

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

APPLE INC.,
Petitioner,

v.

RJ TECHNOLOGY, LLC,
Patent Owner.

Case IPR2024-00597
Patent No. 7,749,641

**PETITIONER'S MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c), 37 C.F.R. § 42.22, AND § 42.122(b)**

I. STATEMENT OF PRECISE RELIEF REQUESTED

Under 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Apple Inc. (“Apple” or “Petitioner”) **moves for joinder** with the *inter partes* review instituted against U.S. Patent No. 7,749,641 (“the ’641 Patent”) in *Samsung Electronics Co., Ltd. v. RJ Technology, LLC*, IPR2023-01183 (“the Samsung Proceeding”). This motion is timely filed no later than one month after the Board’s institution decision in the Samsung Proceeding on January 22, 2024.

Apple’s Petition being filed in the current proceeding (“the Joinder Petition”) is substantively the same as the petition filed in the Samsung Proceeding (“the Samsung Petition”): it challenges the same claims, on the same grounds, and relies on the same prior art as the Samsung Petition and therefore would create no additional burden for the Board, the Samsung Proceeding Petitioner, or Patent Owner if joined. Joinder would therefore lead to an efficient resolution of the validity of the ’641 Patent.

Apple stipulates that if joinder is granted, it will act as an “understudy” and will not assume an active role unless the Samsung IPR Petitioner ceases to participate in the proceeding. The Samsung IPR Petitioner will maintain the lead role in the proceeding so long as it remains in the proceeding. These limitations will avoid lengthy and duplicative briefing. Apple also will not seek additional

depositions or deposition time. Joinder will not impact the trial schedule because Apple expressly consents to the existing trial schedule in the Samsung Proceeding.

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 Samsung Proceeding for all interested parties.

Joinder will not unduly prejudice any party. Because joinder will not add any new substantive issues, delay the schedule, burden deponents, or needlessly increase filings, any additional costs on Patent Owner will be minimal.

Given the similarities of the proceedings, the lack of undue prejudice to Patent Owner, and the potential benefit to the public and to the Board that would accrue by Apple's cooperative participation in the Samsung Petition in the event that the Samsung Proceeding Petitioner's participation terminates, the Board should institute IPR and grant Apple's Motion for Joinder.

Samsung does not oppose this request.

II. BACKGROUND AND RELATED PROCEEDINGS

RJ Technologies, LLC ("RJ") is the purported owner of the '641 Patent. RJ asserted the '641 Patent against Apple in *RJ Technology LLC v. Apple Inc.*, Case No. 8-22-cv-01874 (CDCA), filed October 13, 2022. RJ asserted the same patent against Samsung in *RJ Technology LLC v. Samsung Electronics Co., Ltd. et al.*, Case No. 2-22-cv-00401 (EDTX), filed October 13, 2022.

On July 21, 2023, Samsung Electronics Co., Ltd. petitioned for *inter partes* review of the '641 Patent in the Samsung Proceeding (IPR2023-01183). The Board instituted *inter partes* review in the Samsung Proceeding on January 22, 2024.

On August 23, 2023, entirely independent of Samsung and based on different prior art than that of the Samsung Proceeding, Apple petitioned for *inter partes* review of the '641 Patent in *Apple Inc.. v. RJ Technology, LLC*, IPR2023-01350 (“the first Apple Proceeding”). No institution decision has yet been issued in the first Apple Proceeding.

III. STATEMENT OF REASONS FOR THE RELIEF REQUESTED

The Board has discretion to join a party that properly files an *inter partes* review petition to an existing instituted proceeding addressing the same patent. *See* 35 U.S.C. § 315(c); 37 C.F.R. § 42.122(b); *see also Dell* at 4-6; *Sony Corp. v. Yissum Res. & Dev. Co. of the Hebrew Univ. of Jerusalem*, IPR2013-00326, Paper 15 at 3-4 (PTAB Sep. 24, 2013); *Microsoft Corp. v. Proxyconn, Inc.*, IPR2013-00109, Paper 15 at 3-4 (PTAB Feb. 25, 2013). “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* 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:

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

Dell at 4.

A. Joinder With the Samsung Proceeding Would Be Appropriate

Apple submits that joinder with the Samsung Proceeding is appropriate. The challenge raised against the '641 Patent in the Joinder Petition is materially the same as that of the petition filed to initiate the Samsung Proceeding. More specifically, the Joinder Petition and the Samsung Petition challenge the same claims based on the same prior art grounds and evidence, including an identical declaration from the same expert.¹

Further, in the Joinder Petition, Apple agrees to proceed solely on the grounds, evidence, and arguments advanced, or that will be advanced, in the Samsung Proceeding as instituted. The Petition therefore warrants institution under 35 U.S.C. § 314, and 35 U.S.C. § 315(c) permits Apple's joinder to the inter partes review instituted in the Samsung Proceeding.

¹ The declaration is a duplicate of the declaration in the Samsung Proceeding.

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