

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

LINKEDIN CORP.,
Petitioner,

v.

ALMONDNET, INC. and INTENT IQ, LLC,
Patent Owner

Case No. IPR2024-00709
U.S. Patent No. 10,715,878

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

TABLE OF CONTENTS

I. STATEMENT OF PRECISE RELIEF REQUESTED 3

II. BACKGROUND AND RELATED PROCEEDINGS 4

III. STATEMENT OF REASONS FOR RELIEF REQUESTED 6

a. Legal Standard.....6

b. Petitioner’s Motion for Joinder is Timely 7

c. The *Kyocera* Factors Favor Joinder.....7

i. Factor 1: Joinder is appropriate.....7

**ii. Factor 2: LinkedIn’s Petition proposes no new grounds of
unpatentability 8**

**iii. Factor 3: Joinder will not unduly burden or negatively impact the
Meta IPR.....9**

iv. Factor 4: Procedures to simplify briefing and discovery.....10

IV. CONCLUSION 12

CERTIFICATE OF SERVICE.....13

I. STATEMENT OF PRECISE RELIEF REQUESTED

Petitioner LinkedIn Corporation (“LinkedIn”) respectfully submits this Motion for Joinder together with a Petition for *Inter Partes* Review of U.S. Patent No. 10,715,878 (“LinkedIn’s Petition”). On August 4, 2023, Meta Platforms, Inc. (“Meta”) filed *Meta Platforms, Inc. v. AlmondNet, Inc. et al*, IPR2023-01281 (“the Meta IPR”) that also challenges U.S. Patent No. 10,715,878. The Meta IPR was instituted on February 21, 2024. LinkedIn requests *inter partes* review and joinder with the Meta IPR pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b). Joinder is appropriate because LinkedIn’s Petition is substantively identical to the petition in the Meta IPR—challenging the same claims of the ’878 patent on the same grounds while relying on the same prior art, arguments, and evidence (i.e., LinkedIn’s Petition is a “copycat” petition).

In making this request, LinkedIn seeks to maximize efficiency in two ways. First, by requesting joinder rather than pursuing its own standalone petition, LinkedIn seeks to reduce the number of parallel challenges to the ’878 patent pending before the Board. Second, by filing this petition and motion *now* rather than at some later date, LinkedIn seeks to lessen the chance of duplicative efforts across multiple forums. For example, if LinkedIn were to wait to file a petition until either the Meta IPR is terminated or a Final Written Decision is issued, the parallel district court proceeding would be further along and the potential for

overlap greater. Thus, in the interest of preserving the resources of the Board and parties, LinkedIn is filing this motion for joinder rather than a standalone petition, and is doing so expeditiously. *See, e.g., General Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 at 16 (PTAB Sept. 6, 2017) (precedential) (“In exercising discretion...we are mindful of the goals of the AIA—namely, to improve patent quality and make the patent system more efficient by the use of post-grant review procedures”); *Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 at 6 (PTAB Mar. 20, 2020) (precedential) (“the Board takes a holistic view of whether efficiency and integrity of the system are best served by denying or instituting review”).

LinkedIn’s request for joinder is timely because it is filed within one month of institution of the Meta IPR. *See* 37 C.F.R. § 42.122(b). If LinkedIn is joined, LinkedIn proposes to streamline discovery and briefing by taking an “understudy role.” Accordingly, joinder will not unduly burden or prejudice the parties to the Meta IPR and will provide for a just, speedy, and inexpensive determination of related proceedings.

Counsel for LinkedIn has conferred with counsel for Meta, and Meta does not oppose joinder.

II. BACKGROUND AND RELATED PROCEEDINGS

1. On November 18, 2022, AlmondNet, Inc. and Intent IQ, LLC

(collectively, “AlmondNet”)—the purported Patent Owner—filed a complaint asserting the ’878 patent against Meta. The case is currently pending in the U.S. District Court for the Northern District of California (Case No. 4:23-cv-00438).

2. On August 4, 2023, Meta timely filed a Petition for *Inter Partes* Review challenging claims 1-4 and 6-23 of the ’878 patent. *See Meta Platforms, Inc. v. AlmondNet, Inc. et al*, IPR2023-01281, Paper 2 (PTAB Aug. 4, 2023). The Board instituted trial on February 21, 2024. *Meta Platforms, Inc. v. AlmondNet, Inc. et al*, IPR2023-01281, Paper 7 (PTAB Feb. 21, 2024).

