UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CLOVER NETWORK, LLC,
Petitioner,

v.

CLOUDOFCHANGE, LLC,
Patent Owner.

Case IPR2023-00288
Patent 10,083,012

PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR JOINDER

Table of Contents

Table of Contents i
Table of Authorities ii
EXHIBIT LIST iv
I. INTRODUCTION 1
II. BACKGROUND AND RELATED PROCEEDINGS 2
A. The Texas Litigations against Clover and Lightspeed 2
B. The Lightspeed IPR 3
C. The NCR Litigation 3
III. APPLICABLE LAW 4
IV. THE BOARD SHOULD DENY CLOVER'S MOTION FOR JOINDER 6
A. Petitioner Does Not Show That Joinder Is Appropriate Because the Requested Joinder Would Increase the Complexity and Costs 6
B. Joinder Will Delay the Schedule of the Lightspeed IPR (IPR2022-00997) 9
V. CONCLUSION 13

Table of Authorities

Cases **Page(s)**

Apple Inc. v. Uniloc 2017, LLC,
IPR2020-00854, Paper 9 (P.T.A.B Oct. 28, 2020).....5

Code200, UAB v. Bright Data Ltd.,
IPR2021-01502, Paper No. 13 (P.T.A.B. Mar. 14, 2022).....4

Everlight Elecs. Co. Ltd. v. Document Security Sys., Inc.,
IPR2018-01225, Paper 14 (P.T.A.B. Sept. 27, 2018) 8

Facebook, Inc. v. Windy City Innovations, LLC,
973 F.3d 1321 (Fed. Cir. 2020) 7, 10

Kingston Tech. Co. v. SecureWave Storage Solutions, Inc.,
IPR2020-00139 (P.T.A.B. Mar. 23, 2020).....5

Kyocera Corp. v. Softview LLC,
IPR2013-00004, Paper 15 (P.T.A.B. Apr. 24, 2013) 4, 5

Microsoft Corp. v. Uniloc 2017 LLC,
IPR2019-00744, Paper 11 (P.T.A.B. Sept. 4, 2019) 11, 12, 13

NetApp, Inc. v. PersonalWeb Techs., LLC,
IPR2013-00319, Paper 18 (P.T.A.B. July 22, 2013).....6

Toyota Motor Corp., v. Am. Vehicular Sciences LLC,
IPR215-00261, Paper 10 (P.T.A.B. Jan. 29, 2015) 6

ZTE Corp. v. Adaptix, Inc.,
IPR2015-01184, Paper 10 (P.T.A.B. July 24, 2015)..... passim

