

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.
Petitioner

v.

CYWEE GROUP LTD.
Patent Owner

Patent No. 8,552,978
Case No. IPR2019-00534

**REPLY IN SUPPORT OF
MOTION FOR JOINDER TO *INTER PARTES* REVIEW IPR2018-01257**

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I. INTRODUCTION

Samsung has filed a copy-cat petition to join the already-instituted *inter partes* review IPR2018-01257 (“Google IPR”) against the *same* patent claims on the *same* unpatentability grounds using the *same* expert declaration. Samsung has explicitly agreed to an “understudy” role. Joinder in such a scenario is entirely appropriate and consistent with the Board’s well-settled joinder practice.

CyWee raises three arguments in its opposition, each of which rings hollow. *First*, there is no cognizable prejudice to CyWee. CyWee’s arguments regarding Samsung taking an active role in the proceeding is pure conjecture. *Second*, joinder will not impact the trial schedule because Samsung’s petition raises no new issues and Samsung will act as an understudy, unless Google drops out as a Petitioner. CyWee’s suggestion that joinder will raise new claim construction issues is meritless because Samsung’s petition adopts the claim construction positions in Google’s petition and if Samsung is joined as a party to the Google IPR, the claim construction standard applicable to *that* proceeding should continue to apply. CyWee’s unsupported contention that it will need to seek discovery regarding real parties-in-interest if Samsung is joined is perplexing. Indeed, any delay caused by a CyWee motion for additional discovery would be a problem of its own making and cannot justify denying joinder. *Third*, CyWee’s argument that the parties’ dispute is better handled in district court because that case “is sure to

resolve more quickly than the Google IPR” is not only moot but irrelevant because the district court recently stayed the litigation between CyWee and Samsung pending resolution of the Google IPR.¹

II. JOINDER WILL NOT PREJUDICE PATENT OWNER

Samsung's commitment to proceed in the Google IPR as an “understudy” shows that there will not be any prejudice to CyWee resulting from Samsung's joinder. *See* Mot. at 6-8. Regardless of whether Samsung is joined, CyWee will face a patentability challenge based on the same prior art by Google. *See* Opp. at 8 (conceding “Samsung does not present any new grounds of unpatentability”). Samsung only seeks to join so that, in the event the original Petitioner Google cannot continue, Samsung can assume a leading role. *See* Mot. at 7.

In response, CyWee only offers unsupported conspiracy theories. Opp. at 4-6. CyWee baldly asserts “it is unfathomable that Samsung...will truly take an ‘understudy’ role.” Opp. at 5. Such unsupported disbelief fails to address any of the substantive limitations that Samsung has agreed to as a condition for joinder, Mot. at 7, and fails to suggest any additional conditions CyWee believes would be necessary to minimize its alleged prejudice.

¹ Throughout its Opposition, CyWee makes various representations regarding the underlying litigation. Samsung does not acquiesce to any of those representations.

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