

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS INC.
Petitioner

v.

CYWEE GROUP LTD.
Patent Owner

Case No. IPR2019-00560
Patent No. 8,552,978

**PETITIONER'S REPLY IN SUPPORT OF
MOTION FOR JOINDER WITH *INTER PARTES* REVIEW IPR2018-01257**

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I. INTRODUCTION

Petitioner LG Electronics Inc. (“Petitioner” or “LG”) 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. Petitioner 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 two arguments in its opposition, each of which rings hollow. *First*, there is no cognizable prejudice to CyWee. CyWee’s arguments regarding LG taking an active role in the proceeding is pure conjecture. *Second*, joinder will not impact the trial schedule because LG’s petition raises no new issues and LG 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 LG’s petition adopts the claim construction positions in Google’s petition and if LG 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 LG 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.

II. JOINDER WILL NOT PREJUDICE PATENT OWNER

LG's commitment to proceed in the Google IPR as an "understudy" shows that there will not be any prejudice to CyWee resulting from LG's joinder. *See* Paper No. 2 ("Mot.") at 6-7. Regardless of whether LG is joined, CyWee will face a patentability challenge based on the same prior art by Google. *See* Paper No. 6 ("Opp.") at 7 (conceding "LG does not present any new grounds of unpatentability"). LG only seeks to join so that, in the event the original Petitioner Google cannot continue, LG can assume a leading role. *See* Mot. at 7.

In response, CyWee only offers unsupported conspiracy theories. Opp. at 4-6. CyWee asserts without basis that "it is unfathomable that ... LG ... will truly take an 'understudy' role." Opp. at 4. Such unsupported disbelief fails to address any of the substantive limitations that LG has agreed to as a condition for joinder, Mot. at 6-7, and fails to suggest any additional conditions CyWee believes would be necessary to minimize its alleged prejudice.

CyWee's complaint of prejudice appears to be grounded in its belief that joinder will somehow result in CyWee having to "face the combined resources and efforts of all of the petitioners." Opp. at 4. CyWee's concern is unfounded because under the Board's practice, each joined party must assume an understudy role, a condition that LG explicitly agreed to in its Motion and reaffirms here. CyWee cannot credibly complain of having to face multiple Petitioners when it is

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