

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS CO., LTD.,
Petitioner

v.

G+ COMMUNICATIONS, LLC
Patent Owner

IPR2023-00441
Patent No. 10,448,430

**PETITIONER'S REPLY
TO PATENT OWNER'S PRELIMINARY RESPONSE**

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Petitioner Samsung files this reply to the preliminary response (“POPR”) as authorized by the Board in an email dated June 2, 2023.

I. DENIAL UNDER 35 U.S.C. § 325(d) IS NOT APPROPRIATE

Eager to evade *inter partes* review of claims that should never have issued in the first place, Patent Owner G+ invites the Board to deny review under § 325(d) based on several erroneous assertions regarding the petition, the grounds, and the prior art.

First, relevant to ground 1 (anticipation based on Li), G+ asserts that Samsung failed to show material error by the Office because “reasonable minds can disagree regarding the purported treatment of the art.” (POPR, 17-21.) But G+ fails to show any error in Samsung’s analysis of Li. For example, Samsung demonstrated that the Examiner overlooked Li’s express teaching of sending a message 3 according to the UL (uplink) grant allocated to the UE by the eNodeB, as recited in claim limitation [1.e]. (Petition, 5.) Nowhere does G+ contest that Li fails to disclose this claim feature. (POPR, 20-21.) Next, Samsung demonstrated that the Examiner overlooked that Li discloses a message 3, which includes a terminal ID of the UE that corresponds to the claimed “pre-set UE number.” (Petition, 5 (citing Petition, Section IX.A.1.vii).) G+ again does not contend that Samsung is wrong about Li. For example, G+ does not ***affirmatively*** contend that a terminal ID in Li, which

“uniquely” identifies the terminal is not a “pre-set UE number.”¹ (POPR, 19-20; *see also, id.*, 41-46.) Instead, G+ **dodges** the issue by contending that the Petition lacks any explanation as to why the terminal ID in Li is a “pre-set UE number” (*id.*, 19) even though both the Petition and Dr. Ding’s supporting declaration (Ex. 1002, ¶16) explain that the terminal ID is a number “unique” to the UE. There is thus no evidence that “reasonable minds” could differ in their analysis of Li.

Second, G+ asserts that Kim is similar to Li. (POPR, 21-23.) But this is not a case where Kim is being offered as a replacement for a reference considered by the Office for which no material error can be demonstrated. Here, the Office materially erred with respect to Li. Thus, if Li can be considered by the Board, so can Kim. Moreover, as the Petition shows, Li and Kim have differing disclosures.

II. THE *FINTIV* FACTORS DO NOT SUPPORT DENIAL

As explained in the Petition, *Fintiv* factors 1-5 weigh against a discretionary denial. Petition at 63-65. While Samsung stipulated not to pursue the grounds raised in this IPR in the district court litigation if the IPR is instituted, Petition at 55-56, it

¹ This is understandable because G+’s infringement contentions allege that a “unique UE identification” number corresponds to the claimed “pre-set UE number.” Petitioner has not been authorized to submit those contentions but is happy to file them as an exhibit if the Board so desires.

now further stipulates that, should the Board institute trial, it will not pursue an invalidity defense in the parallel district court action based on the same grounds as in this petition or any grounds that could have reasonably been raised before the PTAB. That is, Petitioner submits a stipulation consistent with *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 (PTAB Dec. 1, 2020) (precedential as to § II.A).² This moots any argument for discretionary denial under §314(a). Ex. 1008 at 3 (“[t]he PTAB will not discretionarily deny institution in view of parallel district court litigation where a petitioner presents a stipulation not to pursue in a parallel proceeding the same grounds or any grounds that could have been reasonably raised before the PTAB.”).

III. CONCLUSION

A discretionary denial is unwarranted and trial should be instituted.

Respectfully submitted,

Dated: June 9, 2023

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² Petitioner’s *Sotera* stipulation is not late as it being submitted “prior to the Board’s decision of whether to institute review.” *NXP USA, Inc. v. Impinj, Inc.*, IPR2021-01156, Paper 13 (PTAB Sep. 2022) (precedential).

CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2023, I caused a true and correct copy of the foregoing Petitioner's Reply to Patent Owner's Preliminary Response to be served by email at the following email addresses of record:

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