

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

GLOBALFOUNDRIES, INC.,

Petitioner,

v.

Godok Kaisha IP Bridge 1,
Patent Owner.

IPR2017-00850

Patent 7,126,174 B1

**PETITIONER'S UNOPPOSED MOTION TO
DISMISS PETITION FOR *INTER PARTES* REVIEW**

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Patent Trial and Appeal Board U.S.

Patent and Trademark Office P.O.

Box 1450

Alexandria, VA 22313-1450

Submitted Electronically via the Patent Review Processing System

Petitioner moves the Board for an order dismissing the above-identified petition for *inter partes* review of U.S. Patent No. 7,126,174. Petitioner has authorization to file the present motion. *See* Paper No. 12. Counsel for Petitioner has conferred with counsel for Patent Owner, and Patent Owner does not oppose the relief sought by this Motion.

For the reasons that follow, Petitioner respectfully submits that the pending Petition be dismissed and the above-identified proceedings should be terminated.

I. FACTUAL BACKGROUND

The petition in this matter was filed on February 3, 2017. On February 23, 2017, the Board issued a notice according the petition a filing date of February 3, 2017. Shortly after the filing of the petition, Petitioner identified a real party-in-interest that was inadvertently omitted in the petition. Out of an abundance of caution, and given the impending changes to the Rules of Practice before the Board in trial proceedings, Petitioners filed another petition for *inter partes* review raising the same arguments and presenting the same evidence as that raised in the instant petition. That petition has been assigned IPR2016-00926. Thus, at this time, there are two petitions pending before the PTAB challenging the validity of the '174 patent and presenting the same arguments and relying on the same evidence.

II. ARGUMENT

Not only is this Motion to Dismiss unopposed, there are a number of other factors favoring dismissing the pending petition. First, the above-captioned IPR is in its preliminary phase, a preliminary response has not yet been filed, and the Board has yet to reach the merits and issue a decision on institution. In similar circumstances involving IPRs in such an early juncture, the Board has previously granted motions to dismiss using its authority under at least 37 C.F.R. §§ 42.5(a) and 42.71(a). *See, e.g., Apple Inc. v. Telefonaktiebolaget LM Ericsson*, IPR2016-00109, Paper 7 (PTAB Jan. 29, 2016); *Celltrion, Inc. v. Cenetech, Inc.*, IPR2015-01733, Paper 12 (PTAB Oct. 6, 2015) (granting unopposed motion to dismiss petition); *Under Armour, Inc. v. Adidas AG*, IPR2015-01531, Paper 8 (PTAB Sept. 21, 2015) (granting unopposed motion to dismiss petition); *Samsung Electronics Co. LTD v. Nvidia Corporation*, IPR2015-01270, Paper 11 (PTAB Dec. 9, 2015) (dismissing Petition even over the patent owner's objection).

Second, dismissal of the Petition in the above-captioned IPR will preserve the Board's and the parties' resources while also epitomizing the Patent Office's policy of "secur[ing] the just, speedy, and inexpensive resolution" to the above-captioned IPR. *See* 37 C.F.R. § 42.1(b). Here, the requested dismissal would relieve the Board of the substantial time and resources required to consider the merits, issue an institution decision, and proceed through trial. Moreover, since

another petition is pending raising the same arguments and evidence, but identifying all real parties-in-interest, Petitioner submits that that proceeding will be simpler since the same patentability challenges will be addressed.

Granting this Motion to Dismiss would relieve the Patent Owner of the need to prepare duplicative responses and monitor parallel deadlines in two substantively identical proceedings. As such, it would be proper for the Board to dismiss the pending Petition “at this early juncture[] to promote efficiency and minimize unnecessary costs.” *Samsung*, IPR2015-01270, Paper 11 at p. 4.

Lastly, dismissal of the Petition and termination of the above-captioned IPR is a just and fair resolution. Again, all parties here agree dismissal is appropriate. Even the public interest will be served since the same patentability challenges will be addressed in IPR2016-00926. And the parties and the Board will benefit from preserving resources that would otherwise be expended if this Motion is denied.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board dismiss the above-captioned petition and terminate proceedings on that petition.

Date: March 1, 2017

Respectfully Submitted by:

/Kent J. Cooper/

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