

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD.  
Petitioner

v.

IRON OAK TECHNOLOGIES, LLC.  
Patent Owner

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Case IPR2018-01552  
Patent 5,699,275

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**MOTION TO ACCORD AN EARLIER FILING DATE**

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## **I. STATEMENT OF THE PRECISE RELIEF REQUESTED**

Samsung Electronics America, Inc. (“Petitioner” or “Samsung”) respectfully submits this Motion to Accord an Earlier Filing Date, concurrently with a Petition (“the Petition”) for *inter partes* review of U.S. Patent No. 5,699,275 (“the ’275 patent”) filed herewith.

Pursuant to the Board’s email to the parties dated August 21, 2018, and in accordance with the procedures set out in A2 of the PTAB-E2E Frequently Asked Questions website,<sup>1</sup> Samsung requests that the Petition be accorded a filing date of August 16, 2018.

## **II. STATEMENT OF MATERIAL FACTS**

1. On August 15, 2018, the USPTO PALM database was taken offline for maintenance. As a result, PTAB-E2E was unavailable.
2. On August 16, 2018, PTAB-E2E remained unavailable. Therefore, counsel for Samsung called the PTAB to request guidance on how to proceed with filing the Petition. The PTAB directed Samsung’s counsel to section A2 of the PTAB-E2E Frequently Asked Questions website, which outlines procedures to follow for filing a petition if

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<sup>1</sup> See <https://www.uspto.gov/patents-application-process/patent-trial-and-appeal-board/ptab-e2e-frequently-asked-questions>.

PTAB-E2E is down during normal business hours or other unscheduled outage periods.

3. On August 16, 2018, in accordance with the procedures defined by section A2, Samsung served the Petition and supporting exhibits by USPS Priority Mail Express<sup>™</sup> on the patent owner for the '275 patent at the address of record in PAIR. (Exs. 1029, 1030.)
4. On August 16, 2018, as a courtesy, Samsung also served the Petition and supporting exhibits via secure transfer email on patent owner's litigation counsel and patent owner's counsel in IPR2018-00486 (involving U.S. Patent No. 5,966,658, which was asserted along with U.S. Patent No. 5,699,275 in the same litigation).<sup>2</sup> (Ex. 1031.)
5. On August 16, 2018, in accordance with the procedures defined by section A2, Samsung notified the PTAB via email that service of the Petition and supporting exhibits had been effectuated on patent owner of record for the '275 patent and, as a courtesy, patent owner's litigation counsel and patent owner's counsel in IPR2018-00486. (Ex. 1034.) In the email notification, Samsung provided all of the

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<sup>2</sup> Patent owner's counsel downloaded the Petition and supporting exhibits on August 17, 2018. (Exs. 1032, 1033.)

information required pursuant to A2, including authorization to withdraw payment of the petition fee using deposit account D502613.

*(Id.)*

6. On August 17, 2018, as an additional courtesy, Samsung served the Petition and supporting exhibits by UPS Next Day Air<sup>®</sup> on the patent owner of record for the '275 patent and on patent owner's litigation counsel and patent owner's counsel in IPR2018-00486. (Exs. 1035-38, 1040-43.)
7. On August 21, 2018, the PTAB notified the parties that PTAB-E2E was functional and directed Samsung to file the petition documents along with the present motion. (Ex. 1039.)

### **III. THE PETITION SHOULD BE ACCORDING A FILING DATE OF AUGUST 16, 2018**

As outlined above, on August 16, 2018, Samsung properly followed the procedures set out in A2 of the PTAB-E2E Frequently Asked Questions website for filing and serving its Petition while the PTAB-E2E system was down for maintenance. Accordingly, Samsung requests that the Petition be accorded a filing date of August 16, 2018.

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