

Paper No. ___
Filed: July 6, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LG ELECTRONICS INC.,
Petitioner,

v.

JAWBONE INNOVATIONS, LLC,
Patent Owner.

IPR2023-01156
U.S. Patent No. 8,326,611

**MOTION FOR JOINDER TO AND CONSOLIDATION WITH
RELATED *INTER PARTES* REVIEW IPR2023-00285
PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)**

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I. INTRODUCTION

LG Electronics Inc. (“Petitioner”) respectfully submits this Motion for Joinder, together with a Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 8,326,611 (“the ’611 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 IPR2023-00285 (“the Amazon IPR”). That IPR challenges the same claims and was instituted on June 7, 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). Petitioners’ 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 neither unduly complicate the Amazon IPR nor delay its schedule.

To streamline discovery and briefing, Petitioner agrees to take an “understudy” role, actively participating substantively in the Amazon IPR only if Amazon terminates its involvement after joinder. (If Amazon were to terminate its involvement prior to this motion being granted, then Petitioner would withdraw this motion so that Petitioner’s timely-filed Petition could be considered on its merits.)

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 has asserted nine patents against each of them, including the seven patents also asserted against Samsung. (Case Nos. 6:21-cv-00985, E.D. Tex., and 6:21-cv-00984, W.D. Tex.) Patent Owner filed suit against Amazon on Nov. 29, 2021, and has 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.) Patent Owner filed suit against Petitioner on February 28, 2023, asserting eight of the nine patents it previously asserted against Apple, Google, and Amazon. Also on February 28, 2023, Patent Owner filed suit against Sony, HTC, OPPO, Panasonic, ZTE Corp., and Meta. Apple, Google, and Amazon have filed IPR Petitions against each of the patents asserted against them.

For some of the patents asserted against it, including the '611 Patent, Petitioner is filing substantively identical petitions to those previously filed and is seeking joinder.

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, April 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 the original IPR. 37 C.F.R. § 42.122(b). This is the “only timing requirement for a motion for joinder.” *Central Security Group — 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 Petition was filed November 28, 2022, and IPR was instituted on June 7, 2023. Thus, Petitioner is filing its motion for joinder within the time limit enumerated 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 new grounds of unpatentability; (3) any impact joinder would have on the trial schedule for the existing review; and (4) how briefing and discovery may be simplified. *Kyocera Corp.*, IPR 2013-00004, Paper 15 at 4 (April 24, 2013). Here, each of the four factors weighs in favor of joinder.

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