

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
Petitioner

v.

DANIEL L. FLAMM,
Patent Owner

Patent No. 5,711,849

MOTION FOR JOINDER TO *INTER PARTES* REVIEW IPR2017-00392

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Samsung Electronics Co., Ltd. (“Petitioner” or “Samsung”) respectfully submits this Motion for Joinder, concurrently with a Petition (“the Samsung petition”) for *inter partes* review of U.S. Patent No. 5,711,849 (“the ’849 patent”) filed herewith.

Pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b), Samsung requests institution of an *inter partes* review and joinder with *Micron Technology, Inc. et al. v. Daniel L. Flamm*, IPR2017-00392 (“the Micron IPR” or “the Micron proceeding”), which the Board instituted on June 9, 2017, concerning the same claims 1-29 of U.S. Patent No. 5,711,849 (“the ’849 patent”) at issue in the Samsung Petition.¹ This request is being submitted within the time set forth in 37 C.F.R. § 42.122(b).

Samsung submits that the request for joinder is consistent with the policy surrounding *inter partes* reviews, as it is the most expedient way to “to secure the

¹ The Micron IPR included one ground (Ground 2) that was not instituted upon. To ensure that no new issues are introduced by this request for joinder, Samsung has omitted that ground from its petition (though, to ensure no evidence is introduced, Samsung relies upon the same expert declaration, Ex.1003, which does reference Ground 2).

just, speedy, and inexpensive resolution of every proceeding.” *See* 37 C.F.R. § 42.1(b); *see also HTC v. Parthenon Unified Memory Architecture LLC*, IPR2017-00512, Paper No. 12 at 5-6 (June 1, 2017). The Samsung petition and the Micron IPR are substantially identical; they contain the same grounds (based on the same prior art combinations and supporting evidence) against the same claims. Further, upon joining the Micron proceeding, Samsung will act as an “understudy” and will not assume an active role unless the current petitioners cease to participate the instituted IPR. Accordingly, the proposed joinder will neither unduly complicate the Micron IPR nor delay its schedule. As such, the joinder will promote judicial efficiency in determining the patentability of the '849 patent without prejudice to Patent Owner.

II. STATEMENT OF MATERIAL FACTS

1. On January 14, 2016, Lam Research Corporation filed a petition for *inter partes* review (IPR2016-00466) requesting cancellation of claims 1-29 of the '849 patent. The Board denied institution on July 19, 2016.
2. The '849 Patent is presently at issue in an infringement action against Samsung in the Northern District of California, Case No. 5:16-cv-02522.
3. The '849 Patent is also presently at issue in four other related patent

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