

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LYFT, INC. AND BUMBLE TRADING LLC,
Petitioner

v.

IKORONGO TECHNOLOGY LLC,
Patent Owner

Case IPR2021-00423
Patent RE45,543

PETITIONER'S MOTION FOR JOINDER

I. STATEMENT OF PRECISE RELIEF REQUESTED

Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Lyft Inc. and Bumble Trading LLC (“Petitioner”) move for joinder with any *inter partes* review instituted as to U.S. Patent No. RE45,543 (“the ’543 Patent”) in *Google LLC, v. Ikorongo Technology LLC*, IPR2021-00127 (“the 127 Proceeding”). This motion is timely because it is being filed before institution of the 127 Proceeding. Petitioner requests that action on this motion be held in abeyance until, and the motion be granted only if, an IPR is instituted in the 127 Proceeding.

Petitioner requests institution of the Petition for *inter partes* review filed concurrently herewith. Petitioner’s Petition is materially the same as the petition filed in the 127 proceeding. Petitioner’s Petition and the petition in the 127 Proceeding challenge the same claims, on the same grounds and rely on the same prior art and evidence, including an identical declaration from the same expert.¹

Petitioner agrees to proceed solely on the grounds, evidence, and arguments advanced, or that will be advanced, in the 127 Proceeding as instituted. Petitioner’s Petition therefore warrants institution under 35 U.S.C. § 314, and 35 U.S.C. § 315(c) permits Petitioner’s joinder to any IPR instituted in the 127 Proceeding.

¹ The declaration is an exact duplicate of the declaration in the 127 Proceeding.

Further, upon joining the 127 Proceeding, Petitioner will act as an “understudy” and will not assume an active role unless the current petitioner² ceases to participate in the 127 Proceeding. The current petitioner will maintain the lead role in the proceeding so long as at least one of Google/LG/Samsung remains in the proceeding. These limitations will avoid lengthy and duplicative briefing. Petitioner also will not seek additional depositions or deposition time. Petitioner agrees to the foregoing conditions even in the event that other IPRs filed by other, third-party petitioners are joined with the 127 Proceeding. Accordingly, the proposed joinder will neither unduly complicate the 127 Proceeding nor delay its schedule.

In fact, joinder will help efficiently resolve the disputes among the parties. By joinder, a single Board decision may dispose of the issues raised in the 127 Proceeding for all interested parties. Further, joinder will narrow the issues in the co-pending district court actions because LG, Samsung, Lyft, and Bumble have each, contingent upon institution, stipulated to forego raising the grounds of unpatentability in the 127 Proceeding at the district court. Finally, joinder would not complicate or delay the 127 Proceeding, and would not adversely affect any

² The current petitioner is Google LLC, filing on behalf of real parties-in-interest LG Electronics and Samsung Electronics. The term “current petitioner” used throughout this Motion refers to all three parties.

schedule set in that proceeding. In sum, joinder would promote efficient adjudication in multiple forums.

Joinder will not unduly prejudice any party. Because joinder will not add any new substantive issues, delay the schedule, burden deponents, or increase needless filings, any additional costs on the Patent Owner would be minimal. On the other hand, denial of joinder *would* prejudice Petitioner. Petitioner's interests may not be adequately protected in the 127 Proceeding, particularly if the current petitioner settles with the Patent Owner. Petitioner should be allowed to join in a proceeding affecting a patent asserted against them.

II. BACKGROUND AND RELATED PROCEEDINGS

Ikorongo Technology LLC is the purported owner of the '543 Patent. The '543 Patent is involved in at least each of the following litigations:

Name	Number	Court	Filed
<i>Ikorongo Texas LLC v. Bumble Trading, LLC.</i>	6:20-cv-00256	W.D. Tex.	Mar. 31, 2020
<i>Ikorongo Texas LLC v. LG Electronics Inc. et al.</i>	6:20-cv-00257	W.D. Tex.	Mar. 31, 2020
<i>Ikorongo Texas LLC v. Lyft, Inc.</i>	6:20-cv-00258	W.D. Tex.	Mar. 31, 2020
<i>Ikorongo Texas LLC v. Samsung Electronics Co., LTD et al.</i>	6:20-cv-00259	W.D. Tex.	Mar. 31, 2020
<i>Ikorongo Texas LLC v. Uber Technologies, Inc.</i>	6:20-cv-00843	W.D. Tex.	Sept. 15, 2020

The '543 patent is also at issue in *Google LLC, v. Ikorongo Technology LLC*, IPR2021-00127 and *Unified Patents, LLC v. Ikorongo Technology LLC*, IPR2020-01379.

III. STATEMENT OF REASONS FOR THE RELIEF REQUESTED

A. Legal Standards and Applicable Rules

The Board has discretion to join a properly filed IPR petition to an existing IPR proceeding. *See* 35 U.S.C. § 315(c); 37 C.F.R. § 42.122(b); *see also Dell Inc. v. Network-1 Sec. Solutions, Inc.*, IPR2013-00385, Paper 19, at 4-6; *Sony Corp. v. Yissum Res. & Dev. Co. of the Hebrew Univ. of Jerusalem*, IPR2013- 00326, Paper 15, at 3-4; *Microsoft Corp. v. Proxyconn, Inc.*, IPR2013-00109, Paper 15, at 3-4. “The Board will determine whether to grant joinder on a case-by-case basis, taking into account the particular facts of each case, substantive and procedural issues, and other considerations.” *Dell*, IPR2013-00385, Paper 19, at 3. The movants bear the burden of proof in establishing entitlement to the requested relief. 37 §§ 42.20(c), 42.122(b). A motion for joinder should:

(1) set forth the reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing review; and (4) address specifically how briefing and discovery may be simplified.

Dell, IPR2013-00385, Paper 19, at 4.

B. Joinder with the 127 Proceeding Is Appropriate

The Board “routinely grants motions for joinder where the party seeking joinder introduces **identical** arguments and the **same** grounds raised in the existing

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