

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

JIAWEI TECHNOLOGY (HK) LTD., JIAWEI TECHNOLOGY (USA) LTD., SHENZHEN JIAWEI PHOTOVOLTAIC LIGHTING CO., LTD., ATICO INTERNATIONAL (ASIA) LTD., ATICO INTERNATIONAL USA, INC., CHIEN LUEN INDUSTRIES CO., LTD., INC. (CHIEN LUEN FLORIDA), CHIEN LUEN INDUSTRIES CO., LTD., INC. (CHIEN LUEN CHINA), COLEMAN CABLE, LLC, NATURE'S MARK, RITE AID CORP., SMART SOLAR, INC., AND TEST RITE PRODUCTS CORP.
Petitioner,

v.

SIMON NICHOLAS RICHMOND
Patent Owner.

Case IPR2015-TBD
Patent 7,429,827

**Petitioner's Motion for Joinder to Related
Inter Partes Review of U.S. Patent No. 7,429,827 (IPR2014-00938)**

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Jiawei Technology (HK) Ltd., Jiawei Technology (USA) Ltd., and Shenzhen Jiawei Photovoltaic Lighting Co., Ltd., Atico International (Asia) Ltd., and Atico International USA, Inc., Chien Luen Industries Co., Ltd., Inc. (Chien Luen Florida), and Chien Luen Industries Co., Ltd., Inc. (Chien Luen China), Coleman Cable, LLC, Nature's Mark, Rite Aid Corp., Smart Solar, Inc., and Test Rite Products Corp. (collectively "Petitioner") respectfully requests the Board to join the trial resulting from the second petition for *inter partes* review of the '827 patent (filed with this motion) with IPR2014-00938 ("the '938 IPR") because the second petition is limited to one ground, which matches an instituted ground in the '938 IPR, relies on testimony from the same expert witness, involves the same patent with the same parties, and the petitioner expeditiously petitioned for review of the '827 patent. Accordingly, there is good cause for granting this motion for joinder. In addition, joinder would enable a just, speedy, and efficient determination of the patentability of the claims of the '827 patent.

I. APPLICABLE STATUTES AND RULE

35 U.S.C. § 316(b)

(b) Considerations. —

In prescribing regulations under this section, the Director shall consider the effect of any such regulation on the economy, the integrity of the patent system, the efficient administration of the

Office, and the ability of the Office to timely complete proceedings instituted under this chapter

35 U.S.C. § 315(c)–(d)

(c) JOINDER. —

If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314.

(d) Multiple Proceedings. —

Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of an inter partes review, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the inter partes review or other proceeding or matter may proceed, including providing for stay, transfer, consolidation, or termination of any such matter or proceeding.

35 U.S.C. § 325(d)

(d) Multiple Proceedings. —

Notwithstanding sections 135(a), 251, and 252, and chapter 30, during the pendency of any post-grant review under this chapter, if another proceeding or matter involving the patent is before the Office, the Director may determine the manner in which the post-grant review or other proceeding or matter may proceed, including providing for the

stay, transfer, consolidation, or termination of any such matter or proceeding. In determining whether to institute or order a proceeding under this chapter, chapter 30, or chapter 31, the Director may take into account whether, and reject the petition or request because, the same or substantially the same prior art or arguments previously were presented to the Office.

37 C.F.R. § 42.122(b)

Request for joinder. Joinder may be requested by a patent owner or petitioner. Any request for joinder must be filed, as a motion under § 42.22, no later than one month after the institution date of any inter partes review for which joinder is requested. The time period set forth in § 42.101(b) shall not apply when the petition is accompanied by a request for joinder.

II. RELIEF REQUESTED

Petitioner requests the Board to join the second petition with the '938 IPR.

III. STATEMENT OF FACTS

1. On or after June 11, 2013, patent owner served petitioners with a complaint alleging infringement of, *inter alia*, U.S. patent nos. 7,429,827 (“’827 patent”) and 8,362,700 (“’700 patent”).

2. On June 11, 2014, the petitioner filed petitions for *inter partes* review of the ’477 patent in IPR2014-00936, the ’700 patent in IPR2014-00937 (“’937 IPR”), and ’827 patent in the ’938 IPR.

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