Statutes

35 U.S.C. § 315.....4, 10
35 U.S.C. § 316.....5, 12

Regulations

37 C.F.R. § 42.1 ..... 1, 4, 5, 12
37 C.F.R. § 42.122 4

37 C.F.R. § 42.23 1
37 C.F.R. § 42.51 .....9, 12
42.112.....5
42.24.....1
42.25.....1

EXHIBIT LIST

Petitioner's Exhibits

Exhibit	Description
1001	U.S. Patent No. 10,083,012 to Baratta et al. ("the '012 patent")
1002	Expert Declaration of Todd Mowry
1003	Prosecution History File Wrapper of the '012 patent
1004	U.S. Patent Publication No. 2007/0265935 ("*Woycik*")
1005	U.S. Patent Publication No. 2005/0049921 ("*Tengler*")
1006	U.S. Patent Publication No. 2008/0208696 ("*Olson*")
1007	U.S. Patent Publication No. 2004/0181454 ("*Manno*")
1008	U.S. Patent Publication No. 2006/0235755 ("*Mueller*")
1009	U.S. Patent Publication No. 2004/0128199 ("*Cusack*")
1010	United Kingdom Patent Application GB2369201 ("*Tomlinson*")
1011	U.S. Pat. No. 5,818,428 ("*Eisenbrandt*")
1012	Plaintiff's Response in Opposition to Defendant's Motion for Summary Judgment, *CloudofChange, LLC v. NCR Corporation*, 6-19-cv-00513 (W.D. Tex.)
1013	Trial Transcript Vol. 1, *CloudofChange, LLC v. NCR Corporation*, 6-19-cv-00513 (W.D. Tex.)
1014	Plaintiff's Motion in *Limine, CloudofChange*, *LLC v. NCR Corporation*, 6-19-cv-00513 (W.D. Tex.)
1015	United States Patent and Trademark Office Patent Assignment History
1016	Patent Assignment
1017	Plaintiff's Preliminary Infringement Contentions, *CloudofChange, LLC v. Lightspeed POS Inc.*, 6-21-cv-01102 (W.D. Tex.)
1018	Scheduling Order, *CloudofChange, LLC v. Lightspeed POS Inc.*, 6-21-cv-01102 (W.D. Tex.)
1019	U.S. Patent Publication No. 2002/0194074 ("*Jacobs*")
1020	U.S. Patent No. 7,051,091 ("*Cohen*")
1021	U.S. Patent No. 6,384,850 ("*McNally*")
1022	U.S. Patent No. 6,002,395 ("*Wagner*")
1023	U.S. Patent Publication No. 2007/0175992 ("*Brown*")
1024	Final Claim Constructions of the Court, *CloudofChange, LLC v. NCR Corporation*, 6-19-cv-00513 (W.D. Tex.)
1025	Supplemental Claim Construction Order, *CloudofChange, LLC v. NCR Corporation*, 6-19-cv-00513 (W.D. Tex.)
1026	U.S. Patent No. 6,247,032 ("*Bernardo*")

Exhibit	Description
1027	U.S. Patent No. 9,400,640 ("the '640 Patent")
1028	Microsoft Computer Dictionary (Microsoft Press 5th Ed. 2002)
1029	IEEE Dictionary (IEEE 3rd Ed. 1984)
1030	Random House Computer and Internet Dictionary (Random House 3rd Ed. 1999)
1031	H. Seth, Microsoft.NET – Kick Start (Sams Pub. 2004)
1032	R. Cattel et al., J2EE Technology in Practice (Addison-Wesley 2001)
1033	J. Allaire, Macromedia Flash MX: A Next-Generation Rich Client (Macromedia Mar. 2002)
1034	Final Claim Constructions of the Court, *CloudofChange, LLC v. Lightspeed POS Inc.*, 6-21-cv-01102 (W.D. Tex., Sep. 16, 2022)
1035	Plaintiff's Preliminary Infringement Contentions for the '012 patent, *CloudofChange, LLC v. Clover Network, Inc.*, 6-22-cv-00634 (W.D. Tex.)
1036	Scheduling Order (W.D. TX) Scheduling Order, *CloudofChange, LLC v. Clover Network, Inc.*, 6-22-cv-00634 (W.D. Tex., Oct. 24, 2022)

I. INTRODUCTION

Pursuant to 37 C.F.R. §§ 42.23(a), 42.24(b)(3), and 42.25(a)(1), Patent Owner CloudofChange, LLC respectfully submits the following Opposition to the Motion for Joinder (Paper 3, hereinafter, "Motion") filed by Petitioner Clover Network, LLC. Petitioner seeks to join its petition with the *Lightspeed Commerce, Inc. v. CloudofChange, LLC* proceeding in IPR2022-00997 (the "Lightspeed IPR").

The Board should deny Petitioner's Motion because Petitioner does not provide any compelling reason that the Board should grant joinder in view of the undue prejudice to CloudofChange. Indeed, the facts show that joinder is not appropriate because joinder would not "secure the just, speedy, and inexpensive resolution" of the two proceedings, as Petitioner argues and the regulation requires. 37 C.F.R. § 42.1. Instead, the two IPR proceedings are on incompatible schedules, such that the proceedings cannot be joined without undue prejudice being imposed on CloudofChange. The instant IPR petition was filed concurrently with the subject motion for joinder.[1] Furthermore, joining parties—who rely on different experts—

[1] Petitioner failed to contact the Board to "arrange a conference call … within five business days of filing the motion." *See* Patent Trial and Appeal Board Consolidated Trial Practice Guide (Nov. 2019) ("A party who files a motion for joinder should arrange a conference call with the panel, petitioner, and patent owner of the first proceeding within five business days of filing the motion. The purpose of the conference call is for the panel to timely manage the proceedings.").

would only serve to complicate the schedule, discovery, briefing, and cost of the Lightspeed IPR proceeding.

