

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 IPR2017-00280

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 Intel IPR is Appropriate	4
2. Petitioner Does Not Propose New Grounds of Unpatentability.....	5
3. Joinder Will Not Negatively Impact the Intel 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>Intel Corp. et al v. Daniel L. Flamm</i> , IPR2017-00280	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, 5
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. 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*, IPR2017-00280 (“the Intel IPR” or “the Intel proceeding”), which the Board instituted on June 13, 2017, concerning the same claims 27-36, 51-55, 66, and 68-69 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. 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.
3. Petitioner has filed IPR petitions on the '264 patent, including IPR2016-01510 and IPR2016-01512, where the latter proceeding was instituted on February 14, 2017.
4. On December 2, 2016, Intel Corporation, Micron Technology, Inc., and GlobalFoundries U.S. Inc. filed a petition for *inter partes* review (IPR2017-00280) ("the Intel petition") requesting cancellation of

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.