

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PALO ALTO NETWORKS, INC.,
Petitioner,

v.

CENTRIPETAL NETWORKS, LLC,
Patent Owner.

IPR2023-01329
Patent 10,785,266 B2

Before KEVIN F. TURNER, AARON W. MOORE, and
STEVEN M. AMUNDSON, *Administrative Patent Judges*.

TURNER, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314
Granting Motion for Joinder
35 U.S.C. § 315(c); 37 C.F.R. § 42.122

I. INTRODUCTION

Palo Alto Networks, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting institution of *inter partes* review of claims 1–27 of U.S. Patent No. 10,785,266 B2 (Ex. 1001, “the ’266 Patent”), assigned to Centripetal Networks, LLC (“Patent Owner”). Petitioner also filed a motion for joinder to be joined as a petitioner to *Keysight Technologies, Inc. v. Centripetal Networks, Inc.*, IPR2023-00445, filed January 6, 2023, and instituted July 24, 2023 (“the Keysight IPR” with the petitioner in that matter referred to herein as “Keysight”). Paper 3 (“Mot.”). Patent Owner did not file a Preliminary Response in this proceeding, nor any opposition to the joinder motion.

For the reasons described below, we institute an *inter partes* review of the challenged claims and grant Petitioner’s Motion for Joinder.

II. RELATED AND PRESENT PROCEEDINGS

Both parties identify the following judicial or administrative matters that would affect, or be affected by, a decision in this proceeding: *Centripetal Networks, LLC v. Palo Alto Networks, Inc.*, Case No. 2:21-cv-00137-EWH-RJK (E.D. Va., filed 3/12/2021); *Centripetal Networks, LLC v. Keysight Technologies, Inc.*, Civ. No. 2:22-cv-00002 (E.D. Va., filed Jan. 1, 2022). Pet. 1; Paper 5, 1. Both parties also identify the Keysight IPR. Pet. 1; Paper 5, 1.

Petitioner asserts the following grounds of unpatentability (Pet. 3), supported by the declaration of Dr. Doug W. Jacobson (Ex. 1003):

References	Basis 35 U.S.C. §	Claims Challenged
Law ¹	103	1–27
Law, Wood ²	103	1–24
Law, Jungck ³	103	6, 13, 19, 26
Law, Wood, Jungck	103	6, 13, 19, 26

Patent Owner has acknowledged that the grounds presented are identical to the grounds presented in the Keysight IPR. Paper 5, 1.

III. INSTITUTION OF *INTER PARTES* REVIEW

We instituted *inter partes* review in the Keysight IPR on all challenged claims and all asserted grounds of unpatentability. IPR2023-00445, Paper 10. Petitioner’s Petition challenges the same claims and asserts the same grounds of unpatentability as those on which we instituted the Keysight IPR, relying on substantially the same testimonial evidence. *See* Mot. 2 (“[the instant Petition] is substantively identical to Keysight’s IPR.”). As noted above, Patent Owner does not refute the same. Paper 5, 1.

Because the issues presented in the instant Petition are identical to those in the Keysight IPR, we determine for the same reasons that there is a reasonable likelihood that Petitioner would prevail in showing that at least one of claims 1–27 of the ’266 Patent is unpatentable under the grounds of the Petition. Therefore, we institute *inter partes* review for the same reasons

¹ U.S. Patent Publication No. 2011/0072506 A1 (filed Sept. 23, 2010) (published Mar. 24, 2011) (Ex. 1005, “Law”).

² U.S. Patent Publication No. 2007/0097976 A1 (filed May 19, 2006) (published May 3, 2007) (Ex. 1006, “Wood”).

³ U.S. Patent Publication No. 2009/0262741 A1 (filed June 29, 2009) (published Oct. 22, 2009) (Ex. 1008, “Jungck”).

stated in our Decision on Institution in the Keysight IPR. *See* IPR2023-00445, Paper 10.

IV. MOTION FOR JOINDER

As the moving party, Petitioner bears the burden of proving that it is entitled to the requested joinder. *See* 37 C.F.R. § 42.20(c) (2023). The statutory provision governing joinder in *inter partes* review proceedings is 35 U.S.C. § 315(c), which reads:

If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the time for filing such a response, determines warrants the institution of an inter partes review under section 314.

A motion for joinder should (1) set forth reasons why 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) address specifically how briefing and discovery may be simplified. *See Kyocera Corp. v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (PTAB Apr. 24, 2013); Patent Trial and Appeal Board, Consolidated Trial Practice Guide, 76 (Nov. 2019), <https://www.uspto.gov/sites/default/files/documents/tpgnov.pdf>.

Petitioner's Motion addresses each of these considerations. Mot. 1–8. According to Petitioner, its “Petition presents the unpatentability of the same claims of the same patent on the same grounds as the Keysight Petition.” *Id.* at 5. Petitioner also argues that “Patent Owner will not be required to provide any additional analysis or arguments beyond what it will already

provide in responding to the Keysight Petition,” and does not unduly burden or negatively impact the trial schedule. *Id.* at 6–7. Further, Petitioner agrees to take an “understudy” role and Petitioner “will assume the primary role only if Keysight ceases to participate in the Keysight IPR.” *Id.* at 7–8. Thus, according to Petitioner, Patent Owner would not suffer prejudice if the two proceedings are joined. *Id.* at 8.

Patent Owner has not disputed the above contentions by Petitioner and does not point to any particular prejudice relating to joining the two proceedings. In light of these considerations, Petitioner has shown that joinder to the Keysight IPR is appropriate in this case. Therefore, we grant Petitioner’s Motion for Joinder.

V. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that, pursuant to 35 U.S.C. § 314(a), an *inter partes* review of claims 1–27 of the ’266 Patent is instituted with respect to all the grounds set forth in the Petition;

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, *inter partes* review of claims 1–27 of the ’266 Patent commences on the entry date of this Order, and the Board hereby gives notice of the institution of a trial;

FURTHER ORDERED that Petitioner’s Motion for Joinder is granted and Palo Alto Networks, Inc. is joined as a party to IPR2023-00445;

FURTHER ORDERED that the grounds of unpatentability on which the Board instituted trial in IPR2023-00445 are unchanged and remain the only grounds on which trial has been instituted;

FURTHER ORDERED that the Scheduling Order and any of its modifications entered in IPR2023-00445 will govern the schedule of the joined proceedings;

FURTHER ORDERED that any filings by the petitioner parties in IPR2023-00445 will be consolidated, and that filings by Petitioner, alone, are not permitted without the Board's prior approval;

FURTHER ORDERED that a copy of this Decision will be entered into the record of IPR2023-00445; and

FURTHER ORDERED that the case caption in IPR2023-00445 will be modified in accordance with the attached example to reflect joinder with this proceeding.

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Example Case Caption for Joined Proceeding

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⁴ IPR2023-01329 has been joined with this proceeding.