II. BACKGROUND AND RELATED PROCEEDINGS

A. The Texas Litigations against Clover and Lightspeed

On June 17, 2022, CloudofChange filed a lawsuit against Clover for infringement of several of its patents, including U.S. Patent No. 10,083,012 ("the '012 Patent"). *See CloudofChange, LLC v. Clover Network, Inc.*, No. 6:22-cv-00634 (W.D. Tex. June 17, 2022) (the "Clover Litigation").[2]

Nearly eight months before, on October 22, 2021, CloudofChange filed a lawsuit against Lightspeed for infringement of two patents, including the '012 Patent, in the United States District Court for the Western District of Texas, Waco Division. *See CloudofChange, LLC v. Lightspeed POS Inc.,* Case No. 6:21-cv-01102 (the "Lightspeed Litigation"). On May 2, 2022, CloudofChange amended the complaint to allege infringement of a third patent, U.S. Patent No. 11,226,793 ("the '793 Patent"). On May 5, 2022, Lightspeed filed the Lightspeed IPR. The Lightspeed Trial, in the Western District of Texas, has been set for September 20, 2023.

[2] Since CloudofChange filed suit, Clover has filed three related IPR petitions challenging each asserted patent owned by CloudofChange: IPR2023-00232, IPR2023-00287, and IPR2023-00288 (present case).

B. The Lightspeed IPR

On May 5, 2022, Lightspeed filed a Petition for *Inter Partes* Review of the '012 Patent, seeking review of the '012 Patent based on three Grounds. CloudofChange filed a Preliminary Response on August 18, 2022. On November 7, 2022, this Panel instituted review on the following grounds:

Grounds	Claims	Basis	References
1	1-20	35 U.S.C. § 103	*Woycik*[3]
2	1-20	35 U.S.C. § 103	*Olson*[4]*, Woycik*
3	1-20	35 U.S.C. § 103	*Tengler*[5]

See Lightspeed Commerce Inc. v. CloudofChange, LLC, IPR2022-00997, Paper 9 (P.T.A.B. Nov. 7, 2022). CloudofChange's Response to Petition is due on January 30, 2023. *See Lightspeed Commerce Inc. v. CloudofChange, LLC*, IPR2022-00997, Paper 10, p. 11 (P.T.A.B. Nov. 7, 2022). Lightspeed's Reply to CloudofChange's Response to Petition is due on April 24, 2023. *Id*. CloudofChange's Sur-Reply is due June 5, 2023. *Id*.

C. The NCR Litigation

The '012 Patent was previously involved in a lawsuit *CloudofChange, LLC v. NCR Corporation*, 6-19-cv-00513 (W.D. Tex. Aug. 30, 2019) ("the NCR

[3] U.S. Pat. Pub. No. US2007/0265935, published November 15, 2007 (Ex. 1004).

[4] U.S. Pat. Pub. No. US2008/0208696, published August 28, 2008 (Ex. 1006).

[5] U.S. Pat. Pub. No. US2005/0049921, published March 3, 2005 (Ex. 1005).

Litigation"), which resulted in a jury verdict holding that Claims 1-4 of the '012 Patent are not invalid and were infringed. IPR2022-00997, Ex. 2008 (Dkt. 159, Jury Verdict). The Jury in the NCR Litigation expressly rejected invalidity arguments based on *Woycik*. IPR2022-00997, Ex. 2008; IPR2022-00997, Ex. 2009, 56-57, and 100-102; IPR2022-00997, Ex. 2010, 243-300; and IPR2022-00997, Ex. 2011, 126-132, 137-139, 144-147, 152-153, 225-227, 245-246, and 254.

