IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:	Gregory G. Raleigh, et al.	
U.S. Patent No.:	9,271,184	Attorney Docket No.: 39843-0156IP1/0156IP2
Issue Date:	February 23, 2016	
Appl. Serial No.:	14/688,713	
Filing Date:	April 16, 2015	
Title:	WIRELESS END-USER DEVICE WITH PER-APPLICATION DATA LIMIT AND TRAFFIC CONTROL POLICY LIST LIMITING BACKGROUND APPLICATION TRAFFIC	

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PETITIONER'S NOTICE RANKING PETITIONS AND EXPLAINING MATERIAL DIFFERENCES BETWEEN PETITIONS AGAINST U.S. PATENT NO. 9,271,184

Petitioner, Samsung Electronics Co., Ltd. ("Samsung"), presents two concurrent petitions challenging the validity of all claims of U.S. Patent No. 9,271,184 ("the '184 patent"): IPR2023-01361 filed September 7, 2023 ("First Petition") and IPR2023-01362 filed September 7, 2023 ("Second Petition"). As explained below, each petition challenges a different set of the 20 claims Patent Owner asserted against Samsung in the co-pending litigation. SAMSUNG-1004. Pursuant to the Board's July 2019 Trial Practice Guide Update, Samsung submits this paper to "identify: (1) a ranking of the Petitions in the order in which it wishes the Board to consider the merits…, and (2) a succinct explanation of the differences between the Petitions, why the issues addressed by the differences are material, and why the Board should exercise its discretion to institute additional petitions."

I. Ordering of Petitions

Samsung believes that both petitions are meritorious and justified, especially because (as explained further below), both petitions are necessary to address the 20 claims that Patent Owner asserted against Samsung in the co-pending district court litigation. Nonetheless, to the extent required, Samsung requests that the Board consider the petitions in the following order:

Rank	PTAB Case No.	Challenged Claims
1	IPR2023-01361 (First Petition)	1-6, 11-20
2	IPR2023-01362 (Second Petition)	1, 7-9

II. Material Differences that Compel Permitting Multiple Petitions

The Board's "Trial Practice Guide" notes that "the Board recognizes that there may be circumstances in which more than one petition may be necessary, including, for example, when the patent owner has asserted a large number of claims." Consolidated TPG at 59 (Nov. 2019).

Here, the Patent Owner asserted all 20 claims of the '184 Patent against Samsung in the co-pending litigation. SAMSUNG-1004. In cases where a patent owner asserts a similarly large number of claims against a petitioner, the Board has regularly allowed for the filing of multiple petitions to challenge each of the asserted claims. *See, e.g.*, *Align Technology, Inc., v. 3Shape A/S*, IPR2021-01309, Paper 11 at 11-13 (PTAB Feb 9, 2022) (granting two petitions filed against 20 claims); *Dolby Laboratories, Inc. v. Intertrust Technologies Corp.*, IPR2020-01106, Paper 12 at 19-21 (PTAB Jan 5, 2021) (granting two petitions filed against 18 claims); *Adobe Inc. v. Synkloud Technologies, LLC*, Paper 8 at 8-10 (PTAB Mar. 11, 2021) (granting two petitions filed against 20 "lengthy" and "complex" asserted claims).

Further, each of the petitions is materially distinguishable from the other by virtue of challenging a unique claim set. The First Petition challenges claims 1-6 and 10-20. The Second Petition challenges claims 1 and 7-9. The only overlapping claim challenged in both petitions is independent claim 1, for which identical grounds are presented in each petition to establish the necessary foundation for

challenging the dependent claims in the respective petitions. Beyond that, all other challenged claims are addressed in one of the two petitions, not both. Accordingly, the petitions present materially different challenges, each to a unique subset of '184 patent claims. *See, e.g., Align Technology, Inc.,* at 11-13 (granting two petitions filed against a common independent claim and different respective subsets of 19 dependent claims).

Further, the First Petition challenges a set of claims directed to a set of features that are substantively different than those that are challenged by Second Petition. In view of these differences, and compounded by the word count limitations and the large number of claims, two petitions are necessary in order to address each of the challenged claims in sufficient detail.

In particular, the First Petition challenges a set of claims directed to a ***single*** network variant (i.e., a "wireless wide area network (WAN)"), in which various features are ***applied*** under certain circumstances specific to a single network configuration (e.g., by (i) applying a "differential traffic control policy" and (ii) "disallow[ing] Internet data communication ... based on an application-specific amount of Internet data usage reaching a limit," as recited in independent claim 1). In contrast, the Second Petition challenges an additional set of dependent claims directed to a ***multiple*** network variant (i.e., additionally incorporating a "wireless local area network" (claims 7 and 8) and/or a "home WAN" and a "roaming WAN" (claim

9)), in which these same features are selectively ***not applied*** under certain circumstances specific to a multiple network configuration. That is, the Second Petition challenges an additional set of dependent claims that effectively reverse the features of the independent claim under circumstances entirely different than those recited in the first set of claims.

The differences between the two sets of claims introduce substantial complexity in the analysis of the claimed subject matter, which in the interest of fairness necessitates two petitions to address fully. *See, e.g., Align Technology, Inc.,* at 11-13. For example, in the First Petition, Samsung challenges the validity of independent claim 1 and a subset of the dependent claims in view of a first set of prior art references (i.e., Patent Publication No. 2006/0039354 A1 ("Rao"), U.S. Patent Publication No. 2007/0038763 A1 ("Oestvall"), U.S. Patent No. 5,987,611 ("Freund"), and U.S. Patent Publication No. 2009/0217065 A1 ("Araujo")). Further, in the Second Petition, Samsung challenges the validity of the remaining dependent claims in view of Rao, Oestvall, and Freund, and additionally in view of U.S. Patent Publication No. 2009/0207817 A1 ("Montemurro") in order to account for the multiple network variant introduced in the additional dependent claims. Due to the word count limitations, the large number of claims, and the complexity of the claimed subject matter, it is not possible to adequately brief the Board regarding Montemurro (and its modification of Rao, Oestvall, and Freund) within the

confines of a single petition. *See, e.g., Google LLC v. Jenam Tech, LLC*, IPR 2021-00868, Paper 11 at 7-8 (PTAB Nov 9, 2021) (granting two petitions filed against two sets of claims directed to different respective "variants" of subject matter).

Further, Beyond the Guide, additional factors support institution of Samsung's multiple petitions. Because the petitions are filed simultaneously, the Board and the Patent Owner will be able to track the same schedule post-institution, maximizing the efficiency of depositions, briefing, and oral argument. In addition, Samsung uses the same expert witness to support both petitions, meaning a single deposition should be sufficient. Both petitions also apply the same claim constructions.

For each of these reasons, Samsung respectfully requests institution of both of its concurrently filed IPR petitions against the '184 patent.

Respectfully submitted,

Dated 9-8-23

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CERTIFICATE OF SERVICE

Pursuant to 37 CFR §§ 42.6(e)(4)(i) *et seq.* and 42.105(b), the undersigned certifies that on September 8, 2023, a complete and entire copy of this Petition for *Inter Partes* Review and all supporting exhibits were provided by Federal Express, to the Patent Owner, by serving the correspondence address of record as follows:

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