

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.

Cywee Group Ltd.

(record) Patent Owner.

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Patent No. 8,552,978

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**MOTION FOR JOINDER TO *INTER PARTES* REVIEW IPR2018-01257**

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

ZTE (USA), Inc. (“Petitioner” or “ZTE”) respectfully submits this Motion for Joinder, concurrently with a Petition (“the ZTE petition”) for *inter partes* review of U.S. Patent No. 8,552,978 (“the ’978 patent”) filed herewith.

Pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b), ZTE requests institution of an *inter partes* review and joinder with *Google LLC v. Cywee Group Ltd.*, IPR2018-01257 (“the Google IPR”), which the Board instituted on December 11, 2018, concerning the same claims 10 and 12 of the ’978 patent at issue in the ZTE petition. This request is being submitted within the time set forth in 37 C.F.R. § 42.122(b).

ZTE’s request for joinder is consistent with the policy surrounding *inter partes* reviews, as it is the most expedient way to “to secure the just, speedy, and inexpensive resolution of every proceeding.” *See* 37 C.F.R. § 42.1(b); *see also HTC v. Parthenon Unified Memory Architecture LLC.*, IPR2017-00512, Paper No. 12 at 5-6 (June 1, 2017). The ZTE petition and the Google IPR are substantively identical; they contain the same grounds (based on the same prior art combinations and supporting evidence) against the same claims. (*See* Ex. 1050, illustrating changes between the instant petition and the petition in IPR2018-01257.) Further, upon joining the Google IPR, ZTE will act as an “understudy” and will not assume an active role unless the current petitioner ceases to actively participate in the instituted

IPR. Accordingly, the proposed joinder will neither unduly complicate the Google IPR nor delay its schedule. As such, the joinder will promote judicial efficiency in determining the patentability of the '978 patent without prejudice to Patent Owner.

## II. STATEMENT OF MATERIAL FACTS

1. The '978 Patent has been at issue in one infringement action against ZTE: *CyWee Group Ltd. v. ZTE (USA)*, 17-cv-02130 (S.D. Cal.). The parties in that action recently filed claim construction briefs and the court has not yet set a trial date.
2. The '978 Patent is also at issue in seven other patent infringement actions: (1) *CyWee Group Ltd. v. Google, Inc.*, 18-cv-00571 (D. Del.); (2) *CyWee Group Ltd. v. HTC Corporation et al.*, 17-cv-00932 (W.D. Wash.); (3) *CyWee Group Ltd. v. Motorola Mobility LLC*, 17-cv-00780 (D. Del.); (4) *CyWee Group Ltd. v. Huawei Technologies Co., Inc. et al.*, 17-cv-00495 (E.D. Tex.); (5) *CyWee Group Ltd. v. LG Electronics, Inc. et al.*, 17-cv-01102 (S.D. Cal.); (6) *CyWee Group Ltd. v. Samsung Electronics Co. Ltd. et al.*, 17-cv-00140 (E.D. Tex.); and (7) *CyWee Group Ltd. v. Apple Inc.*, 14-cv-01853 (N.D. Cal.).
3. On June 14, 2018, Google LLC. filed a petition for *inter partes* review (IPR2018-1257) (“the Google petition”) requesting cancellation of claims 10 and 12 of the '978 patent.

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