III. APPLICABLE LAW

By statute, the "decision to grant joinder is discretionary" and "may be authorized when warranted." *Code200, UAB v. Bright Data Ltd.*, IPR2021-01502 Paper No. 13, at 8 (P.T.A.B. Mar. 14, 2022) (citing 35 U.S.C. § 315(c); 37 C.F.R. § 42.122). The patent trial regulations dictate that this discretion be exercised to secure the just, speedy, and inexpensive resolution of every proceeding. 37 C.F.R. § 42.1(b). As indicated in the legislative history, the Board should determine whether to grant joinder on a case-by-case basis, taking into account the particular facts of each case. *See* 157 Cong. Rec. S1376 (daily ed. Mar. 8, 2011) (statement of Sen. Kyl). These facts typically include the impact of joinder on the trial schedule, cost, discovery, and briefing. *See Kyocera Corp. v. SoftView, LLC*, IPR2013-00004, Paper 15, at 4 (Apr. 24, 2013); *see also* Consolidated Trial Practice Guide at 76. Petitioner, as the moving party, bears the burden to show that joinder is appropriate. 37 C.F.R. § 42.20(c). This discretion "is not limited to determining whether the merits of the petition meet the reasonable likelihood threshold" but includes

consideration of the Board's other discretionary doctrines. *Apple Inc. v. Uniloc 2017, LLC*, IPR2020-00854, Paper 9, at 5 (P.T.A.B Oct. 28, 2020) (precedential on Dec. 4, 2020).

In general, "[a] motion for joinder should: (1) set forth the reasons 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) addresses specifically how briefing and/or discovery may be simplified." *Kingston Tech. Co. v. SecureWave Storage Solutions, Inc.*, IPR2020-00139 (P.T.A.B. Mar. 23, 2020); *Kyocera Corp.*, IPR2013-00004, Paper 15, at 4. The burden is on Clover to show that joinder is appropriate. 37 C.F.R. §§ 42.20(c), 42.112(b). Joinder should not be granted as a matter of right, even when a party seeks to join a nearly identical petition. *See* 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b). When deciding a motion for joinder, the Board has considered the following factors: (i) whether the new petition adds new evidence (*see, e.g., ZTE Corp. v. Adaptix, Inc.*, IPR2015-01184, Paper 10, at 2-7 (P.T.A.B. July 24, 2015) (denying motion for joinder because, although petitioner purported to advance the same grounds of unpatentability as those in the instituted petition, petitioner relied on a new expert declaration to support those grounds); *Toyota Motor Corp., v. Am. Vehicular Sciences LLC*, IPR215-00261, Paper 10, at 3-7 (P.T.A.B. Jan. 29, 2015)); and (ii) whether joinder prejudices the non-moving party by, for example, complicating resolution of the instituted proceeding (*see, e.g., NetApp, Inc. v. PersonalWeb*

Techs., LLC, IPR2013-00319, Paper 18, at 5 (P.T.A.B. July 22, 2013) (denying joinder because the additional analysis and expense associated with joinder would complicate the proceeding and prejudice patent owner)).

IV. THE BOARD SHOULD DENY CLOVER'S MOTION FOR JOINDER

A. Petitioner Does Not Show That Joinder Is Appropriate Because the Requested Joinder Would Increase the Complexity and Costs

The joinder requested by Petitioner is inappropriate because it would increase the complexity and cost of IPR2022-00997 and prejudicially delay resolution for Patent Owner CloudofChange. While Petitioner's Motion asserts that the "Clover IPR is identical to the Lightspeed IPR [IPR2022-00997] in all substantive respects," Petitioner has presented testimony from a *different* expert declarant and introduced new evidence as Exhibits 1034-1036. *See* Ex. 1002 ("Expert Declaration of Dr. Todd Mowry"); Exs. 1034-1036. Conversely, Lightspeed, in IPR2022-00997, relied on testimony from Dr. Stephen Gray.[6] *Compare* Ex. 1002 ("Expert Declaration of Dr. Todd Mowry") *with* IPR2022-00997, Ex. 1002 (Declaration of Dr. Stephen Gray).

