UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SAMSUNG ELECTRONICS AMERICA, INC., SAMSUNG ELECTRONICS CO., LTD.,
Petitioner,

v.

COBBLESTONE WIRELESS, LLC,
Patent Owner.

IPR2024-00315
Patent 9,094,888

PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION TO WITHDRAW ITS *SOTERA* STIPULATION

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PATENT OWNER'S EXHIBIT LIST

No.	Description
Ex. 2001	*Cobblestone Wireless, LLC v. T-Mobile USA, Inc.*, No. 2:22-cv-00477 (lead case) (E.D. Tex., docket entry dated Feb. 14, 2024)
Ex. 2002	*T-Mobile USA, Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00137, Paper 1 (IPR Petition) (PTAB Nov. 22, 2023)
Ex. 2003	Federal Court Management Statistics for the Eastern District of Texas through December 2023, *available at* https://www.uscourts.gov/statistics-reports/federal-court-management-statistics-december-2023
Ex. 2004	*Cobblestone Wireless, LLC v. T-Mobile USA, Inc.*, No. 2:22-cv-00477, Dkt. No. 1 (Complaint for Patent Infringement) (E.D. Tex. Dec. 16, 2022)
Ex. 2005	*Cobblestone Wireless, LLC v. AT&T Servs. Inc. et al.*, No. 2:22-cv-00474, Dkt. No. 1 (Complaint for Patent Infringement) (E.D. Tex. Dec. 15, 2022)
Ex. 2006	*Cobblestone Wireless, LLC v. Cellco P'ship d/b/a Verizon Wireless*, No. 2:22-cv-00478, Dkt. No. 1 (Complaint for Patent Infringement) (E.D. Tex. Dec. 16, 2022)
Ex. 2007	*Cobblestone Wireless, LLC v. Cellco P'ship d/b/a Verizon Wireless*, No. 2:22-cv-00478, Dkt. No. 11 (Proof of Service of Summons to Cellco Partnership d/b/a/ Verizon Wireless) (E.D. Tex. Dec. 23, 2022)
Ex. 2008	*Cobblestone Wireless, LLC v. AT&T Servs. Inc. et al.*, No. 2:22-cv-00474, Dkt. No. 12 (Proof of Service of Summons to AT&T Mobility LLC) (E.D. Tex. Dec. 23, 2022)
Ex. 2009	*Cobblestone Wireless, LLC v. AT&T Servs. Inc. et al.*, No. 2:22-cv-00474, Dkt. No. 13 (Proof of Service of Summons to AT&T Services Inc.) (E.D. Tex. Dec. 23, 2022)
Ex. 2010	*Cobblestone Wireless, LLC v. AT&T Servs. Inc. et al.*, No. 2:22-cv-00474, Plaintiff Cobblestone Wireless, LLC's Preliminary Disclosure of Asserted Claims and Infringement Contentions (E.D. Tex., served Mar. 13, 2023)

