

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ORACLE CORPORATION,  
Petitioner,

v.

CROSSROADS SYSTEMS, INC.,  
Patent Owner.

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Case IPR2015-01063  
Patent 6,425,035 B2

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Before NEIL T. POWELL, KRISTINA M. KALAN, J. JOHN LEE, and  
KEVIN W. CHERRY, *Administrative Patent Judges*.

CHERRY, *Administrative Patent Judge*.

DECISION  
Denying Institution of *Inter Partes* Review  
37 C.F.R. § 42.108

Motion for Joinder  
37 C.F.R. § 42.122(b)

## I. INTRODUCTION

Oracle Corporation (“Petitioner”) filed a Petition (Paper 1, “Pet.”), requesting institution of an *inter partes* review of claims 1–14 of U.S. Patent No. 6,425,035 B2 (Ex. 1001, “the ’035 patent”), which is at issue in instituted cases IPR2014-01197 (“the ’1197 proceeding”) and IPR2014-01226. Petitioner concurrently filed a Motion for Joinder (Paper 3, “Joinder Motion” or “Mot.”) requesting joinder with Case IPR2015-00777 (“the ’777 proceeding”). Crossroads Systems, Inc. (“Patent Owner”) timely filed a Preliminary Response (Paper 9, “Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314.

For the reasons below, Petitioner’s Joinder Motion is *moot*, and the Petition is *denied*.

### A. Related Proceedings

The ’035 patent is the subject of multiple district court proceedings. Pet. 1; Exs. 1009, 1026, 1034–1036; Paper 7, 2–3.

Petitions in IPR2015-00822 and IPR2015-00825 also request *inter partes* review of the ’035 patent. See Paper 7, 3. Further, the ’035 patent belongs to a family of patents that are the subject of multiple *inter partes* review petitions. See *id.* at 3–5.

In the ’777 proceeding, petitioner NetApp, Inc. filed a petition that presented challenges corresponding to those that we did not institute in the ’1197 proceeding. *NetApp Inc. v. Crossroads Systems, Inc.*, Case IPR2015-00777, slip op. at 4–5 (PTAB Sept. 3, 2015) (Paper 12) (“’777 Dec.”). We declined to institute *inter partes* review of those challenges in the ’777 proceeding. ’777 Dec. 8.

## II. DISCUSSION

The Joinder Motion states that “Petitioner Oracle Corporation respectfully requests joinder pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) of the above-captioned *inter partes* review with *NetApp, Inc. v. Crossroads Systems, Inc.*, IPR2015-00777.” Mot. 1. Because we declined to institute *inter partes* review in the ’777 proceeding, the Joinder Motion is *moot*.

As for the Petition, we deny it as barred under 35 U.S.C. § 315(b). Section 315(b) normally bars institution of *inter partes* review when the petition is filed more than one year after the petitioner is served with a complaint alleging infringement of the patent. 35 U.S.C. § 315(b); 37 C.F.R. § 42.101(b). The one-year time bar, however, does not apply to a request for joinder. 35 U.S.C. § 315(b) (final sentence); 37 C.F.R. § 42.122(b).

In a “Statement of Material Facts,” Petitioner states that it “was served with a complaint asserting infringement of U.S. Patent No. 6,425,035 more than one year before filing the petition.” Mot. 1. Without joinder of Petitioner in this proceeding as a party to the ’777 proceeding, the Petition would be barred under 35 U.S.C. § 315(b). Because the Joinder Motion is *moot*, the present Petition is time barred, and, therefore, we deny the Petition because it was not filed within the time limits imposed under 35 U.S.C. § 315(b).

## III. CONCLUSION

The Joinder Motion is *moot*, and the Petition is *denied* under 35 U.S.C. § 315(b).

IV. ORDER

Accordingly, it is

ORDERED that the Joinder Motion is *denied* as *moot*; and

FURTHER ORDERED that the Petition is *denied* as to claims 1–14 of U.S. Patent No. 6,425,035 B2, and no trial is instituted.

IPR2015-01063  
Patent 6,425,035 B2

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