

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 IPR2017-00406

TABLE OF CONTENTS

	Page
I. STATEMENT OF THE PRECISE RELIEF REQUESTED	1
II. STATEMENT OF MATERIAL FACTS	2
III. STATEMENT OF REASONS FOR RELIEF REQUESTED	3
A. Legal Standard.....	3
B. Each of the Factors Weighs in Favor of the Board Granting the Motion for Joinder.....	3
1. Joinder with the Micron IPR is Appropriate.....	4
2. Petitioner Does Not Propose New Grounds of Unpatentability.....	5
3. Joinder Will Not Negatively Impact the Micron IPR Trial Schedule	5
4. Procedures to Simplify Briefing and Discovery	6
IV. CONCLUSION.....	8

TABLE OF AUTHORITIES

	Page(s)
Cases	
<i>Dell, Inc. v. Network-1 Security Solutions, Inc.</i> , IPR2013-00385, Paper 17 (July 29, 2013)	3
<i>HTC v. Parthenon Unified Memory Architecture LLC.</i> , IPR2017-00512, Paper No. 12 (June 1, 2017).....	1
<i>LG v. Memory Integrity, LLC.</i> , IPR2015-01353, Paper No. 11 (Oct. 5, 2015)	4, 5, 7
<i>Micron Technology, Inc. et al v. Daniel L. Flamm</i> , IPR2017-00406	1, 2, 6
<i>Noven Pharmaceuticals, Inc. v. Novartis AG et al</i> , IPR2014-00550, Paper No. 38 (Apr. 10, 2015).....	7
<i>Par Pharmaceutical, Inc. v. Novartis AG</i> , IPR2016-01023, Paper No. 20 (Oct. 27, 2016)	5
<i>Samsung v. Raytheon</i> , IPR2016-00962, Paper No. 12 (Aug. 24, 2016)	4
Statutes	
35 U.S.C. § 315(c)	1, 3
Other Authorities	
37 C.F.R. § 42.1(b)	1, 4
37 C.F.R. §§ 42.22	1
37 C.F.R. § 42.53	7
37 C.F.R. § 42.122(b)	1

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*, IPR2017-00406 (“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. 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 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 infringement actions in the Northern District of California: Case Nos. 5:16-cv-01578; 5:16-cv-01579; 5:16-cv-01580; 5:16-cv-01581.
4. On December 4, 2016, Micron, Intel, and GlobalFoundries filed a petition for *inter partes* review (IPR2017-00406) ("the Micron petition") requesting cancellation of claims 1-29 of the '849 patent.
5. On June 9, 2017 the Board instituted the Micron petition for *inter*

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.