

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

T-Mobile USA, Inc., AT&T Services Inc., AT&T Mobility LLC, AT&T  
Corporation, Cellco Partnership d/b/a Verizon Wireless, Nokia of America  
Corporation, Ericsson Inc.  
Petitioners

v.

Cobblestone Wireless LLC  
Patent Owner

---

Case IPR2024-00137  
Patent 9,094,888

---

**PETITIONERS' REPLY TO THE  
PATENT OWNER PRELIMINARY RESPONSE**

## TABLE OF CONTENTS

|      |                                                      |   |
|------|------------------------------------------------------|---|
| I.   | INTRODUCTION .....                                   | 1 |
| II.  | BACKGROUND .....                                     | 2 |
| III. | INSTITUTION IS APPROPRIATE UNDER <i>FINTIV</i> ..... | 3 |

**EXHIBIT LIST**

| <b>Exhibit No.</b> | <b>Description</b>                                                                                                                                                                                                                   |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>1230</b>        | <i>Cobblestone Wireless, LLC v. T-Mobile USA, Inc.</i> , No. 2:22-cv-00477-JRG-RSP (E.D. Tex.) (Lead Case), Dkt. 13, Consolidation Order.                                                                                            |
| <b>1231</b>        | <i>Cobblestone Wireless LLC v. Cellco Partnership d/b/a Verizon Wireless et al.</i> , 2:23-cv-00382 (E.D. Tex.) (Lead Case), Dkt. 19, Consolidation Order                                                                            |
| <b>1232</b>        | <i>Cobblestone Wireless, LLC v. T-Mobile USA, Inc.</i> , No. 2:22-cv-00477-JRG-RSP (E.D. Tex.) (Lead Case), Dkt. 93, Defendants' Opposed Motion to Consolidate Cases                                                                 |
| <b>1233</b>        | <i>Cobblestone Wireless, LLC v. Samsung Electronics America, Inc. et al.</i> , No. 2:22-cv-00285-JRG-RSP (E.D. Tex.), Dkt. 44, Samsung's Opposition to Cobblestone's Motion to Modify Protective Order                               |
| <b>1234</b>        | <i>Cobblestone Wireless LLC v. Cellco Partnership d/b/a Verizon Wireless et al.</i> , 2:23-cv-00382 (E.D. Tex.) (Lead Case), Dkt. 66, Docket Control Order                                                                           |
| <b>1235</b>        | <i>Cobblestone Wireless, LLC v. Samsung Electronics America, Inc. et al.</i> , No. 2:22-cv-00285-JRG-RSP (E.D. Tex.), Dkt. 48, Limited Intervention Order                                                                            |
| <b>1236</b>        | <i>Cobblestone Wireless, LLC v. Samsung Electronics America, Inc. et al.</i> , No. 2:22-cv-00285-JRG-RSP (E.D. Tex.), Dkt. 46, T-Mobile, AT&T, and Verizon's Response in Opposition to Plaintiff's Motion to Modify Protective Order |
| <b>1237</b>        | <i>Cobblestone Wireless, LLC v. Samsung Electronics America, Inc. et al.</i> , No. 2:22-cv-00285-JRG-RSP (E.D. Tex.), Dkt. 30, Docket Control Order                                                                                  |
| <b>1238</b>        | <i>Cobblestone Wireless, LLC v. Samsung Electronics America, Inc. et al.</i> , No. 2:22-cv-00285-JRG-RSP (E.D. Tex.), Dkt. 43, Cobblestone's Opposed Motion to Modify Protective Order                                               |

Pursuant to the Board’s email dated March 20, 2024, T-Mobile USA, Inc., AT&T Services Inc., AT&T Mobility LLC, AT&T Corporation, Cellco Partnership d/b/a Verizon Wireless, Nokia of America Corporation, Ericsson Inc., (“Petitioners”) submit this Reply to Patent Owner’s Preliminary Response (Paper 11, “POPR”).

