

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re *Inter Partes* Review of:                    )  
U.S. Patent No. 8,213,970                        )  
Issued: July 3, 2012                                )  
Application No.: 12/324,122                        )

For: **Method of Utilizing Forced Alerts for Interactive Remote  
Communications**

**FILED VIA E2E**

**MOTION FOR JOINDER UNDER 35 U.S.C. § 315(c),  
37 C.F.R. §§ 42.22, AND 42.122(b)**

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**I. STATEMENT OF PRECISE RELIEF REQUESTED**

Apple Inc., (“Apple”) submits this Motion for Joinder to IPR2018-01079 concurrently with a Petition for *Inter Partes* Review (IPR), under 35 U.S.C. § 315(c) and 37 C.F.R. §§ 42.22 and 42.122(b), of claims 1 and 3-9 of U.S. Patent No. 8,213,970 (“the ’970 Patent”). Google has indicated that it does not oppose joinder. Apple has asked AGIS if it will oppose but has not yet received a response.

Apple requests institution of IPR and party joinder with the pending, instituted IPR titled, *Google LLC v. AGIS Software Development, LLC*, Case No. IPR2018-01079 (“the Google IPR”), based on grounds identical to those in that proceeding. Google LLC, Huawei Device USA Inc., Huawei Device Co., Ltd., Huawei Device (Dongguan) Co., Ltd., Huawei Technologies USA Inc., Huawei Technologies Co., Ltd., and LG Electronics, Inc. initiated the Google IPR proceeding by petitioning the Board on May 15, 2018. The Board instituted the Google IPR on November 20, 2018. Apple timely files the Petition and this motion within one month of the institution of the Google IPR. 37 C.F.R. § 42.122(b).

Joinder will efficiently resolve the challenges presented in the Petition and the instituted grounds of the Google IPR and will not prejudice the patent owner or the first petitioner, Google. Indeed, the patent owner will be unaffected. The

Petition is essentially identical to Google’s IPR petition—Google’s patentability arguments and supporting evidence were copied verbatim and fully adopted to avoid introducing any new issues. Apple’s expert declaration submitted is from the same declarant and is also essentially identical to the declaration submitted in the Google IPR, changed only to reflect that Apple is the petitioner.<sup>1</sup>

Should the panel join the parties, Apple agrees to subordinate itself to the typical “understudy” role, in line with common Board practice. Google will lead the joined proceedings so long as it remains in the proceeding. If Google exits, Apple will take over exactly where Google left off, as Apple has adopted the exact same patentability arguments and evidence. In short, joinder will have a negligible effect on the Google IPR’s substance and procedure.

## II. BACKGROUND AND RELATED PROCEEDINGS

The ’970 patent is assigned to AGIS Software Development LLC (“AGIS” or “Patent Owner”). AGIS has asserted the ’970 patent against Apple and numerous other parties in E.D. Tex.: *AGIS Software Development LLC v. Apple Inc.*, No. 2:17-cv-00516-JRG (E.D. Tex.); *AGIS Software Development LLC v. Huawei Device USA Inc. et al.*, No. 2:17-cv-00513 (E.D. Tex.); *AGIS Software*

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<sup>1</sup> Exs. 1020 and 1021 are redlines showing the differences between the Google and Apple petitions and declarations.

*Development LLC v. LG Electronics, Inc.*, No. 2:17-cv-00515 (E.D. Tex.); *AGIS Software Development LLC v. ZTE Corporation et al.*, No. 2:17-cv-00517 (E.D. Tex.); *AGIS Software Development LLC v. HTC Corporation*, No. 2:17-cv-00514 (E.D. Tex.).

In addition to the Google IPR mentioned in the preceding section, the '970 patent was previously challenged by Apple Inc. in IPR2018-00821 (institution denied October 23, 2018).

### **III. STATEMENT OF REASONS FOR RELIEF REQUESTED**

#### **A. Legal Standard**

The Leahy-Smith America Invents Act (AIA) allows an IPR party to be joined with a preexisting IPR. *See generally* Pub. L. No. 112-29, 125 Stat. 284 (2011). The statutory provision governing IPR joinder, 35 U.S.C. § 315(c), reads:

(c) JOINDER. – If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314.

The joinder motion should: (1) set forth the reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing

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