	8
<i>LG Electronics, Inc. v. ATI Technologies ULC</i> , IPR2015-01620, Decision Denying Motion for Joinder, Paper 10 (PTAB Feb. 2, 2016) .....	4
<i>Noven Pharmaceuticals Inc. v. Novartis AG and LTS Lohmann Therapie-Systeme AG</i> , IPR2014-00550, Decision Granting Motion for Joinder, Paper 38 (PTAB Apr. 10, 2015) .....	7
<i>Sony Corp., et al. v. Memory Integrity, LLC</i> , IPR2015-01353, Decision Granting Motion for Joinder Paper 11, (PTAB Oct. 15, 2015).....	7
<i>Sony Corp., et al. v. Memory Integrity, LLC</i> , IPR2015-01376, Decision Granting Motion for Joinder in Part, Paper 12, (PTAB Sept. 29, 2015) .....	8
<b>Other Authorities</b>	
37 C.F.R. § 42.20(c).....	4

## I. Introduction

Patent Owner, Evolved Wireless, LLC, respectfully requests that the Board deny Petitioner Apple, Inc., Microsoft Corporation, Microsoft Mobile Oy, and Microsoft Mobile Inc. (f/k/a Nokia Inc.), Inc.’s Motion to Join IPR2016-00758 (the “Instituted Petition”) and Request for Shortened Response Time for Patent Owner’s Preliminary Response (“POPR”). Petitioner’s petition for *inter partes* review of U.S. Patent No. 8,218,481 (the “’481 Patent”) – IPR2017-00068 – filed concurrently with Petitioner’s Motion for Joinder, relies on three grounds that were previously addressed by the Board in IPR2016-00758, including a ground that the Board denied in part. Petitioner seeks to reintroduce these previously rejected arguments without any justification. In addition, Petitioner intentionally chose not to assert these grounds earlier, before the one-year filing window closed, when it submitted its own Petition for *inter partes* review in IPR2016-00981. Petitioner also requests a shortened response time for Patent Owner’s Preliminary Response, despite delaying its own filing by more than one year. Petitioner’s motion and request should be denied.

## II. Statement of Material Facts

1. Over a year ago, Patent Owner concurrently filed patent infringement litigations against Petitioner and the Original Petitioner<sup>1</sup> in the Instituted Petition asserting the '481 Patent and other related patents. *See Evolved Wireless, LLC v. Apple Inc.*, Case No. 15-542-SLR-SRF (D. Del., filed June 26, 2015); *Evolved Wireless, LLC v. HTC Corp.*, Case No. 14-543-SLR-SRF (D. Del., filed June 26, 2015); and *Evolved Wireless, LLC v. ZTE (USA) Inc.*, Case No. 15-546-SLR-SRF (D. Del., filed June 26, 2015); *Evolved Wireless, LLC v. Microsoft Corp., et al.*, Case No. 15-cv-547-SLR (D. Del., filed June 26, 2015).

2. On March 23, 2016, Original Petitioner filed a petition for *inter partes* review of the '481 Patent, in IPR2016-00758. The Board denied institution on some of the claims. *See generally*, IPR2016-00758, Paper 12.

3. On May 5, 2016, Petitioner filed a petition for *inter partes* review of the '481 Patent, in IPR2016-00981. The Board recently issued an Institution Decision in that matter which instituted proceedings as to certain grounds and denied institution as to others. *See generally*, IPR2016-00981, Paper 10 (Nov. 3, 2016).

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<sup>1</sup> “Original Petitioner” refers collectively to HTC Corporation, HTC America, Inc., and ZTE (USA), Inc.

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