Accordingly, the burden is on Petitioner to justify that joinder should be granted. 37 C.F.R. §42.20(c). Indeed, by relying on the testimony of Dr. Mowry, Petitioner has improperly expanded the scope of the Lightspeed IPR that Petitioner

[6] Petitioner did not explain why they did or did not seek Dr. Gray's support, or why Dr. Gray would not support Petitioner's Petition.

seeks to join. *See Facebook, Inc. v. Windy City Innovations, LLC*, 973 F.3d 1321, 1336 (Fed. Cir. 2020) (holding that § 315(c) "does not permit [a] joined party, by virtue of the joinder decision alone, to bring new issues from a second proceeding into the existing proceeding. Any other conclusion would improperly join proceedings, rather than parties—which § 315(c) does not authorize.").[7]

Furthermore, Dr. Mowry does not state or acknowledge the opinions set forth in the Stephen Gray Declaration (IPR2022-00997, Ex. 1002). *See* Ex. 1002, *passim*. Indeed, there is no acknowledgement of IPR2022-00997 or the opinions set-forth by Dr. Gray. Additionally, Dr. Mowry expressly reserves "the right to supplement my opinions in the further to respond to any arguments that Patent Owner raises and to take into account new information as it becomes available to me." Ex. 1002, ¶274. Clover was not time-barred to file its own Petition. Petitioner's reliance on a different expert declarant will certainly lead to new evidence, and likely to new issues, that would not be a part of IPR2022-00997 without the requested joinder.

Furthermore, despite stating once, in the Motion, that Petitioner would take an "understudy" role in the joined proceeding, Petitioner instead seeks an active role. Paper 3, p. 1. For example, Petitioner indicates: (i) "Petitioner will agree to

[7] If the Board does join Petitioner as a party to IPR2022-00997, CloudofChange expressly reserves the right to argue that Petitioner should be prohibited from relying on the testimony of Dr. Mowry.

consolidated filings and discovery, and procedural concessions where and as appropriate;" (ii) "Petitioner will agree to consolidated filings for all substantive papers in the proceeding (*e.g.*, Reply to the Patent Owner's Response, Opposition to Motion to Amend, Motion to Exclude Evidence, Opposition to Motion to Exclude Evidence and Reply)"; (iii) "Lightspeed and Petitioner will be jointly responsible for the consolidated filings;" and (iv) "Petitioner and Lightspeed will engage in consolidated filings and discovery, which will simplify the briefing and discovery process." Paper 3, pp. 3-4. *See Everlight Elecs. Co. Ltd. v. Document Security Sys., Inc.*, IPR2018-01225, Paper 14, at 7 (P.T.A.B. Sept. 27, 2018) (The Board acknowledging that the joined petitioner should be a "complete understudy" and do nothing and remain "completely inactive," unless and until the original petitioner abandons its IPR.). Since Petitioner has relied on the testimony of Dr. Mowry to support the institution of its Petition, Patent Owner does not agree to forgo cross-examining Dr. Mowry. Accordingly, Patent Owner is entitled to cross-examine Dr. Mowry if the Board finds that the Petition warrants institution. *See ZTE Corp.*, IPR2015-01184, Paper 10, at 4-5 (citing 37 C.F.R. § 42.51(b)(1)(ii) and noting that, if the Board were to find that the joinder petition warranted institution, "Patent Owner should have the opportunity to cross-examine Petitioner's proffered expert"). Therefore, the joinder requested by Petitioner would unduly prejudice CloudofChange because it would increase the complexity and cost of IPR2022-00997.

