

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE, INC., MICROSOFT CORPORATION,
MICROSOFT MOBILE OY,
MICROSOFT MOBILE INC. (f/k/a NOKIA, INC.),
HTC CORPORATION, HTC AMERICA, INC.,
SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA, INC.,
and ZTE (USA) INC.,
Petitioners,¹

v.

EVOLVED WIRELESS LLC,
Patent Owner.

Cases IPR2016-00758, IPR2016-00981, IPR2016-01342,
IPR2016-01349, IPR2017-00068, and IPR2017-00106
Patent 8,218,481 B2

Before CHRISTOPHER L. CRUMBLY, *Administrative Patent Judge*.

ORDER
Conduct of the Proceeding
37 C.F.R. § 42.5(a)

¹ This case caption is for the purposes of this consolidated Order only. Not all listed Petitioners are a Petitioner in each case listed in the caption. The parties are not to use this caption unless expressly authorized by the Board.

IPR2016-00758, IPR2016-00981, IPR2016-01342,
IPR2016-01349, IPR2017-00068, IPR2017-00106
Patent 8,218,481 B2

This Order is entered in six related *inter partes* review proceedings filed by various Petitioners, each challenging claims of U.S. Patent No. 8,218,481 B2. The Board has instituted trial in two of the proceedings, namely IPR2016-00758 and IPR2016-00981; a decision whether to institute trial has not been reached in the other four cases. Though filed by different Petitioners, the Petitions in IPR2016-00758 and IPR2016-01342 are similar, as are the Petitions in IPR2016-00981 and IPR2016-01349. The Petitioners in IPR2017-00068 and IPR2017-00106 seek joinder with IPR2016-00758.

The parties contacted the Board via e-mail, requesting a conference call to discuss a proposal to streamline and synchronize consideration of the various Petitions. A conference call was held on December 19, 2016, among counsel for the involved Petitioners, counsel for Patent Owner Evolved Wireless LLC, and Judges Saindon, Crumbley, Boucher, Chen, and McMillin.

During the call, the parties collectively proposed that—if trial is instituted in IPR2016-01342 and IPR2016-01349—the Board consolidate, pursuant to 35 U.S.C. § 315(d), IPR2016-01342 with IPR2016-00758 and IPR2016-01349 with IPR2016-00981. The consolidated proceedings would be considered together, and the Board would issue a single Final Written Decision for each pair of consolidated cases.

The Petitioners also proposed a synchronized schedule for the consolidated proceedings. Counsel for Patent Owner agreed in principle to the Board adopting a single schedule, but noted that the proposed schedule included an oral argument date after the one-year deadline for issuing a Final Written Decision in IPR2016-00758. The parties and Board discussed various options for resolving this conflict, including adjusting or extending

IPR2016-00758, IPR2016-00981, IPR2016-01342,
IPR2016-01349, IPR2017-00068, IPR2017-00106
Patent 8,218,481 B2

the date of the Final Written Decision pursuant to 35 U.S.C. § 316(a)(11).
The parties also agreed to propose an alternative schedule that did not
require extending the one-year deadline.

With respect to the Motions for Joinder in IPR2017-00068 and
IPR2017-00106, the Petitioners in those proceedings clarified that, in their
Replies supporting the Motions, they had agreed to withdraw from the
Petition any claim on which trial was not instituted in IPR2016-00758. *See*
IPR2017-00068, Paper 8, 1; IPR2017-00106, Paper 10, 1. The Board
requested that the Petitioners in these cases file a paper in each case
expressly requesting dismissal of the Petitions as to these claims, and
counsel agreed. The paper should indicate whether Patent Owner opposes
the request, but no responsive briefing is authorized at this time. Counsel for
Patent Owner agreed that, if the non-instituted claims are dismissed from the
Petitions in the joinder cases, Patent Owner does not oppose joinder of
Petitioners to IPR2016-00758.

The Board thanked the parties for their efforts to promote the efficient
resolution of these matters, and the call was adjourned.

In light of the foregoing, it is hereby

ORDERED that the parties shall, on or before December 30, 2016,
provide to the Board via e-mail an alternative proposed schedule for the
consolidated proceedings that maintains the September 16, 2017 Final
Written Decision date in IPR2016-00758; and

FURTHER ORDERED that, if the Petitioners in IPR2017-00068 and
IPR2017-00106 wish the Board to dismiss their Petitions as to certain claims

IPR2016-00758, IPR2016-00981, IPR2016-01342,
IPR2016-01349, IPR2017-00068, IPR2017-00106
Patent 8,218,481 B2

for which trial was not instituted in IPR2016-00758, they shall file a paper expressly requesting such dismissal on or before December 30, 2016.

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IPR2016-00758, IPR2016-00981, IPR2016-01342,
IPR2016-01349, IPR2017-00068, IPR2017-00106
Patent 8,218,481 B2

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