

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ORACLE CORP.  
Petitioner

v.

GUADA TECHNOLOGIES LLC,  
Patent Owner

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Case IPR2020-00598  
Patent No. 7,231,379

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**PETITIONER'S MOTION FOR JOINDER UNDER 35 U.S.C. 31 UNDER 35  
U.S.C. 315(c) AND 37 C.F.R §§42.22 AND 42.122(b)**

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## I. INTRODUCTION

Petitioner moves the Patent Trial and Appeal Board (“Board”) for joinder of this *inter partes* review (Case No. IPR2020-0598, “Oracle IPR”) to an earlier *inter partes* review filed by BloomReach, Inc. (Case No. IPR2019-01304, “BloomReach IPR”). The Oracle IPR is intentionally identical to the BloomReach IPR in all substantive aspects. Both seek *inter partes* review of claims 1-7 (the “Challenged claims”) of U.S. Patent No. 7,231,379 (Ex. 1001, “the ’379 patent”). Further, the Oracle IPR and BloomReach IPR rely upon the same analytical framework (*e.g.*, same expert declarant, prior art, claim charts, and claim constructions) in addressing the Challenged Claims. Accordingly, resolving the Oracle IPR and BloomReach IPR will necessarily involve considering the same issues by all parties and the Board.

Petitioner is filing this petition and joinder motion to ensure that the instituted trial is completed in the event that the petitioner in the BloomReach IPR reaches a settlement with the Patent Owner. As discussed further herein, to ensure that joinder does not result in any delay or additional burden on the Board or the patent owner, Oracle agrees to a strict understudy role if joinder is granted unless and until the joined IPR is terminated with respect to the petitioner in the BloomReach IPR. If the BloomReach IPR is terminated prior to a decision on this motion, Oracle respectfully requests that the BloomReach IPR be terminated with

respect to petitioner in that proceeding but be kept open until this motion is decided to allow joinder of the Oracle and BloomReach IPRs for the reasons discussed below.

## II. BACKGROUND

BloomReach filed a petition requesting *inter partes* review of the '379 patent on July 11, 2019. BloomReach IPR, Paper 1. A decision granting institution of that petition was granted on January 23, 2020.

The BloomReach IPR and Oracle IPR involve different petitioners and different real parties-in-interest. *Compare* BloomReach IPR, Paper 3 at 3 *with* Oracle IPR, Paper 2 at 6 (identifying real parties-in-interest).

## III. LEGAL STANDARD

When more than one petition for *inter partes* review of the same patent is properly filed and those petitions warrant institution, the Board has the authority and discretion to join the proceedings. 35 U.S.C. § 315(c); 37 C.F.R. § 42.122(b). Joinder of one *inter partes* review with another *inter partes* review is appropriate where it secures the just, speedy, and inexpensive resolution of the *inter partes* review proceedings. *See* 37 C.F.R. § 42.1(b).

A petitioner may request joinder, without prior authorization, up to one month after the institution date of the proceeding to which joinder is requested. 37

C.F.R. § 42.122(b) (addressing timing to request joinder); *Taiwan Semiconductor Mfg. Co., Ltd. v. Zond LLC*, IPR2014-00781 and IPR2014-782, Paper 5 at 3 (May 29, 2014) (prior authorization not required before one month deadline). Typically, such a joinder request: (1) sets forth the reasons why joinder is appropriate; (2) identifies any new grounds of unpatentability asserted in the petition; and (3) explains what impact (if any) joinder would have on the trial schedule for the existing review. *See, e.g., Microsoft Corp. v. IPR Licensing, Inc.*, IPR2015-00074, Paper 21 at 4 (PTAB Mar. 4, 2015). A joinder request can additionally address specifically how briefing and discovery may be simplified. *See, e.g., Sony Corp. of Am. v. Network-1 Security Solutions, Inc.*, IPR2013-00495, Paper 13 at 3 (PTAB Sep. 16, 2013); *Fujitsu Semiconductor Ltd. v. Zond, LLC*, IPR2014-00845, Paper 14 at 304 (PTAB Oct. 2, 2014). Petitioner addresses each of these points below.

#### IV. ANALYSIS

Petitioner respectfully requests that the Board grant this motion for joinder pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) and enter an order consistent with the proposed order provided below.

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