## **I. INTRODUCTION**

Patent Owner’s analysis of the *Fintiv* factors ignores the impact of (i) Petitioner’s recently filed motion to consolidate its district court case with a later filed case against the same Petitioners, *Cobblestone Wireless LLC v. Cellco Partnership d/b/a Verizon Wireless et al.*, 2:23-cv-00382 (E.D. Tex.) (the “Carrier 2.0 Cases”), and (ii) *Cobblestone Wireless, LLC v. Samsung Electronics Co., Ltd. et al.*, No. 2:23-cv-00285 (E.D. Tex.) (the “Samsung Case”). In addition, Cobblestone ignores Samsung’s and Petitioners’ Opposition to Cobblestone’s Motion for a Protective Order filed in the Samsung Case, which shows the procedural quagmire Cobblestone created in the district court that will have to be untangled. Once the cases are untangled (whether through consolidation or otherwise), Petitioners expect that the schedules will be shifted to more closely reflect the schedule set forth in the Samsung Case. Consolidation will extend discovery for six months and trial will be rescheduled for May 2025. Patent Owner’s analysis of at least *Fintiv* factors 2 and 3 does not consider this potential consolidation, and, thus, is incomplete.

## **II. BACKGROUND**

On December 15-16, 2022, Patent Owner separately sued AT&T, Verizon, and T-Mobile in the Eastern District of Texas in what the Petitioners call the “Carrier 1.0 Cases.” In each case, Patent Owner accused the same technology and products of infringing the same patents, including U.S. Patent No. 9,094,888 (the “’888 Patent”). On February 6, 2023, Chief Judge Gilstrap consolidated the three cases. Ex. 1230.

Months later, on June 16, 2023, Patent Owner sued Samsung in the same district (the Samsung Case), also asserting infringement of the same patents, including U.S. Patent No. 9,094,888, by the same technology. *Cobblestone Wireless, LLC v. Samsung Electronics Co., Ltd. et al.*, No. 2:23-cv-00285 (E.D. Tex.).

Then, on August 25, 2023, Patent Owner again separately sued AT&T, Verizon, and T-Mobile in the same district (the Carrier 2.0 Cases), accusing the same products and similar technology of infringing an additional patent. *Cobblestone Wireless LLC v. Cellco Partnership d/b/a Verizon Wireless et al.*, 2:23-cv-00382 (E.D. Tex.) (Lead Case). On November 2, 2023, Judge Gilstrap consolidated those three cases. Ex. 1231.

On December 15, 2023, Petitioners moved to consolidate the Carrier 1.0 case with Carrier 2.0 cases, which largely followed the same schedule as the Samsung

Case. Ex. 1232; Ex. 1237. Patent Owner opposed the motion, claiming the cases were unrelated and different.

On February 22, 2024, Patent Owner moved to modify the protective order in the Samsung Case in a way that would allow Patent Owner to unilaterally utilize Samsung discovery from that case into the Carrier 1.0 and 2.0 Cases because, now when viewed from this perspective, the actions were apparently so similar a cross-use agreement was needed. Ex. 1238. Petitioners and Samsung are opposing Patent Owner's motion. Ex. 1236; Ex. 1233.

At the end of the day, the Court is faced with numerous potential issues all of Patent Owner's own making: (i) seven different jury trials, (ii) impermissible double recovery, (iii) inconsistent *Markman*'s, and (iv) self-serving discovery practices. These issues can only be untangled by moving the district court case schedules so that they are consistent across the cases.

### **III. INSTITUTION IS APPROPRIATE UNDER *FINTIV***

Discretionary denial under *Fintiv* is inappropriate for the reasons stated in the Petition (at 61-63). Further, the POPR does not take into consideration the extended case schedule in the Carrier 2.0 cases or the Samsung Case. If the Court grants Petitioners' motion to consolidate its case with the Carrier 2.0 cases, fact discovery will be extended to December 6, 2024, expert discovery to February 3, 2025, and trial will be scheduled for May 19, 2025. Ex. 1234, 1, 3.

Under this schedule, which Petitioners have already moved for, neither discovery nor expert reports will be complete before the May 29, 2024 institution decision deadline. The trial will not have taken place and will be set to occur the same month (May 2025) a final written decision is expected on the '888 Patent if instituted. Thus, any concerns Patent Owner has regarding the current case schedule would be moot. The POPR does not address Petitioners' consolidation motion, which significantly undermines Patent Owner's arguments that at least *Fintiv* factors 2 and 3 "weigh heavily against institution." POPR, 26-34.

