

IPR2024-00659

Petitioner's Motion for Joinder

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

DATABRICKS, INC.,
Petitioner,

v.

R2 SOLUTIONS LLC
Patent Owner.

Case No. IPR2024-00659

Patent No. 8,190,610

**PETITIONER' MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c), 37 C.F.R. § 42.22 AND § 42.122(b)**

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I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Databricks, Inc. (“Databricks”) respectfully submits this Motion for Joinder under 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 and 42.122(b), concurrently with its Petition (“Instant Petition”) for *inter partes* review of U.S. Patent No. 8,190,610 (the “’610 patent”).

Joinder is appropriate because the Instant Petition is substantively identical to the petition filed in *Cloudera, Inc. v. R2 Solutions LLC*, IPR2024-00303 (the “Cloudera Petition”). The Instant Petition includes identical grounds concerning the same claims challenged in the Cloudera Petition and therefore would create no additional burden for the Board, Cloudera, or the Patent Owner, if joined.

Petitioner stipulates that if joinder is granted, it will assume an “understudy” role to Cloudera and will cooperate with Cloudera in the joined proceeding, whether at hearings, at depositions, in filings, or otherwise as outlined below. Joinder will not impact the trial schedule because the Cloudera IPR proceeding is in its early stages. Joinder would therefore lead to an efficient resolution of the validity of the ’610 Patent.

This Motion for Joinder is timely under 37 C.F.R. §§ 42.22 and 42.122(b) as it was submitted before a decision on institution of the Cloudera IPR.

II. REASONS FOR THE RELIEF REQUESTED

A. Legal Standard

In determining whether to join one IPR proceeding to another, the Board considers: (1) reasons why joinder is appropriate; (2) any new grounds of unpatentability asserted in the petition; (3) what impact (if any) joinder would have on the trial schedule for the existing review; and (4) specifically how briefing and discovery may be simplified. *See Dell, Inc. v. Network-1 Security Solutions, Inc.*, IPR2013-00385, Paper 17 at 3 (PTAB July 29, 2013). Each of these factors favors joinder here.

B. Reasons Why Joinder Is Appropriate

Joinder is appropriate because it is the most efficient way to resolve the two related proceedings. The Instant Petition is intentionally identical in substance to the Cloudera Petition and does “not present issues that might complicate or delay” the Cloudera IPR. *See Enzymotec Ltd. v. Neptune Techs & Bioresources, Inc.*, IPR2014-00556, Paper 19 (PTAB July 9, 2014). The only difference between the Instant Petition and the Cloudera Petition are the sections on Real Party-In-Interest, Related Matters, Lead and Backup Counsel, Service Information, Grounds for

Standing, and exhibit 1027 (Declaration of Dr. Jimmy Lin, Ph.D.)¹, which has been appropriately updated.

Joinder would therefore have little, if any, impact on the Cloudera IPR because no new grounds would be added, the schedule would be unaffected, no additional briefing or discovery would be required, and no additional burdens would be placed on the Patent Owner, as detailed below. Accordingly, joinder is appropriate because it ensures a just, speedy, and inexpensive resolution of these proceedings. *Samsung Elecs. Co., Ltd. v. Raytheon Co.*, IPR2016-00962, Paper 12 at 9 (PTAB Aug. 24, 2016) (recognizing that the Board “routinely grants motions for joinder where the party seeking joinder introduces identical arguments and the same grounds raised in the existing proceeding.”).

C. The Instant Petition Does Not Raise Any New Grounds of Unpatentability

The Instant Petition relies on the same grounds of unpatentability of claims 1-46 of the '610 patent at issue in the Cloudera Petition. As discussed above, the evidence and arguments supporting the Instant Petition are substantively identical to the evidence and arguments supporting the Cloudera Petition.

¹ Cloudera and Databricks rely on the same opinions made by the same expert. This new declaration adopts the opinions he set forth in the Cloudera IPR (IPR2024-00303, Ex. 1005 (Dec. 18, 2023)).

