

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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**ZTE (USA), INC.**

**Petitioner,**

**v.**

**FRACTUS S.A.,**

**Patent Owner.**

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**IPR No. IPR2018-01461**

**U.S. Patent No. 9,054,421**

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**PETITIONER'S UPDATED MANDATORY NOTICES**

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**A. Real Party-in-Interest**

Petitioner identifies ZTE Corporation, ZTE (USA), Inc. and ZTE (TX), Inc. as the real parties-in-interest.

**B. Related Matters**

Petitioner is contemporaneously filing additional *inter partes* review (“IPR”) petitions on 6 patents that are based on the same specification as the ’421 patent, namely U.S. Patent Nos. 7,397,431 (IPR2018-01451); 7,394,432 (IPR2018-01455); 8,941,541 (IPR2018-01456); 8,976,069 (IPR2018-01457); 9,240,632 (IPR2018-01462); and 9,362,617 (IPR2018-01463).

Patent Owner has alleged that Petitioner infringes these patents in *Fractus, S.A. v. ZTE Corporation, ZTE (USA), Inc., and ZTE (TX), Inc.*, Civil Action No. 3:18-cv-02838, which is pending in the U.S. District Court for the Northern District of Texas. Petitioner is not aware of other pending judicial or administrative matters that would affect, or be affected by, a decision in this proceeding.

The ’421 patent has not been subject to any other litigation or PTO proceedings after its issuance, but it shares the same specification as several other patents that have been involved in the following proceedings.

Two of the seven patents above (U.S. Patent Nos. 7,397,431 and 7,394,432) and several other patents claiming priority to the same specification, were the subject of the patent infringement lawsuit *Fractus, S.A. v. Samsung et al.*, Civil Action No.

6:09-cv-00203-LED-JDL, filed in the U.S. District Court for the Eastern District of Texas in May of 2009. That litigation concluded in 2014, when the parties settled while the case was pending before the Federal Circuit.

The '421 patent was also related to the following PTO proceedings on patents issued from the same specification.

<b>Proceeding</b>	<b>Case Number</b>	<b>Filed</b>	<b>Status</b>
<i>Inter partes</i> reexamination of U.S. Patent No. 7,394,432 (“ ’1483 IPX”)	95/001,483	Nov. 11, 2010	Terminated
<i>Inter partes</i> reexamination of U.S. Patent No. 7,394,432 (“ ’1500 IPX”)	95/001,500	Dec. 3, 2010	Terminated
<i>Inter partes</i> reexamination of U.S. Patent No. 7,394,432 (“ ’588 IPX”)	95/000,588	Dec. 13, 2010	Terminated
<i>Inter partes</i> reexamination of U.S. Patent No. 7,394,432 (“ ’2349 IPX”)	95/002,349	Sep. 14, 2012	Dismissed
<i>Ex parte</i> reexamination of U.S. Patent No. 7,394,432 (“ ’3024 EPX”)	90/013,024	Oct. 9, 2013	Certificate Issued
Samsung Electronics CO., Ltd. v. Fractus, S.A. (U.S. Patent No. 7,394,432)	IPR2014-00012	Oct. 4, 2013	Denied Institution
<i>Inter partes</i> reexamination of U.S. Patent No. 7,397,431	95/001,482	Nov. 11, 2010	Terminated
<i>Inter partes</i> reexamination of U.S. Patent No. 7,397,431	95/001,497	Dec. 3, 2010	Terminated
<i>Inter partes</i> reexamination of U.S. Patent No. 7,397,431	95/000,586	Dec. 13, 2010	Terminated

<i>Inter partes</i> reexamination of U.S. Patent No. 7,397,431	95/002,346	Sep. 14, 2012	Dismissed
<i>Ex parte</i> reexamination of U.S. Patent No. 7,397,431	90/013,023	Oct. 9, 2013	Certificate Issued
Samsung Electronics CO., Ltd. v. Fractus, S.A. (U.S. Patent No. 7,397,431)	IPR2014-00011	Oct. 4, 2013	Denied Institution
<i>Inter partes</i> reexamination of U.S. Patent No. 7,123,208	95/001,389	Jul. 1, 2010	Terminated
<i>Inter partes</i> reexamination of U.S. Patent No. 7,123,208	95/001,501	Dec. 3, 2010	Dismissed
<i>Inter partes</i> reexamination of U.S. Patent No. 7,123,208	95/000,591	Dec. 14, 2010	Dismissed
<i>Inter partes</i> reexamination of U.S. Patent No. 7,123,208	95/002,305	Sep. 14, 2012	Dismissed
<i>Ex parte</i> reexamination of U.S. Patent No. 7,123,208	90/013,022	Oct. 9, 2013	Certificate Issued
Samsung Electronics CO., Ltd. v. Fractus, S.A. (U.S. Patent No. 7,123,208)	IPR2014-00008	Oct. 4, 2013	Denied Institution
<i>Inter partes</i> reexamination of U.S. Patent No. 7,528,782	95/001,455	Sep. 30, 2010	Certificate Issued
<i>Inter partes</i> reexamination of U.S. Patent No. 7,528,782	95/001,499	Dec. 3, 2010	Dismissed
<i>Inter partes</i> reexamination of U.S. Patent No. 7,528,782	95/000,595	Dec. 14, 2010	Certificate Issued
Samsung Electronics CO., Ltd. v. Fractus, S.A. (U.S. Patent No. 7,015,868)	IPR2014-00013	Oct. 4, 2013	Denied Institution

As explained in the concurrently filed petitions for the '432 and '431 patents, Samsung filed *inter partes reexaminations* on claims of those patents in November 2010. The challenged claims were found invalid as anticipated by prior art references (described below) *Misra I* and *Misra II*. Patent Owner appealed to the Board. The parties settled, and the appeal was terminated on August 5, 2014 without issuance of any Reexamination Certificate. Samsung also filed *ex parte reexaminations*, which were not terminated due to the settlement. Patent Owner had to make amendments before claims were allowed.

Notably, no claim of the related '432 or '431 patents was ever found valid in an *inter partes* procedure in the PTO, where an opposing party could respond to the Patent Owner's arguments in favor of patentability. The claims in the '421 patent are very similar to claims of the '432 and '431 patents, which were never allowed over the grounds of invalidity presented in this petition.

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