

Filed on behalf of Godo Kaisha IP Bridge 1

By: Michael J. Fink ([mfink@gbpatent.com](mailto:mfink@gbpatent.com))  
Greenblum & Bernstein, P.L.C.  
1950 Roland Clarke Place  
Reston, Virginia 20191  
Tel: (703) 716-1191  
Fax: (703) 716-1180

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

GLOBALFOUNDRIES, INC.,  
Petitioner,

v.

GODO KAISHA IP BRIDGE 1,  
Patent Owner.

---

Case IPR2017-00919  
U.S. Patent No. 6,538,324

---

**PATENT OWNER'S COMBINED OPPOSITION TO PETITIONER'S  
MOTION FOR JOINDER AND PRELIMINARY RESPONSE**

Mail Stop PATENT BOARD, PTAB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## I. INTRODUCTION

Patent Owner, Godo Kaisha IP Bridge 1 (“IP Bridge”) submits this Combined Opposition To Petitioner’s Motion For Joinder And Preliminary Response (“Opposition”) in response to Petitioner GlobalFoundries, U.S. Inc.’s (“Global U.S.”) Motion for Joinder (Paper 2) and Petition filed in Case IPR2017-00919. Global U.S. seeks to join Case IPR2017-00919 with Case IPR2016-01249, which was instituted on December 21, 2016.

A similar Petition and Motion for Joinder were filed by GlobalFoundries, Inc. (“Global”) in IPR2017-00753. The Petition in this case (IPR2017-00919) filed by Global U.S. states that the Petition filed in IPR2017-00753 will be withdrawn (IPR2017-00919 Petition, p. 34, footnote 13). A call was held with the Board on February 22, 2017 and the Board issued an Order in Cases IPR2017-00753, IPR2017-00757, IPR2017-00849, IPR2017-00850, IPR2017-00919, IPR2017-00920, IPR2017-00925 and IPR2017-00926 authorizing Petitioner to file a motion to dismiss the petitions in Cases IPR2017-00753, IPR2017-00757, IPR2017-00849 and IPR2017-00850 within one week of a filing date being accorded to the corresponding Petitions in Cases IPR2017-00919, IPR2017-00920, IPR2017-00925 and IPR2017-00926. Cases IPR2017-00919 and IPR2017-00920 were accorded filing dates on February 23, 2017 (Paper 5). Petitioner filed Unopposed Motions to Dismiss Cases IPR2017-00753 and IPR2017-00757 on

March 1, 2017. The Board granted the Motions to Dismiss in Cases IPR2017-00753 and IPR2017-00757 (and in Cases IPR2017-00849 and IPR2017-00850) on March 10, 2017.

Petitioner acknowledges that the present Motion for Joinder was “filed after the one month date on which [IPR2016-01249] was instituted under 37 C.F.R. §§ 42.22 and 42.122(b).” Motion for Joinder (Paper 2).

## II. ARGUMENT

### A. Petitioner’s Motion for Joinder Should Be Denied Because It Was Not Timely Filed

Joinder is governed by 35 U.S.C. § 315(c), which provides the Director with discretion whether or not to permit a party to join an instituted IPR proceeding:

(c) **Joinder.** - If the Director institutes an *inter partes* review, the Director, in his or her discretion, may join as a party to that *inter partes* review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an *inter partes* review under section 314.

The PTAB Rules require that a request for joinder must be filed within one month after the institution date of an IPR proceeding:

(b) **Request for joinder.** Joinder may be requested by a patent owner or petitioner. Any request for joinder must be filed, as a motion under § 42.22, no later than one month after the

institution date of any *inter partes* review for which joinder is requested. The time period set forth in § 42.101(b) shall not apply when the petition is accompanied by a request for joinder.

37 C.F.R. § 42.122(b)(emphasis added).

IPR2016-01249 was instituted on December 21, 2016. Petitioner's Motion for Joinder was filed February 16, 2017, more than one month after institution of Case IPR2016-01249. The rule governing when a request for joinder can be made specifically requires that "[a]ny request for joinder must be filed . . . no later than one month after the institution date of any *inter partes* review for which joinder is requested." 37 C.F.R. § 42.122(b). In other words, joinder with an existing IPR proceeding is permitted only if the joinder request is made within one month of a decision to institute that IPR proceeding.

Global U.S. readily admits that its Motion for Joinder was filed more than one month after the institution date of IPR2016-01249. Thus, it is undisputed that the Motion for Joinder is untimely filed. Nothing prevented Global U.S. from filing a timely request to join IPR2016-01249. However, for its own reasons, it did not comply with the rules which require that a joinder request "**must** be filed ... no later than **one month** after the institution date..." 37 C.F.R. § 42.122(b) (emphasis added). Global U.S. did not provide reasonable justification for excusing its untimeliness.

The only reason that Global U.S. provides for filing the duplicative Petition is that TSMC might settle with Patent Owner. *See* Motion (“Global is willing to act as an “understudy” to TSMC, only assuming an active role in the event TSMC settles with IP Bridge.”). Global U.S. could have timely filed its petition as required by 37 C.F.R. § 42.122(b). Global filed a substantially similar motion for joinder, but then requested dismissal of the petition (Paper 13). Global U.S. has not provided any reason why it could not have timely filed a request for joinder, and having failed to timely do so, must bear the consequences.

Global U.S. asserts that (1) Joinder will not impact the Board’s ability to complete the review in a timely manner; (2) Joinder will promote efficiency by consolidating issues, avoiding duplicate efforts, and preventing inconsistencies; and (3) Joinder will not prejudice IP Bridge (Patent Owner). Motion. Patent Owner disagrees with these assertions.

With respect to the first assertion, joinder could impact the Board’s ability to complete the review in a timely manner. As noted above, neither the Petition nor the Motion for Joinder explains the relationship, if any, between Global and Global U.S., or why it was necessary to withdraw the Petition filed by Global and file another Petition by Global U.S. As such, there may be issues concerning the real party(ies) in interest, which will likely require discovery to resolve. As the Patent Owner’s discovery period has closed, and its Response in IPR2016-01249 was

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.