D. Joinder Will Not Affect the Schedule in the Cloudera IPR

While there has not yet been a decision on institution and the Board has not yet entered a scheduling order in the Cloudera IPR, joinder will not affect the schedule in the Cloudera IPR as Petitioner agrees to any deadlines that may be set forth in the Cloudera IPR. Since the Instant Petition does not raise any new arguments and is substantively identical to the Cloudera IPR petition, there should be no need for Patent Owner to submit a preliminary response to the Instant Petition. Joinder would allow the Board and parties to focus on the merits of the unpatentability challenges to claims 1-46 of the '610 patent in a single consolidated proceeding without duplication of effort, and in an efficient manner.

E. Joinder will Simplify Briefing Because Petitioners Have Agreed to Consolidated Filings and an Understudy Role

For the Instant Petition, Petitioner agrees to take an “understudy” role as long as Cloudera remains a party to the Cloudera IPR, which will simplify briefing and discovery.² *See, e.g., Noven Pharm., Inc. v. Novartis AG*, IPR2014-00550, Paper 38

² In the event Cloudera no longer participates in the IPR proceedings, Petitioner would take over primary responsibility for the remainder of the IPR proceedings, including subsequent filings, discovery, oral hearing and all other tasks enumerated in this section.

at 5 (PTAB April 10, 2015). In this role, Petitioner agrees to the following conditions for the Instant Petition:

(a) Petitioner will not make any substantive filings and shall be bound by the filings of Cloudera, unless a filing concerns termination and settlement, or issues solely involving Petitioner.

(b) Petitioner will not present any argument or make any presentation at oral hearing unless an issue solely involves Petitioner, or when addressing Board approved motions that do not affect Cloudera or the merits of Cloudera's Petition or arguments.

(c) Petitioner will not seek to cross-examine or defend the cross-examination of any witness, unless the topic of cross-examination concerns issues solely involving Petitioner, within the time permitted by Cloudera alone and with Cloudera's agreement.

(d) Petitioner will not seek discovery from Patent Owner in connection with the Instant Petition, unless issues arise that are unique to, and only applicable to, Petitioner.

F. Joinder Will Not Prejudice Patent Owner

Petitioner's joinder of the Cloudera IPR should not result in any prejudice to Patent Owner. No additional grounds or arguments are being introduced, no new evidence or issues are being added, and no additional discovery, briefing or oral

argument should be necessary as a result of the Instant Petition and joinder. Additionally, joinder decreases the number of filings by the parties, eliminates duplication of effort, and will create case management efficiencies for the Board and Patent Owner.

III. CONCLUSION

For the reasons stated above, Petitioner respectfully requests that its Petition for *inter partes* review of the '610 patent be instituted, and Petitioner be joined to the Cloudera IPR, IPR2024-00303. *See, e.g., Amazon.com Services LLC et al. v. Zentian Ltd*, IPR2023-01192, Paper 10 (PTAB Jan. 10, 2024).

Dated: March 6, 2024

Respectfully submitted,

FENWICK & WEST LLP

/Dargaye Churnet/

Dargaye Churnet

Reg. No. 71,288

Attorneys for Petitioner

Databricks, Inc.

CERTIFICATE OF SERVICE ON PATENT OWNER

I hereby certify, pursuant to 37 C.F.R. §§ 42.6(e) and 42.105, that a complete copy of **Petitioner's Motion for Joinder Under 35 U.S.C. § 315(c), 37 C.F.R. § 42.22 and § 42.122(b)** is being served via U.S. Express Mail on March 6, 2024, upon Patent Owner by serving the correspondence address of record with USPTO as follows:

Weaver Austin Villeneuve & Sampson
P.O. Box 70250
Oakland, CA 94612-0250

Further, a courtesy copy of this Motion for Joinder is being served upon counsel of record for Patent Owner in the litigation pending before the U.S. District Court for Eastern District of Texas entitled *R2 Solutions LLC v. Databricks, Inc.*, *Case No. 4:23-cv-01147-ALM* as follows:

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