B. Joinder Will Delay the Schedule of the Lightspeed IPR (IPR2022-00997)

Under the Board's scheduling order in IPR2022-00997, CloudofChange must file a Patent Owner Response by January 30, 2023. *See* IPR2022-00997, Paper 10. Currently, CloudofChange is cross-examining Dr. Gray on January 4, 2023 for IPR2022-00997. Petitioner's reply and Patent Owner's sur-reply in that trial are due April 24, 2023, and June 5, 2023, respectively. *See id.* But, Patent Owner's Preliminary Response in IPR2023-00288 is not due until March 13, 2023. *See* IPR2023-00288, Paper 5 (Patent Owner may file a preliminary response to the petition no later than three months from [December 13, 2022,] the date of this notice). The Board's decision on institution and joinder is not due until June 13, 2023. *See* 35 U.S.C. § 314(b).[8]

Joinder of Petitioner to the Lightspeed IPR (IPR2022-00997) would unduly prejudice CloudofChange because CloudofChange's discovery in the Lightspeed IPR will be closed by the institution decision in this proceeding (*e.g.*,

[8] "To join a party to an instituted IPR, the plain language of § 315(c) requires two different decisions. … The statute makes clear that the joinder decision is made *after* a determination that a petition warrants institution." *Facebook*, 973 F.3d at 1332 (emphasis added). Joinder cannot be granted unless and until the Board determines, "after receiving a preliminary response under section 313," that Petitioner has "properly file[d] a petition under section 311" that "warrants the institution of an *inter partes* review under section 314." 35 U.S.C. § 315(c).

CloudofChange's sur-reply is due June 5, 2023 and a decision on institution in this proceeding is expected June 13, 2023). Indeed, by the time the Board decides the Motion, Patent Owner will have already cross-examined Dr. Gray, Lightspeed Petitioner (IPR2022-00997) will have cross-examined CloudofChange's witnesses, and all briefing on the merits will be complete. If the Board were to join Petitioner as a party to IPR2022-00997 in June 2023, however, discovery would need to be reopened for Patent Owner to cross-examine Dr. Mowry.

Furthermore, Patent Owner also anticipates that, if joined to IPR2022-00997, Petitioner may seek to cross-examine Patent Owner's witnesses. *See* Paper 3, p. 4 (stating "Petitioner and Lightspeed will engage in consolidated filings and discovery, which will simplify the briefing and discovery process."). Additional briefing would also be required for the parties to address the new evidence offered by Petitioner, and new evidence generated by the cross-examination of Dr. Mowry (and likely the further cross-examination of Patent Owner's witnesses). In short, joinder would disrupt the current schedule in IPR2022-00997, would significantly increase the complexity of discovery and briefing, and would very likely impede the Board from reaching a final written decision within the normal one-year time period from institution.

Previously, the Board has recognized the complexity associated with joining a petitioner who has relied on a different expert declarant as a basis for denying joinder. *See Microsoft Corp. v. Uniloc 2017 LLC*, IPR2019-00744, Paper 11, at 9-

14 (P.T.A.B. Sept. 4, 2019); *ZTE Corp.*, IPR2015-01184, Paper 10, at 3-5. In *ZTE*, the Board found that, even though the later-filed IPR petition asserted the same earlier instituted ground, it was not an "identical petition" because the two petitions relied on testimony from different expert declarants to support that ground. *ZTE*, IPR2015- 01184, Paper 10, at 3-4. The Board reasoned that withdrawal of the new expert declaration, if joined, would not cure "the new issues raised by reliance on the different declarant" and "would adversely impact the [earlier-filed IPR] trial." *Id.* at 4-7. The Board denied joinder as a result. *Id.* at 7. The Board should also do so here. Similarly, in *Microsoft*, the Board refused joinder where the later petitioner had relied on different declarative testimony than an earlier petitioner (as well as an additional prior art reference), which the Board found would require extending all deadlines and would add cost and procedural complexity to the earlier IPR proceeding. *Microsoft*, IPR2019-00744, Paper 11, at 9-14. Accordingly, the Board should deny joinder here for the same reasons.

