

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SAMSUNG ELECTRONICS CO., LTD. and SAMSUNG ELECTRONICS  
AMERICA, INC.,

Petitioners

v.

SPEAKWARE, INC.,

Patent Owner

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Case: IPR2019-01147

U.S. Patent No. 6,397,186

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

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**I. STATEMENT OF RELIEF REQUESTED**

Samsung Electronics Co., Ltd., and Samsung Electronics America, Inc. (“Samsung”) respectfully request to join, pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), the concurrently filed petition for *inter partes* review (“IPR”) of U.S. Patent No. 6,397,186 (“the ’186 patent”) (“Samsung’s Petition”) with the previously instituted and currently pending IPR captioned *Google LLC v. SpeakWare Inc.*, No. IPR2019-00342 (“Google 342 IPR”).

Samsung only seeks an understudy role in the proceedings and so files a Petition that is substantively identical to the Google 342 IPR. This motion and accompanying petition are timely, being filed within one month of the decision instituting trial in the Google 342 IPR (Paper 12 issued May 14, 2019).

Under these circumstances (as discussed further below), joinder would create no additional burden for the Board, Google, or SpeakWare, Inc. (“SpeakWare” or “Patent Owner”) and would provide for “the just, speedy, and inexpensive resolution” of the validity of the ’186 patent. *See* 37 C.F.R. § 42.1(b).

Accordingly, Samsung respectfully requests that the Board grant this motion.

## II. STATEMENT OF MATERIAL FACTS

1. On July 26, 2018, SpeakWare filed a Complaint against Samsung in the United States District Court for the Central District of California alleging infringement of the '186 patent.

2. Samsung was served with SpeakWare's Complaint on August 9, 2018. *See SpeakWare, Inc., v. Samsung Electronics Co., Ltd., et al.*, C.A. No. 8:18-cv-01300 (C.D. Cal. filed July 26, 2018) (dkt. 13).

3. On November 30, 2018, Google filed a petition for IPR challenging claims 21-55 of the '186 patent ("Google's Petition"). *See Google LLC v. SpeakWare Inc.*, IPR2019-00342, Paper 2 (PTAB Nov. 30, 2018).

4. On May 14, 2019, the Board instituted Google's Petition. *See id.*, Paper 12 (PTAB May 14, 2019).

5. Samsung's Petition and this motion are being filed within one month of the decision instituting the Google 342 IPR. *See id.*, Paper 12 (PTAB May 14, 2019).

6. Samsung's petition has also been filed less than one year after SpeakWare served its complaint on Samsung.

## III. STATEMENT OF REASONS FOR REQUESTED RELIEF

### A. Legal Standards

The Leahy-Smith America Invents Act ("AIA") permits joinder of IPR proceedings. Joinder is governed by 35 U.S.C. § 315(c), which states:

(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.

A motion for joinder should (1) set forth reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing review; and (4) address specifically how briefing and discovery may be simplified. *Everlight Elecs. Co., Ltd., v. Document Security Sys., Inc.*, IPR2018-01244, Paper 15 at 5-6 (PTAB Sept. 27, 2018) (citing *Kyocera Corp. v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (PTAB Apr. 24, 2013)).

#### **B. Samsung's Motion For Joinder Is Timely**

A motion for joinder is timely if the moving party files within one month of institution of the IPR for which joinder is requested. 37 C.F.R. § 42.122(b). Google's petition was instituted on May 14, 2019. *Google*, IPR2019-00342, Paper 12 (PTAB May 14, 2019). Samsung's current motion is thus timely as it is being filed within one month of the institution date. Moreover, while not pertinent, Samsung notes that 35 U.S.C. § 315(b) is not at issue here since the present petition was filed prior to the one-year bar after the service of SpeakWare's Complaint alleging infringement.

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