

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. RE40,264 E

MOTION FOR JOINDER TO *INTER PARTES* REVIEW IPR2017-00279

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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. RE40,264 E (“the ’264 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 *Intel Corp. et al v. Daniel L. Flamm*, IPR2017-00279 (“the Intel IPR” or “the Intel proceeding”), which the Board instituted on June 13, 2017, concerning the same claims 13-26, 64, and 65 of the ’264 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 Intel IPR are substantially identical; they contain the same grounds (based on the same prior

art combinations and supporting evidence) against the same claims.¹ Further, upon joining the Intel 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 Intel IPR nor delay its schedule. As such, the joinder will promote judicial efficiency in determining the patentability of the '264 patent without prejudice to Patent Owner.

II. STATEMENT OF MATERIAL FACTS

1. Patent Owner has asserted the '264 patent against Petitioner and others in lawsuits (now stayed) in the Northern District of California: Case Nos. 5:16-cv-01578-BLF, 5:16-cv-1579-BLF, 5:16-cv-1580-BLF, 5:16-cv-1581-BLF, and 5:16-cv-02252-BLF.
2. Lam Research Corporation filed IPR petitions on the '264 patent, including IPR2015-01759; IPR2015-01764; IPR2015-01766; IPR2015-01768; IPR2016-00468; IPR2016-00469; and IPR2016-00470, where IPR2015-01764 and IPR2015-01768 were instituted but terminated after their oral arguments.

¹ The Samsung petition includes one cosmetic difference, in that it does not repeat certain claim language in section headers.

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