Further, if the Board grants joinder, Patent Owner will be entitled to cross-examine Dr. Mowry as routine discovery if the Board grants joinder (*see* 37 C.F.R. § 42.51(b)(1)(ii)), and that cross-examination will almost inevitably uncover differences in understanding, reasoning, and even opinions between Drs. Mowry and Gray. *See ZTE*, IPR2015- 01184, Paper 10, at 4-5. Indeed, despite Petitioner introducing new evidence, Petitioner did not propose a modified schedule should its Motion be granted nor explain how the IPR2022-00997 can be reconciled with the

due dates of this proceeding. When exercising this discretion, patent trial regulations and joinder rules must be construed to secure the just, speedy, and inexpensive resolution of every proceeding. *See* 35 U.S.C. § 316(b); 37 C.F.R. § 42.1(b). Instead, without addressing or acknowledging the new Expert Declaration, Petitioner provided conclusory statements without outlining a plan and dates certain for achieving the plan, but merely stated the "Lightspeed IPR would not need to be delayed." Paper 3, p. 4.

> **C. NO IMPACT ON IPR TRIAL SCHEDULE**
>
> The trial schedule for the Lightspeed IPR would not need to be delayed for joinder, and the joint proceeding would allow the Board and parties to focus on the merits in one consolidated proceeding, without unnecessary duplication of effort, and in a timely manner.

IPR2023-00288, Paper 3, p. 4. Consolidation prejudices CloudofChange by lessening the page limits for Patent Owner and depriving CloudofChange of its entitlement to full discovery (*e.g.*, deposing Clover's expert Dr. Todd Mowry). *See ZTE*, IPR2015- 01184, Paper 10, at 3-5; *Microsoft*, IPR2019-00744, Paper 11, at 9-14.

Accordingly, Petitioner's attempt to inject new evidence into IPR2022-00997 through joinder would increase the complexity and cost of that trial and delay its resolution. As such, the Board should exercise its discretion under § 315(c) to deny Petitioner's Motion for Joinder.

V. CONCLUSION

CloudofChange respectfully requests that the Board deny Petitioner's Motion for Joinder.

Respectfully submitted,

PATTERSON + SHERIDAN, LLP

Dated: December 30, 2022

/*B. Todd Patterson*/
B. Todd Patterson
tpatterson@pattersonsheridan.com
USPTO Reg. No. 37,906
LEAD COUNSEL FOR PATENT OWNER

CERTIFICATE OF COMPLIANCE

Pursuant to 37 C.F.R. §42.24(d), the undersigned certifies that the foregoing Opposition, exclusive of the exempted portions as provided in 37 C.F.R. § 42.24(a), contains 13 pages and complies with the type-volume limitations of 37 C.F.R. §§ 42.24(a), (b).

PATTERSON + SHERIDAN, LLP

Dated: December 30, 2022

/*B. Todd Patterson*/
B. Todd Patterson

CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2022, I caused a true and correct copy of the foregoing to be served upon counsel of record via email:

Jason D. Kipnis, Reg. No. 40,680
WILMER CUTLER PICKERING
HALE AND DORR, LLP
2600 El Camino Real, Suite 400
Palo Alto, CA 94306
(650) 600-5036
jason.kipnis@wilmerhale.com

Gregory H. Lantier
pro hac vice to be requested
WILMER CUTLER PICKERING
HALE AND DORR, LLP
1875 Pennsylvania Ave, NW
Washington, DC 20006
(202) 663-6327
gregory.lantier@wilmerhale.com

Sarah B. Petty
pro hac vice to be requested
WILMER CUTLER PICKERING
HALE AND DORR, LLP
60 State Street
Boston, MA 02109
(617) 526-6755
sarah.petty@wilmerhale.com

R. Gregory Israelsen, Reg. No. 72,805
WILMER CUTLER PICKERING
HALE AND DORR, LLP
1875 Pennsylvania Ave, NW
Washington, DC 20006
(202) 663-6215
greg.israelsen@wilmerhale.com

Amy L. Mahan, Reg. No. 75,997
WILMER CUTLER PICKERING
HALE AND DORR, LLP
60 State Street
Boston, MA 02109
(617) 526-6182
amy.mahan@wilmerhale.com

Respectfully submitted,

PATTERSON + SHERIDAN, LLP

/*B. Todd Patterson*/
B. Todd Patterson