

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CODE200, UAB; TESO LT, UAB; METACLUSTER LT,
UAB; OXYSALES, UAB; AND CORETECH LT, UAB,
Petitioner,

v.

BRIGHT DATA LTD.,
Patent Owner.

IPR2021-01492 (Patent 10,257,319 B2)
IPR2021-01493 (Patent 10,484,510 B2)¹

Before THOMAS L. GIANNETTI, SHEILA F. McSHANE, and
RUSSELL E. CASS, *Administrative Patent Judges*

McSHANE, *Administrative Patent Judge*.

ORDER

Adjusting One-Year Pendency Due to Joinder
35 U.S.C. § 316(a)(11); 37 C.F.R. § 42.100(c)

¹ The parties are not authorized to use this caption.

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I. BACKGROUND

On April 18, 2022, Code200, UAB, Teso LT, UAB, Metacluster LT, UAB, Oxysales, UAB, and Coretech LT, UAB (“Petitioner”) filed Petitions for *inter partes* review of claims of U.S. Patent No. 10,257,319 B2 in IPR2022-00861 (“861 IPR”) and claims of Patent 10,484,510 B2 in IPR2022-00862 (“862 IPR”). 861 IPR, Paper 1; 862 IPR, Paper 1. Along with the Petitions, Petitioner also filed Motions for Joinder with *NetNut Ltd. v. Bright Data Ltd.*, IPR2021-01492 (“the 1492 IPR”) and *NetNut Ltd. v. Bright Data Ltd.*, IPR2021-01493 (“the 1493 IPR”), respectively. Paper 7, 861 IPR; Paper 7, 862 IPR.²

On July 25, 2022, we issued decisions in the 861 and 862 IPRs exercising discretion to deny institution based on an assessment of factors set forth in *General Plastic Industrial Co. Ltd. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 (PTAB Sept. 6, 2017) (precedential as to § II.B.4.i). Paper 17, 861 IPR. The Board’s decisions also denied the motions for joinder. *Id.* at 17.

The Director reviewed our decisions *sua sponte*, and on August 23, 2022, the Director issued an order vacating the decisions and remanding the cases to the panel, with an order that our decisions denying institution and joinder be reconsidered consistent with the remand decision. Paper 18, 861 IPR. On October 19, 2022, we issued rehearing decisions that granted institution and joinder with the respective 1492 and 1493 IPRs. Paper 19, 861 IPR, 40. The rehearing and joinder decisions directed that all further

² Hereafter, we refer to the filings in the 861 IPR because they are substantially similar to those of the 862 IPR.

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filings in the joined proceedings were to be made in the respective 1492 and 1493 IPRs. *Id.* We also issued a Revised Joint Scheduling Order that was entered in the respective 1492 and 1493 IPRs. Paper 27, 1492 IPR; Paper 25, 1493 IPR.

II. ADJUSTMENT OF ONE-YEAR PENDENCY DUE TO JOINDER

Pursuant to 35 U.S.C. § 316(a)(11), “the final determination in an inter partes review [shall] be issued not later than 1 year after the date on which the Director notices the institution of a review under this chapter, except that the Director . . . may adjust the time periods in this paragraph in the case of joinder under section 315(c).” The Director has delegated the authority to adjust the one-year period to the Board. *See* 37 C.F.R.

§ 42.100(c). In particular, 37 C.F.R. § 42.100(c) provides:

An inter partes review proceeding shall be administered such that pendency before the Board after institution is normally no more than one year. The time can be . . . adjusted by the Board in the case of joinder.

In accordance with 37 C.F.R. § 42.100(c), the Board adjusts the time of pendency before the Board in the present proceedings, which involve joinder, beyond one year after institution to permit the Board to consider and determine the pending issues. The Board shall issue a Final Written Decisions in these proceedings no later than September 29, 2023.

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III. ORDER

Accordingly, it is:

ORDERED that the time of pendency in these proceedings, which involves joinder, is adjusted beyond one year after institution; and

FURTHER ORDERED that the Board shall issue a Final Written Decisions in these proceedings no later than September 29, 2023.

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