

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC.,  
Petitioner

v.

SOLAS OLED, LTD.,  
Patent Owner

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*Inter Partes* Review Case No. IPR2020-01275  
U.S. Patent No. 7,446,338

**MOTION FOR JOINDER UNDER  
35 U.S.C. § 315(c) AND 37 C.F.R. §§ 42.22 AND 42.122(b)  
TO RELATED *INTER PARTES* REVIEW IPR2020-00320**

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## I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Apple Inc. (“Petitioner”) respectfully submits this Motion for Joinder, together with a Petition for *Inter Partes* Review of U.S. Patent No. 7,446,338 (“the Apple Petition”) filed contemporaneously herewith. Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner requests institution of an *inter partes* review and joinder with the *inter partes* review in *Samsung Display Co., Ltd. v. Solas OLED, Ltd.*, IPR2020-00320 (“the Samsung IPR”), which the Patent Trial and Appeal Board (the “Board”) instituted on June 23, 2020. Petitioner’s request for joinder is timely under 37 C.F.R. §§ 42.22 and 42.122(b) as it is submitted no later than one month after the June 23, 2020 institution date of the Samsung IPR. The Apple Petition is also narrowly tailored to the same claims, prior art, and grounds for unpatentability that are the subject of the Samsung IPR. In addition, Petitioner is willing to streamline discovery and briefing.

Petitioner submits that joinder is appropriate because it will not unduly burden or prejudice the parties to the Samsung IPR while efficiently resolving the question of the ‘338 Patent’s validity in a single proceeding.

## II. STATEMENT OF MATERIAL FACTS

1. On December 18, 2019, Samsung filed a petition for *inter partes* review (IPR2020-00320) requesting cancellation of claims 1-3 and 5-13 of the ‘338 Patent.

2. On June 23, 2020, the Board instituted Samsung's petition for *inter partes* review on all proposed grounds, finding that a reasonable likelihood existed that Samsung's petition for *inter partes* review would prevail in showing unpatentability of claims 1-3 and 5-13 of the '338 Patent. *See* IPR2020-00320, Decision Instituting IPR Review, Paper No. 9.

### III. STATEMENT OF REASONS FOR RELIEF REQUESTED

#### a. Legal Standard

The Board has the authority under 35 U.S.C. § 315(c) to join a properly filed *inter partes* review petition to an instituted *inter partes* review proceeding. *See* 35 U.S.C. § 315(c). A motion for joinder must be filed within one month of the Board instituting an original *inter partes* review. 37 C.F.R. § 42.122(b). In deciding whether to exercise its discretion and permit joinder, the Board considers factors, including: (1) the reasons why joinder is appropriate; (2) whether the new petition presents any new grounds of unpatentability; (3) what impact, if any, joinder would have on the trial schedule for the existing review; and (4) how briefing and discovery may be simplified. *Kyocera Corporation v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (April 24, 2013).

#### b. Petitioner's Motion for Joinder is Timely

This Motion for Joinder is timely because it is filed within one month of the June 23, 2020 institution decision of the Samsung IPR. 37 C.F.R. § 42.122(b).

Further, the one-year bar set forth in 37 C.F.R. § 42.101(b) does not apply to the Apple Petition because this Motion for Joinder is filed concurrently with the Apple Petition. 37 C.F.R. §42.122(b).

**c. Each Factor Weighs in Favor of Joinder**

Each of the four factors considered by the Board weighs in favor of joinder here. Specifically, the Apple Petition does not present any new grounds of unpatentability; rather it is substantively identical to the Samsung Petition. Further, joinder will have minimal, if any, impact on the trial schedule, as all issues are substantively identical and Petitioner will accept an “understudy” role. *See* IPR2015-01353, Decision Instituting IPR Review, Motion for Joinder, paper 11 at 6; (granting IPR where petitioners requested an “understudy” role); *see also* IPR2015-01353, Motion for Joinder, paper 4 at 5-7. Lastly, the briefing and discovery will be simplified by resolving all issues in a single proceeding.

Accordingly, joinder is appropriate. *See* IPR2015-01353, Decision Instituting IPR Review, Motion for Joinder, paper 11 at 5-6 (granting institution of IPR and motion for joinder where petitioners relied “on the same prior art, same arguments, and same evidence, including the same expert and a substantively identical declaration.”); *see also* IPR2015-01353, Motion for Joinder, paper 4 at 4- 5.

**1. Joinder is Appropriate**

Joinder with the Samsung IPR is appropriate because the Apple Petition

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