

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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BLACKBERRY CORP.

Petitioner,

v.

UNILOC 2017 LLC,

Patent Owner.

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Case No. IPR2019-01282

Patent No. 7,167,487

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PETITIONER'S REPLY IN SUPPORT OF MOTION FOR JOINDER

## I. Introduction

Petitioner BlackBerry Corp. respectfully submits this Reply in Support of its Motion for Joinder with Case No. IPR2019-00222.

## II. Argument

BlackBerry's motion for joinder should be granted for the reasons explained in the original motion. The motion is timely, the petition is substantively identical to Apple's petition in IPR2019-00222, and the joinder will not impact the schedule in IPR2019-00222 because BlackBerry has agreed to take an "understudy" role. Patent Owner's opposition to the motion for joinder is baseless and largely nonsensical.

First, Patent Owner argues that joinder should be denied because BlackBerry's petitions are "cumulative" of earlier petitions, including Apple's petitions in IPR2019-00222 and -00252. But the fact that BlackBerry's petitions are cumulative—in fact, substantively identical—to those Apple petitions counsels strongly *in favor* of joinder, not against it. *See Samsung Elecs., Co., Ltd., et al. v. Raytheon Co.*, Case No. IPR2016-00962, Paper 12 at 9 (PTAB Aug. 24, 2016) (the Board "routinely grants motions for joinder where the party seeking joinder introduces identical arguments and the same grounds raised in

the existing proceeding” (citations omitted, emphasis in original)); *Sony Corp. v. Memory Integrity, LLC*, IPR2015-01353, Paper 11 at 6 (PTAB Oct. 15, 2015).

Second, Patent Owner argues that instituting IPRs based on BlackBerry’s petitions would be inefficient. But this ignores the fact that the IPRs would be joined with IPR2019-00222 and -00252, with BlackBerry serving only in an “understudy” role, as explained in BlackBerry’s original motions. Thus, BlackBerry would be transparent to the process and would not add any complexity or inefficiency to the pending proceedings in IPR2019-00222 and -00252. In any event, the speculative harm from any minor inefficiency added to the proceedings would be far outweighed by the harm to BlackBerry of losing its opportunity to challenge the patentability of patents that have been asserted against it in pending litigation. *See Dot Hill Sys. Corp. v. Crossroads Sys., Inc.*, IPR2015-00825, Paper 20 at 8 (PTAB Sept. 17, 2015) (granting motion for joinder because “[a]ny potential prejudice to Patent Owner due to institution in this proceeding and joinder of Dot Hill, with its agreement to not materially participate unless other petitioners are dismissed, does not outweigh the prejudice to Dot Hill of

losing its opportunity to challenge the claims of the '035 patent before the Office.”).

Finally, Patent Owner’s citation to *Unified Patents, Inc. v. Personal Web Tech., LLC*, IPR2014-00702, Paper 13 at 6 (PTAB July 24, 2014) is inapposite. Unlike the present case, Unified Patents’ petition raised new substantive discovery issues regarding who the real parties-in-interests were. Specifically, the Board found that because the petitioner Unified Patents, Inc. was “an organization that was formed by Google Inc. and NetApp Inc., amongst others,” the Patent Owner was entitled to “additional discovery in order to determine what companies, if any, fund and control Unified.” *Id.*, Paper 12 at 4-5. The Board concluded that “[t]his potential for additional discovery presents a new substantive issue . . . weigh[ing] in favor of denying Unified’s Motion for Joinder.” *Id.* at 5-6. No such issues regarding the real parties-in-interest exist in the present case, and Patent Owner has not identified *any* new substantive issues that would require additional discovery in a joined proceeding. Accordingly, the *Unified Patents* case is easily distinguishable, and the Board’s numerous cases holding that joinder is appropriate under the present circumstances should control the

analysis.

### III. Conclusion

For the reasons stated above and in BlackBerry's original motion, BlackBerry respectfully requests that the Board (1) institute BlackBerry's Petition for *Inter Partes* Review of U.S. Patent No. 7,167,487 filed July 2, 2019, and (2) grant joinder with *Apple, Inc. et al. v. Uniloc 2017 LLC*, Case No. IPR2019-00222.

Respectfully submitted,

Date: August 6, 2019

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