

IPR2023-01153
U.S. Patent No. 11,122,357
Motion for Joinder
Attorney Docket No. SONYNJ 7.1R-019

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY ELECTRONICS INC.,
Petitioner,

v.

JAWBONE INNOVATIONS, LLC,
Patent Owner.

IPR2023-01153
U.S. Patent No. 11,122,357

**MOTION FOR JOINDER TO AND CONSOLIDATION WITH
RELATED *INTER PARTES* REVIEW IPR2023-00251
PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)**

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. STATEMENT OF FACTS	2
III. STATEMENT OF REASONS FOR RELIEF REQUESTED	3
A. Legal Standard	3
B. Petitioner’s Motion for Joinder is Timely	3
C. The Board Should Permit Joinder.....	3
1. Joinder is Appropriate.....	4
2. Petitioner Proposes No New Grounds of Unpatentability	5
3. Joinder Will Not Unduly Burden or Negatively Impact The Amazon IPR Trial Schedule.....	5
4. How Briefing and Discovery May Be Simplified	6
D. <i>General Plastic</i> Is Inapplicable	8
IV. CONCLUSION.....	10

I. INTRODUCTION

Sony Electronics Inc. (“Petitioner” or “Sony”) respectfully submits this Motion for Joinder, together with a Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 11,122,357 (“the ’357 Patent”) filed contemporaneously herewith. Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner requests institution of this IPR, and joinder and consolidation with IPR2023-00251 (“the Amazon IPR”). That IPR challenges the same claims and was instituted on June 1, 2023.

Joinder here would be consistent with the overarching policy of securing “the just, speedy, and inexpensive resolution” of every IPR proceeding. 37 C.F.R. § 42.1(b). Petitioner’s Petition and the Amazon petition are substantively identical—they contain the same grounds, based on the same prior art combinations against the same claims. Thus, joinder would not unduly complicate the Amazon IPR, nor delay the schedule of that proceeding.

To streamline discovery and briefing, Petitioner agrees to take an understudy role, as Amazon did in its now-granted motion for joinder. Petitioner will not actively participate substantively in the Amazon IPR unless Amazon terminates its involvement and thus is unavailable to take the lead in that proceeding.

Because joinder would promote judicial efficiency in determining patentability without prejudicing Patent Owner, the Board should grant this Motion.

II. STATEMENT OF FACTS

Patent Owner filed suit against Samsung on May 27, 2021, asserting seven patents. (Case No. 2:21-cv-00186, E.D. Tex.) Patent Owner filed suits against Apple and Google on September 23, 2021, and asserted nine patents against each of them, including the seven patents also asserted against Samsung. (Case Nos. 6:21-cv-00985 and 6:21-cv-00984, W.D. Tex.) Patent Owner filed suit against Amazon on Nov. 29, 2021, and asserted the same nine patents. (Case No. 2:21-cv-00435, E.D. Tex., transferred to Case No. 5:22-cv-06727, N.D. Cal.).

On February 28, 2023, Patent Owner filed suit against Petitioner, asserting eight of the nine patents included in the suit against Amazon, including the '357 Patent. (Case No. 2:23-cv-01161-CCC-LDW, D.N.J., ECF No. 1.) Petitioner was served with the complaint on March 16, 2023. (*Id.*, ECF No. 5, at 2.)

Samsung, Apple, Google and Amazon have filed IPR Petitions against each of the patents asserted against them. Amazon filed a petition for IPR challenging the '357 Patent on November 21, 2022. The Board instituted Amazon's IPR on June 1, 2023. IPR2023-00251, Paper 7, at 2 (PTAB June 1, 2023). Petitioner is filing a substantively identical petition to that previously filed by Amazon, and is seeking joinder to Amazon's now-instituted IPR.

III. STATEMENT OF REASONS FOR RELIEF REQUESTED

A. Legal Standard

The Board has the authority to join Petitioner as a party to the Amazon IPR. 35 U.S.C. § 315(c); *see also* 35 U.S.C. § 315(d) (Board also has the authority to consolidate proceedings). Whether a request for joinder should be granted is discretionary. *Kyocera Corp. v. Softview LLC*, IPR2013-00004, Paper 15, at 4 (PTAB, Apr. 24, 2013).

B. Petitioner’s Motion for Joinder is Timely

A petitioner may request joinder “no later than one month after the institution date of any *inter partes* review for which joinder is requested.” 37 C.F.R. § 42.122(b). This is the “only timing requirement for a motion for joinder.” *Cent. Sec. Grp.-Nationwide, Inc. v. Ubiquitous Connectivity, LP*, IPR2019-01609, Paper 11, at 8-9 (PTAB Feb. 26, 2020).

This Motion for Joinder is timely. Amazon’s IPR was instituted June 1, 2023, and Petitioner brings this motion within one month of that institution. Thus, although Sony is not otherwise time-barred pursuant to 37 C.F.R. § 42.101(b), Petitioner is filing its motion for joinder within the time limit set forth in 37 C.F.R. § 42.122(b).

C. The Board Should Permit Joinder

In deciding whether to exercise its discretion and permit joinder, the Board considers: (1) why joinder is appropriate; (2) whether the new petition presents any

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