No.	Description
Ex. 2011	*Cobblestone Wireless, LLC v. Cellco P'Ship d/b/a Verizon Wireless*, No. 2:22-cv-00478, Plaintiff Cobblestone Wireless, LLC's Preliminary Disclosure of Asserted Claims and Infringement Contentions (E.D. Tex., served Mar. 13, 2023)
Ex. 2012	*Cobblestone Wireless, LLC v. T-Mobile USA, Inc.*, No. 2:22-cv-00477, Plaintiff Cobblestone Wireless, LLC's Preliminary Disclosure of Asserted Claims and Infringement Contentions (E.D. Tex., served Mar. 13, 2023)
Ex. 2013	*Cobblestone Wireless, LLC v. T-Mobile USA, Inc.*, No. 2:22-cv-00477 (lead case), Defendants' and Intervenors' Preliminary Invalidity Contentions for U.S. Patent No. 9,094,888 (E.D. Tex., served May 12, 2023)
Ex. 2014	*Cobblestone Wireless, LLC v. T-Mobile USA, Inc.*, No. 2:22-cv-00477, Dkt. No. 11 (Unopposed Application for Extension of Time to Answer Complaint) (E.D. Tex. Dec. 22, 2022)
Ex. 2015	*T-Mobile USA, Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00135, Paper 1 (IPR Petition) (PTAB Nov. 22, 2023)
Ex. 2016	*T-Mobile USA, Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00136, Paper 1 (IPR Petition) (PTAB Dec. 4, 2023)
Ex. 2017	*T-Mobile USA, Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00138, Paper 1 (IPR Petition) (PTAB Nov. 30, 2023)
Ex. 2018	*Cobblestone Wireless, LLC v. Samsung Electronics Co. et al.*, No. 2:23-cv-00285, Dkt. No. 30 (Docket Control Order) (E.D. Tex. Oct. 17, 2023)
Ex. 2019	*Cobblestone Wireless, LLC v. Samsung Electronics Co. et al.*, No. 2:23-cv-00285, Dkt. No. 39 (Order Granting Motion to Amend Docket Control Order) (E.D. Tex. Dec. 29, 2023)
Ex. 2020	*T-Mobile USA, Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00137, Paper 11 (POPR) (PTAB Feb. 29, 2024)
Ex. 2021	*Cobblestone Wireless, LLC v. Samsung Electronics Co. et al.*, No. 2:23-cv-00285, Dkt. No. 1 (Complaint for Patent Infringement) (E.D. Tex. June 16, 2023)

No.	Description
Ex. 2022	*Cobblestone Wireless, LLC v. Samsung Electronics Co. et al.*, No. 2:23-cv-00285, Dkt. No. 6 (Proof of Service) (E.D. Tex. June 16, 2023)
Ex. 2023	*Samsung Elecs. Am., Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00319, Paper 3 (IPR Petition) (PTAB Dec. 18, 2023)
Ex. 2024	*Samsung Elecs. Am., Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00316, Paper 3 (IPR Petition) (PTAB Dec. 18, 2023)
Ex. 2025	*Samsung Elecs. Am., Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00317, Paper 3 (IPR Petition) (PTAB Dec. 18, 2023)
Ex. 2026	*Samsung Elecs. Am., Inc. et al. v. Cobblestone Wireless, LLC*, IPR2024-00318, Paper 3 (IPR Petition) (PTAB Dec. 18, 2023)
Ex. 2027	*Cobblestone Wireless, LLC v. Samsung Electronics Co. et al.*, No. 2:23-cv-00285, Plaintiff Cobblestone Wireless, LLC's Preliminary Disclosure of Asserted Claims and Infringement Contentions (E.D. Tex., served Sept. 23, 2023)
Ex. 2028	*Cobblestone Wireless, LLC v. Samsung Electronics Co. et al.*, No. 2:23-cv-00285, Samsung Electronics Co. Ltd. and Samsung Electronics America, Inc.'s P.R. 3-3 and 3-4 Invalidity Contentions (E.D. Tex., served Dec. 27, 2023)

The Board authorized this filing during the hearing on June 5, 2024 for Patent Owner to provide its opposition to Samsung's Motion to withdraw its *Sotera* stipulation. Paper 9 at 4.

1. Relevant Facts

Samsung filed this IPR2024-00315. Samsung filed a *Sotera* stipulation on May 7, 2024 with the PTAB. Paper 8. On June 7, 2024, Patent Owner filed a copy of Samsung's *Sotera* stipulation in the district court proceeding *Cobblestone Wireless, LLC v. Samsung Electronics Co., Ltd. et al.*, No. 2:23-cv-00285 (E.D.Tex.) as docket no. 55. On June 10, 2024, Samsung moved to join this IPR2024-00315 with IPR2024-00137, in which the petitioners are T-Mobile USA, Inc., AT&T Services Inc., AT&T Corp., AT&T Mobility LLC, and Cellco Partnership (Verizon Wireless) (collectively the "Carriers"). The Carriers are real parties in interest in IPR2024-00315 as well. Petition at 58.

2. Non-Opposition to Joinder

Patent Owner does not oppose the joinder of Samsung's IPR2024-00315 with the Carrier IRP2024-00137, so long as Petitioners are limited to an understudy role and agree to be bound by the Carriers' schedule.

