

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re *Inter Partes* Review of:)
U.S. Patent No. 9,445,251)
Issued: September 13, 2016)
Application No.: 14/633,804)

For: **Method to Provide Ad Hoc and Password Protected Digital and Voice
Networks**

FILED VIA E2E

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

TABLE OF CONTENTS

	Page
I. STATEMENT OF PRECISE RELIEF REQUESTED	1
II. BACKGROUND AND RELATED PROCEEDINGS	2
III. STATEMENT OF REASONS FOR RELIEF REQUESTED	3
A. Legal Standard.....	3
B. Joinder is appropriate here because the petitions are substantively identical	4
C. Joinder will introduce no new grounds or issues.	4
D. Joinder will not complicate the Google IPR’s briefing or discovery	5
E. Joinder will not impact the Google IPR’s schedule	6
F. Without joinder, Apple and the public may be prejudiced.	6
G. Joinder will not prejudice AGIS or Google.	7
IV. CONCLUSION.....	8

I. STATEMENT OF PRECISE RELIEF REQUESTED

Apple Inc. (“Apple”) submits this Motion for Joinder to IPR2018-01083 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, 2, 4-6, 8, 10, 12, 22-24, 27, 29, 31, 32, and 35 of U.S. Patent No. 9,445,251 (“the ’251 Patent”). Google has indicated that it does not oppose joinder. AGIS opposes joinder.

Apple requests institution of IPR and party joinder with the pending IPR titled *Google LLC v. AGIS Software Development, LLC*, Case No. IPR2018-01083 (“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. Apple timely files the Petition and this motion, as the Google IPR has not received an institution decision. 37 C.F.R. § 42.122(b).

Joinder will efficiently resolve the challenges presented in the Petition and the 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.¹

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 ’251 patent is assigned to AGIS Software Development LLC (“AGIS” or “Patent Owner”). AGIS has asserted the ’251 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 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.

¹ Exs. 1029 and 1030 are redlines showing the differences between the Google and Apple petitions and declarations.

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 '251 patent was previously challenged by Apple Inc. in IPR2018-00817 (institution denied October 3, 2018). Concurrently with the Google IPR, Google filed other IPRs against the '251 patent on claims not challenged in this petition (IPR2018-01084), and with separate prior art (IPR2018-01081, -01082, institution denied November 20, 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); 35 U.S.C. § 315(c). 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 review; and (4) address specifically how briefing and discovery may be simplified. *Dell Inc. v. Network-1 Sec. Solutions, Inc.*, IPR2013-00385, Paper 17 at 3-4 (July 29, 2013).

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.