

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

XILINX, INC.,  
Petitioner,

v.

FG SRC LLC,  
Patent Owner.

---

Case No. IPR2021-00633  
Patent 7,149,867

---

Before KALYAN K. DESHPANDE, GREGG I. ANDERSON,  
and KARA L. SZPONDOWSKI, *Administrative Patent Judges*.

PER CURIAM.

ORDER  
*Conduct of the Proceeding*  
37 C.F.R. § 42.5

On March 15, 2021, Petitioner Xilinx, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of claims 1–19 of U.S. Patent No. 7,149,867 (“’867 patent”) (“Petition,” Paper 2). Petitioner also filed a Motion for Joinder, pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.22(b), requesting to join *Intel Corp. v. FG SRC LLC*, Case IPR2020-01449, which includes identical challenges to claims 1–19 of the ’867 patent (Paper 3). On April 15, 2021, Patent Owner FG SRC LLC (“Patent Owner”) filed an Opposition to Petitioner’s Motion for Joinder and Motion for Additional Discovery (Paper 7).<sup>1</sup>

On April 22, 2021, Petitioner asserted that the parties had conferred on Petitioner’s Motion for Joinder and Patent Owner’s Opposition, and Patent Owner’s Motion for Additional Discovery. Ex. 3001. Petitioner and Patent Owner agreed to an expedited schedule, where Petitioner will file a Reply to Patent Owner’s Opposition no later than May 3, 2021, and Patent Owner will file a Sur-Reply no later than May 17, 2021. *Id.*

On April 26, 2021, a conference call was held between Judges Szpondowski, Deshpande, and Anderson, and respective counsel for the parties to discuss the agreed upon briefing schedule. We authorize Petitioner to file a Reply to Patent Owner’s Opposition to Petitioner’s Motion for Joinder / Motion for Additional Discovery, and we similarly authorize Patent Owner to file a Sur-reply to Petitioner’s Reply. The Reply and Sur-reply shall not exceed ten (10) pages and are limited to the issues

---

<sup>1</sup> Patent Owner did not request authorization to file its Motion for Additional Discovery. Petitioner did not indicate that it objects to Patent Owner’s filing of a Motion for Additional Discovery. We permit Patent Owner’s Motion because we recognize the relationship between the Patent Owner’s arguments raised in the Opposition and its request for additional discovery.

raised in Petitioner’s Motion for Joinder and Patent Owner’s Opposition / Motion for Additional Discovery. *See* Papers 3, 7.

The parties have requested briefing to argue and/or further develop whether “Amazon should have been listed as an [real-party in interest] RPI or privy to Xilinx’s ’867 petition.” Paper 7, 5. The parties are further encouraged to explain the impact of such a determination on the issues of joinder. That is, the parties are encouraged to discuss the issue of joinder as it relates to a party that is statutorily barred from an *inter partes* review under 35 U.S.C. § 315(b). *See Facebook, Inc. v. Windy City Innovations, LLC*, 973 F.3d 1321 (Fed. Cir. 2020) (“Beginning with the statutory language, § 315(b) articulates the time-bar for when an IPR ‘may not be instituted.’ 35 U.S.C. § 315(b). But § 315(b) includes a specific exception to the time bar. By its own terms, ‘[t]he time limitation . . . shall not apply to a request for joinder under subsection (c).’ *Id.*”).

In consideration of the foregoing, it is hereby:

ORDERED that pursuant to Petitioner’s Reply to Patent Owner’s Opposition / Motion for Additional Discovery is due by May 3, 2021, and is limited to 10 pages; and

FURTHER ORDERED that Patent Owner’s Sur-Reply to Petitioner’s Motion for Joinder and Reply to Patent Owner’s Motion for Additional Discovery is due by May 17, 2021, and is limited to 10 pages.

IPR2021-00633  
Patent 7,149,867

FOR PETITIONER:

David Hoffman  
Kenneth Darby  
FISH & RICHARDSON P.C.  
hoffman@fr.com  
kdarby@fr.com

FOR PATENT OWNER:

Jay Kesan  
DIMUROGINSBERG, PC  
DGKEYIP GROUP  
jay@jaykesan.com

Ari Rafilson  
SHORE CHAN DEPUMPO LLP  
arafilson@shorechan.com