

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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HTC CORPORATION, HTC AMERICA, Inc.,  
ZTE CORPORATION, and ZTE (USA), Inc.,  
Petitioners,

v.

CELLULAR COMMUNICATIONS EQUIPMENT LLC,  
Patent Owner

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Case IPR2017-\_\_\_\_\_  
Patent 8,457,676

**MOTION FOR JOINDER TO RELATED INSTITUTED *INTER PARTES*  
REVIEW UNDER 35 U.S.C. 315(c), 37 C.F.R. §§ 42.22 AND 42.122(b)**

Mail Stop Patent Board  
Patent Trial and Appeal Board  
P.O. Box 1450  
Alexandria, VA 22313-1450

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## I. STATEMENT OF RELIEF REQUESTED

HTC Corporation, HTC America, Inc., ZTE Corporation, and ZTE (USA), Inc. (collectively “Petitioner”) respectfully submit this motion for joinder, together with a petition for *inter partes* review (IPR) of U.S. Patent No. 8,457,676 (“the ’676 Patent”) and respectfully requests that its petition be granted. Petitioner also respectfully moves that this proceeding be joined pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b) with the pending IPR concerning the same patent in Apple Inc. v. Cellular Communications Equipment LLC, Case IPR2016-01493 (the “Apple IPR”), which was instituted on February 13, 2017. Petitioner’s petition for *inter partes* review is substantively identical to the Apple IPR petition.

The Motion for Joinder is timely under 37 C.F.R. §§ 42.22 and 42.122(b), because it is submitted within one month of February 13, 2017, the institution date of the Apple IPR. Petitioner submits that, in accordance with the Board’s Representative Order identifying matters to be addressed in a motion for joinder (*Kyocera Corp. v. SoftView LLC*, Paper No. 15, IPR2013-00004, April 24, 2013): (1) joinder is appropriate because it will promote efficient determination of the validity of the ’676 Patent without prejudice to Apple, Inc. or Cellular Communications Equipment, LLC; (2) the Petition includes grounds that are substantively identical to the ground instituted in the Apple IPR; (3) joinder would not affect the pending schedule in the Apple IPR or increase the complexity of that

proceeding, minimizing costs; and (4) Petitioner is willing to agree to consolidated filing with Apple to minimize burden and schedule impact.

## II. BACKGROUND AND RELATED PROCEEDINGS

Cellular Communications Equipment, LLC (“CCE”) is the owner of the ’676 Patent. In 2015, CCE filed four suits in district court, including suits against HTC Corporation, HTC America, Inc., ZTE Corporation, ZTE (USA), Inc., and Apple, Inc., alleging infringement of the ’676 Patent by cellular phones. Several petitions for *inter partes* review of the ’676 patent have also been submitted: IPR2016-01501 (instituted) and IPR2016-01493 (instituted). Apple’s petition for *inter partes* review of the ’676 patent was filed on July 26, 2016; trial was instituted on February 13, 2017 (Paper No. 7, IPR 2016-01493) on the grounds in Apple’s petition. The Board set May 15, 2017 as the date for CCE’s response to the petition, and oral argument is currently set for November 8, 2017. *See* Paper No. 8, IPR2016-01493.

## III. STATEMENT OF MATERIAL FACTS

1. CCE owns the ’676 Patent.
2. On April 30, 2015, CCE filed a complaint against Petitioners for infringement of the ’676 Patent; this case was dismissed on February 27, 2017. On January 25, 2017, CCE filed a second complaint against Petitioners for infringement of the ’676 Patent (the “District Court Litigation”).

3. On July 26, 2016, Apple, Inc. filed its petition for *inter partes* review of claims 1, 3, 19, and 21 of the '676 Patent.

4. On February 13, 2017, a decision instituting *inter partes* review of claims 1, 3, 19, and 21 was entered in the Apple IPR (Paper No. 7, IPR2016-01493) on the grounds that claims 1 and 19 were unpatentable over U.S. Patent Application Publication No. 2004/0223455 to Fong and R2-052744, "FILTERING FOR UE POWER HEADROOM MEASUREMENT," 3GPP RAN WG2 #49 MEETING, SEOUL, KOREA, NOVEMBER 2, 2005 under 35 U.S.C. § 103(a) and that claims 3 and 21 were unpatentable over the combination of U.S. Patent Application Publication No. 2004/0223455 to Fong, R2-052744, "FILTERING FOR UE POWER HEADROOM MEASUREMENT," 3GPP RAN WG2 #49 MEETING, SEOUL, KOREA, NOVEMBER 2, 2005, and U.S. Patent No. 6,445,917 to Bark under 35 U.S.C. § 103(a).

5. Oral argument is set for November 8, 2017. *See* Paper No. 8, IPR2016-01493.

6. Petitioners are filing a petition for *inter partes* review of claims 1, 3, 19, and 21 of the '676 Patent concurrently with this Motion for Joinder.

7. The Petition includes grounds that are substantively the same as the grounds instituted in the Apple IPR. Specifically, the Petition and supporting evidence here is identical in all material respects to the petition and supporting evidence that was filed in the Apple IPR. The Petition presents the exact same

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