3. Samsung Cannot Withdraw or Downgrade its *Sotera* Stipulation

Samsung is bound by its *Sotera* stipulation regardless of whether or not its motion for joinder is granted. Patent Owner opposes Samsung's attempt to withdraw

or downgrade its *Sotera* stipulation for two reasons. First, the USPTO has no jurisdiction or authority to permit this action. Second, no authority allows for withdrawing a stipulation. Third, allowing a stipulation withdrawals would result in bad policy.

A. This Executive Agency Lacks the Power to Decide What A Federal Court Does at Trial

Petitioner's stipulation is a promise that, at trial, Samsung will not assert "the same grounds in the Petition (Paper 3) or any grounds that could have reasonably been raised before the Board." Paper 8. Enforcement of this stipulation at trial is within the jurisdiction and power of the Court, not this executive agency.

The proper process for giving effect to stipulations is to file them with the District Court where they will be enforced. In the precedential *Sotera* decision, "Petitioner filed a stipulation in the District Court." *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 13 (Dec. 1, 2020) (filing stipulation in *Masimo Corporation v. Sotera Wireless, Inc.*, No. 3:19-cv-01100-BAS-MSB, Dkt. 86 (S.D. Cal. Oct. 15, 2020)).

Here, Samsung's *Sotera* stipulation was filed with the Court on June 7, 2024. It is now on the Court's docket, and the Court will decide how to enforce it at trial.

The District Court is part of the judicial branch. U.S. Const. art. III. The USPTO is part of the Department of Commerce in the executive branch. 35 U.S.C.

§ 1. Due to the separation of powers in the Constitution, the USPTO lacks the power to tell a U.S. District Judge whether the stipulation may be enforced at trial (even in downgraded, *Sand Revolution* form), and the USPTO has no power to remove filings from the docket of a U.S. District Court.

If Samsung wants to withdraw its *Sotera* stipulation or downgrade its stipulation, then Samsung must file a motion before Judge Gilstrap and explain to him what IPR developments justify Samsung's request. *See Ironburg Inventions Ltd. v. Valve Corp.*, 64 F.4th 1274, 1298 (Fed. Cir. 2023) (ruling on whether a District Court, not the PTAB, correctly enforced a *Sotera* stipulation). The Board should deny Samsung's motion because this is not the proper forum.

B. <u>Stipulations to the Court Cannot Legally Be Withdrawn</u>

Samsung is wrong about the law. *Shuey v. United States*, 92 U.S. 73, 76–77 (1976) is about **contracts**, not **stipulations**. Unlike a contract, stipulations to a court are "binding without consideration." STIPULATION, Black's Law Dictionary (11th ed. 2019) ("A stipulation relating to a pending judicial proceeding, made by a party to the proceeding or the party's attorney, is binding without consideration"). Because a stipulation is automatically binding even without consideration, Samsung cannot argue that it should be permitted to withdraw its stipulation before the consideration (in this case, joinder or institution) is paid.

C. Authorizing Removal of Stipulations Sets Bad Policy

The Board should not open the door for petitioners to remove or downgrade their stipulations. A USPTO ruling that permits Samsung to withdraw or modify the *Sotera* stipulation sitting on Judge Gilstrap's docket is a non-binding advisory ruling at best and a Constitutional violation at worst.

Permitting withdrawal or modifications of stipulations can potentially open the door to all sorts of unusual circumstances that will create unnecessary work for the Patent Office. Other petitioners may attempt to modify or withdraw their stipulations in response to later, unforeseen developments. Those petitioners may argue that their modifications are timely before institution or that no prejudice is suffered by a petitioner. To avoid such motions becoming regular practice in IPR proceedings, the Board should shut it down now with a bright line principle: stipulations are promises made to the Court, binding without consideration, that cannot be withdrawn or modified by the PTAB. *Sotera Wireless, Inc. v. Masimo Corp.*, IPR2020-01019, Paper 12 at 13 ("Petitioner filed a stipulation in the District Court").

Date: June 13, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e))

The undersigned hereby certifies that the above document was served on June 13, 2024, by filing this document through the Patent Trial and Appeal Case Tracking System (P-TACTS) as well as delivering a copy via electronic mail upon the following attorneys of record for the Petitioners:

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