

Filed: April 10, 2020

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,

PETITIONER,

v.

BELL NORTHERN RESEARCH, LLC,

PATENT OWNER.

Case No. IPR2020-00697

U.S. Patent No. 7,039,435

**PATENT OWNER'S NON-OPPOSITION TO
PETITIONER'S MOTION FOR JOINDER**

Patent Owner Bell Northern Research, LLC (“BNR” or “Patent Owner”) submits this Notice of Non-Opposition to Petitioner Samsung Electronics Co., Ltd. (“Petitioner” or “Samsung”) Motion for Joinder (IPR2020-00697, Paper 4 (“Mot.")). In view of Samsung’s agreement to abide by the conditions set forth in its Motion for Joinder and reproduced below, BNR does not oppose Samsung’s motion to join this *inter partes* review with *ZTE (USA), Inc. v. Bell Northern Research, LLC*, IPR2019-01365 (“the ZTE IPR” or “the ZTE proceeding”) and relating to the same patent at issue here, U.S. Patent No. 7,039,435 (“the ’435 patent”). The conditions are as follows:

- 1) Samsung shall assume an “understudy” role and shall not “assume an active role” “[u]nless and until the current Petitioners cease to actively participate in the instituted [ZTE] IPR” (Mot., 1-2);
- 2) “Samsung shall not make any substantive filings, unless a filing concerns termination and settlement, or issues solely involving Samsung” (Mot., 7);
- 3) “Samsung shall not present any argument or make any presentation at the oral hearing on issues not solely involving Samsung” (Mot., 7);
- 4) “Samsung shall not seek to cross-examine or defend the cross-examination of any witness, unless the topic of cross-examination concerns issues solely involving Samsung” (Mot., 7); and

5) “Samsung shall not seek discovery from Patent Owner on issues not solely involving Samsung” (Mot., 7).

Furthermore, in its correspondence with BNR concerning the present motion, Samsung directed BNR to *Samsung Electronics Co. Ltd. v. Flamm*, IPR2017-01749, Paper 10 (PTAB Sept. 15, 2017) concerning a request for joinder. In *Flamm*, Samsung agreed to “be bound by any agreement between” patent owner and the earlier petitioners “concerning discovery and/or depositions.” *Id.* at 5. Patent Owner respectfully requests that any order from the Board in this proceeding require Samsung to be bound by any agreements between BNR and the petitioners in the ZTE proceeding.

Finally, Samsung states that it is “willing to agree to any other reasonable conditions the Board deems necessary before joining Samsung to the ZTE IPR.” (Mot., 8.) BNR requests the following additional conditions ordered by the Board in *Flamm* also be included in any order granting joinder in this proceeding:

- 1) Except as otherwise agreed by all parties, counsel for the ZTE will conduct cross-examination and other discovery on behalf of the ZTE and Samsung, and that BNR is not required to provide separate discovery responses or additional deposition time as a result of the joinder;

- 2) Samsung will not participate in any filings or discovery, or participate in the oral hearing (if requested and scheduled), unless an issue solely relating to Samsung is involved; and
- 3) That the grounds on which IPR2019-01365 was instituted are unchanged, and no other grounds are instituted in any consolidated proceeding beyond those set forth in IPR2019-01365, Paper 13.

See Flamm, IPR2017-01749, Paper 10 at 7.

If the Board grants Samsung's joinder motion, Patent Owner waives its right to a Preliminary Response (37 C.F.R. § 42.107).

Dated: April 10, 2020

Respectfully Submitted,

/Steven W. Hartsell/

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