

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CANON INC.; CANON U.S.A., INC.; CANON FINANCIAL
SERVICES, INC.; NIKON CORPORATION; NIKON INC.;
SAMSUNG ELECTRONICS CO., LTD.; SAMSUNG
ELECTRONICS AMERICA, INC.; SANYO ELECTRIC CO., LTD.,

Petitioner,

v.

PAPST LICENSING GMBH & CO., KG,

Patent Owner.

CASE: IPR2018-00409

Patent No. 6,895,449 B2

**PETITIONER'S MOTION FOR JOINDER UNDER
37 C.F.R. §§ 42.22 AND 42.122(b)**

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77 Fed. Reg. at 48,7588

Rules

37 C.F.R. § 42.18

37 C.F.R. § 42.1227

I. RELIEF REQUESTED

Canon Inc., Canon U.S.A., Inc., and Canon Financial Services, Inc. (Canon); Nikon Corporation and Nikon Inc. (Nikon); Samsung Electronics Co., Ltd. and Samsung Electronics America, Inc. (Samsung); and Sanyo Electric Co., Ltd. (Sanyo) (Canon, Nikon, Samsung, and Sanyo collectively, Petitioner) respectfully request to join, pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), the concurrently filed Petition for *Inter Partes* Review of U.S. Patent No. 6,895,449 (the '449 patent) (the Instant Petition) with pending *inter partes* review, IPR2017-00415 (the Pending IPR), which was instituted by the Board on May 17, 2017. IPR2017-00415, Paper 8.

Petitioner acknowledges that the Instant Petition and Motion for Joinder are being filed outside the one-month time period set forth in 37 C.F.R. § 42.122(b). As more fully explained in the accompanying Petitioner's Motion to Waive or Suspend Rule 37 C.F.R. § 42.122, it is in the interest of justice, and good cause exists for Petitioner to be allowed to join the Pending IPR. Specifically, Papst has attempted to manipulate the PTAB's efficient determination of patentability as Congress intended by giving Olympus, purportedly the last petitioner in the Pending IPR,¹ a

¹ Papst settled with Huawei and LG and moved to terminate the Pending IPR with respect to those parties. Papst apparently has reached a settlement in principle

“sweetheart deal” so that the instituted claims (which have already been deemed likely unpatentable) do not reach a Final Written Decision. Papst embarks on this effort after the Board has already found unpatentable *every instituted claim* in two related, continuation patents.

In this unprecedented situation, joinder is appropriate because it will promote the efficient resolution of the validity of the '449 patent despite Papst's efforts to avoid such efficient resolution and to continue its protracted and expensive litigation campaign that has spanned a decade (constituting over 100 years' worth of litigation for the manufacturers, collectively) and cost tens of millions of dollars. The Instant Petition involves the same '449 patent, covers the same claims instituted, and relies on the same arguments and evidentiary record as in the Pending IPR.² To avoid any impact on the trial schedule for the Pending IPR, Petitioner suggests several procedures the Board may adopt to simplify briefing and discovery. *See, infra*, Section III.D. Therefore, joinder would neither complicate the issues nor unduly delay the existing schedule of IPR2017-00415.

with ZTE and is working to finalize a settlement agreement. No motion to terminate has yet been filed with respect to ZTE.

² Petitioner's Exhibits are identical to the corresponding Pending IPR Exhibits.

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