Moreover, on March 13, 2024, Petitioners were granted a limited intervention in the Samsung Case to oppose Patent Owner's attempted modification of the Protective Order in that case. Ex. 1235. Petitioners' opposition, which is relevant to the overlapping issues in the cases, was filed in the Samsung Case less than three weeks ago on March 8, 2024. Ex. 1236, 8-10. In that opposition, Petitioners pointed out the faults associated with Patent Owner's attempts to prevent consolidation. *Id.* As a result, Petitioners believe that the likelihood of consolidation is even higher. While the Board need not speculate on whether Petitioner's motions will be granted in whole or in part, the briefing shows the schedule will have to be moved to untangle the procedural mess Patent Owner caused in the district court.

*Fintiv* factors 2 and 3 weigh against discretionary denial based on the potential for an extended district court schedule and trial date. Patent Owner's *Fintiv*

arguments in the POPR ignore this important consideration, cutting against their conclusion that these factors weigh against institution. Further, factor 4 arguably weighs even more heavily in favor of institution, given the expanded breadth of the case that would result from consolidation.

Thus, Petitioners respectfully request that the Board grant institution.

Dated: April 3, 2024

Respectfully submitted,

/John D. Haynes/

John D. Haynes

Reg. No. 44,754

[John.Haynes@alston.com](mailto:John.Haynes@alston.com)

David S. Frist

Reg. No. 60,511

[David.Frist@alston.com](mailto:David.Frist@alston.com)

Michael C. Deane

Reg. No. 70,389

[Michael.Deane@alston.com](mailto:Michael.Deane@alston.com)

*Attorneys for Petitioners,*

T-Mobile USA, Inc., AT&T Services Inc., AT&T Mobility LLC, AT&T Corporation, Cellco Partnership d/b/a Verizon Wireless, Nokia of America Corporation, and Ericsson Inc.

**CERTIFICATION OF SERVICE (37 C.F.R. §§ 42.6(e), 42.105(a))**

The undersigned hereby certifies that true and correct copies of the above-captioned PETITIONERS' REPLY TO THE PATENT OWNER PRELIMINARY RESPONSE and all associated exhibits were served in their entireties on April 3, 2024, upon the following parties via the Patent Trial and Appeal Case Tracking System (P-TACTS) and electronic mail:

| Lead Counsel                                                                                                                                                                                                      | Backup Counsel                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reza Mirzaie, Reg. No. 69,138<br>Russ, August & Kabat<br>12424 Wilshire Blvd. 12th Floor<br>Los Angeles, CA 90025<br>Tel.: 310-826-7474<br>Fax: 310-826-6991<br>rmirzaie@raklaw.com<br>rak_cobblestone@raklaw.com | Amy E. Hayden, Reg. No. 64,817<br>Neil Rubin, Reg. No. 67,030<br>Peter Tong, Reg. No. 74,292<br>Russ, August & Kabat<br>12424 Wilshire Blvd. 12th Floor<br>Los Angeles, CA 90025<br>Tel.: 310-826-7474<br>Fax: 310-826-6991<br>ahayden@raklaw.com<br>nrubin@raklaw.com<br>ptong@raklaw.com<br>rak_cobblestone@raklaw.com |

Dated: April 3, 2024

Respectfully submitted,

/John D. Haynes/

John D. Haynes

Reg. No. 44,754

[John.Haynes@alston.com](mailto:John.Haynes@alston.com)

David S. Frist

Reg. No. 60,511

[David.Frist@alston.com](mailto:David.Frist@alston.com)

Michael C. Deane

Reg. No. 70,389

[Michael.Deane@alston.com](mailto:Michael.Deane@alston.com)

*Attorneys for Petitioners,*  
T-Mobile USA, Inc., AT&T Services  
Inc., AT&T Mobility LLC, AT&T  
Corporation, Cellco Partnership d/b/a  
Verizon Wireless, Nokia of America  
Corporation, and Ericsson Inc.