UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MONOLITHIC POWER SYSTEMS, INC.,
Petitioner,

v.

GREENTHREAD, LLC,
Patent Owner.

IPR2024-00552
U.S. Patent No. 11,121,222

PATENT OWNER'S PRELIMINARY SURREPLY

MPS' claim that it has no significant relationship and is not coordinating with other defendants is implausible. MPS does not deny that it and its competitors—Texas Instruments Inc., Omnivision Technologies Inc., and Cirrus Logic Inc.—have *voluntarily* shared their most sensitive trade secrets to bolster each other's invalidity defenses. MPS did not even bother to change the bates numbers on TI's "Highly Sensitive Process Information." These once and future rivals then *voluntarily* copied from each other's IPRs. This case is vastly different than *Ford Motor Co. v. Neo Wireless LLC*, No. IPR2023-00763, 2024 WL 1406441, at *5 (PTAB Mar. 22, 2024) where the defendants were "*ordered*" to coordinate by the district court. (emphasis added). If *Ford* were expanded to reach this case, then virtually no amount of litigation coordination would satisfy the *General Plastics/Valve* test, but that is not what the Director said. The Director herself left open the possibility that even "[*c*]*ourt-ordered* pretrial coordination between parties having different accused products" could satisfy the test. *Id.* The extraordinary and completely voluntary coordination that occurred here is exactly what *General Plastics* and *Valve* are intended to police.

I. MPS and its Joint Defense Group Coordinated their Serial Petitions

MPS does not deny forming a joint defense group to file serial, substantially similar IPRs, from different entities, against the same claims of the same Greenthread patents. This is the exact scenario *General Plastics* and its progeny

expressly preclude. *See General Plastic*, Paper 19 at 18 n.14 ("Allowing similar, serial challenges to the same patent, by the same petitioner, risks harassment of patent owners and frustration of Congress's intent in enacting the Leahy-Smith America Invents Act.").

MPS's defense is essentially two-fold: first, MPS denies coordinating with the joint defense group; and second, MPS invents additional requirements for a "significant relationship" under *General Plastic* and *Valve* that do not exist.

A. MPS Copied its Co-Defendants' Petitions

MPS's denial that it copied from its co-defendants IPR's is not credible. MPS offers conclusory denials that copied its co-defendants' petitions, but makes virtually no effort to distinguish them. MPS re-worded its petition with regards to Kawagoe, but it does not explain how its argument is any different from its co-defendants'. Likewise, MPS substituted the Onoda reference for Wieczorek, but both of those references (and Kawagoe) suffer from the same flaw—the absence of any teaching of aiding movement in the active region—and MPS uses the same prosecution history statements as its co-defendants to try and fill that gap. MPS's claim that it did not copy elevates form over substance.

B. MPS has a Significant Relationship with other Members of the JDG

Second, MPS's suggestion that *Valve* requires a licensing relationship between serial petitioners is unsupported. It is true that the entities in *Valve* happened

to have a licensing agreement, but the Board in *Valve* did not adopt that as a *General Plastics* factor, and the Board has found significant relationships where there were no licensing agreements. *E.g.*, *Ericsson Inc. v. Uniloc 2017, LLC*, IPR2019-01550, Paper 8 at 12 (PTAB Mar. 17, 2020). Moreover, in *Valve*, the Board also considered the serial petitioner's co-defendant relationship with the prior petitioner in a district court litigation, as is the case here. *Valve Corp. v. Electronic Scripting Prods., Inc.*, IPR2019-00062, Paper 11 at 2 (Apr. 2, 2019).

MPS's contention that *General Plastics* and *Valve* only apply to petitions accusing the same products, but not the same patents, is wrong. *Valve* contains no such limitation. In fact, *Valve* explicitly states, "Under the first General Plastic factor, we consider 'whether the same petitioner previously filed a petition directed to the same claims of the same patent,'" and goes on to analyze the General Plastics factors in the event that "different petitioners challenge the same patent." *Valve Corp. v. Electronic Scripting Prods., Inc.*, IPR2019-00062, Paper 11 at 9 (Apr. 2, 2019). The determining factor is not the accused product, but rather, the same claims of the same patent under challenge. "[D]ifferent petitioners" will *usually* have different products. *Id.*

MPS's observation that each petitioner challenged different claims is misleading and makes its coordination worse, not better. First, there is substantial overlap in the challenged claims. Each member of the JDG filed serial petitions

challenging at least claims 1, 2, 4-9, and 12-18 of the ’222 Patent and relying on the Kawagoe reference. Furthermore, by separately challenging other dependent claims, the JDG effectively expanded the scope of its IPRs when they would otherwise have been constrained by word count. Divvying up the claims to challenge makes the coordination worse, not better.

MPS’s reliance on Paper 12 of *Videndum Prod. Sols., Inc. v. Rotolight Ltd.* is also misplaced. IPR2023-01218, Paper 12 at 5–6 (PTAB Apr. 19, 2024). Paper 12 merely corrected a decision not to institute a subsequent petition (Paper 9) where the Board had previously found no relationship between the parties. Even though the petitioner copied and pasted the earlier petition verbatim, Paper 9 found there was “no other evidence of a relationship” between the serial petitioner and the previous petitioner. Here, to the contrary, not only has MPS copied its co-defendants’ petitions; it also does not deny participating in a joint defense group with its co-defendants, and coordinating on their joint defense voluntarily, thus establishing a significant relationship between the parties.

Further, *Ford Motor* does not stand for the proposition, as MPS suggests, that “any pretrial coordination between MPS and the other component manufacturers on invalidity contentions in the district court litigations would not establish a significant relationship.” *Ford Motor Co. v. Neo Wireless LLC*, No. IPR2023-00763, 2024 WL 1406441, at *1 (P.T.A.B. Mar. 22, 2024). *Ford Motor* was the companion case to

General Motors, which Greenthread discussed in its POPR. There, the parties were *ordered* to coordinate by the district court. Here, MPS' coordination was entirely voluntary.

C. MPS's Delay in Filing its Petition Warrants Denial of Institution

MPS does not deny that it filed its IPR seven months after OS filed the first petition. MPS attributes its belated filing of its IPR to the fact that Greenthread's complaint against MPS was "the last filed," after Greenthread had sued multiple other manufacturers. Reply at 4. But Greenthread filed its complaint against MPS at the end of May 2023. *Greenthread, LLC v. Monolithic Power Systems, Inc.*, No. 1:23-cv-00579-RGA, Dkt. 1 (D. Del. May 26, 2023). MPS did not file its IPR until March 2024. Dkt. 1. Greenthread filed its complaint against Omnivision in May 2023, yet Omnivision was able to file its petitions in October 2023, five months before MPS. *See Greenthread, LLC v. Omnivision Technologies Inc.*, No. 2:23-cv-00212-JRG, Dkt. 1 (E.D. Tex. May 10, 2023); IPR2024-00020, Dkt. 1. Greenthread filed its complaint against OnSemi in April 2023 and OnSemi filed its first petitions in *July* 2023. *See Greenthread, LLC v. On Semiconductor Corporation*, No. 1:23-cv-00443-UNA, Dkt. 1 (D. Del. Apr. 21, 2023); IPR2023-01242, Dkt. 1. MPS' delays are inexcusable and can only be explained by its copying.

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Respectfully submitted,

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CERTIFICATION OF SERVICE

The undersigned hereby certifies that a copy of this **PATENT OWNER'S PRELIMINARY SURREPLY** has been served on Petitioner via email on the following counsel of record for petitioner:

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