3. On December 1, 2023, AlmondNet filed a complaint asserting the ’878 patent against LinkedIn in the U.S. District Court for the District of Delaware (Case No. 1:23-cv-01373).

4. The ’878 patent is also the subject of other litigation involving AlmondNet and various third parties:

- *AlmondNet, Inc. v. Samsung Elecs. Co.*, Case No. 4:22-cv-07515 (N.D. Cal.)
- *AlmondNet, Inc. v. Amazon.com, Inc.*, Case No. 6:22-cv-01204 (W.D. Tex.)
- *AlmondNet, Inc. v. Microsoft Corp.*, Case No. 6:22-cv-01206 (W.D. Tex.)
- *AlmondNet, Inc. v. Roku, Inc.*, Case No. 6:21-cv-00731 (W.D. Tex.)

- *Roku, Inc. v. AlmondNet, Inc.*, Case No. 1:21-cv-01035 (D. Del.)
- *Samsung Elecs. Co., Ltd. v. AlmondNet, Inc.*, Case IPR2024-00701 (PTAB)
- *Roku, Inc. v. AlmondNet, Inc.*, Case IPR2024-00666 (PTAB).

III. STATEMENT OF REASONS FOR RELIEF REQUESTED

As explained in detail below, LinkedIn’s motion for joinder should be granted because the motion is timely, and the *Kyocera* factors (*Kyocera Corp. v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (PTAB Apr. 24, 2013)) favor joinder.

a. Legal Standard

The Board may join as a party to an instituted *inter partes* review a person who has properly filed a petition for *inter partes* review that warrants institution. 35 U.S.C. § 315(c). Any request for joinder must be filed “no later than one month after the institution date of any *inter partes* review for which joinder is requested.” 37 C.F.R. § 42.122(b). A petition for *inter partes* review is not subject to the one-year statutory time bar if the petition is accompanied by a request for joinder. 35 U.S.C. § 315(b); 37 C.F.R. § 42.122(b).

“A motion for joinder should (1) set forth reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing review; and (4) address specifically how briefing and discovery

may be simplified.” *Samsung Elecs., Co. v. Raytheon Co.*, IPR2016-00962, Paper 12 at 5 (PTAB Aug. 24, 2016) (citing *Kyocera*, IPR2013-00004, Paper 15 at 4).

b. Petitioner’s Motion for Joinder is Timely

LinkedIn’s Motion for Joinder is timely because it is being filed within one month of February 21, 2024, when the Meta IPR institution decision issued. *See* 37 C.F.R. § 42.122(b).

c. The *Kyocera* Factors Favor Joinder

i. Factor 1: Joinder is appropriate

Joinder with the Meta IPR would be appropriate because LinkedIn’s Petition involves the same patent, challenges the same claims, and is based on the same grounds and same technical and librarian expert declaration testimony relied upon in Meta’s Petition. In short, LinkedIn’s Petition is substantively identical to the Meta IPR with respect to the prior art challenges. Only minor changes were necessary to properly identify the filing party and to update the discretionary denial analysis in light of LinkedIn’s different circumstances.¹ As such, LinkedIn’s Petition does “not present issues that might complicate or delay” the existing Meta IPR. *See Enzymotec Ltd. V. Neptune Techs & Bioresources, Inc.*, IPR2014-00556, Paper 19 at 6 (July 9, 2014) (“we are mindful of a policy preference for joining a

¹ *See* Section II.C of LinkedIn’s Petition.

party that does not present new issues that might complicate or delay an existing proceeding”). Joinder would have little, if any, impact on the Meta IPR because no new grounds would be added, the schedule would not be affected, no additional briefing or discovery would be required, and no additional burdens would be placed on Patent Owner, as detailed below.

Additionally, LinkedIn is currently involved in litigation based on Patent Owner’s allegation that LinkedIn’s products infringe the ’878 patent. *See* EX1020. LinkedIn therefore has a particular interest in the substantial questions of the ’878 patent’s unpatentability presented by Meta’s Petition.

Finally, joinder allows LinkedIn to continue participating in and driving resolution of the instituted IPR if Meta were to settle with Patent Owner or otherwise cease active participation in the proceeding. *See, e.g., ZTE(USA), Inc., et al. v. CyWee Group Ltd.*, IPR2019-00143, Paper 50 at 7-9 (PTAB July 17, 2020).

Accordingly, joinder is appropriate because it eliminates the possibility of duplicate efforts and ensures a just, speedy, and inexpensive resolution of these proceedings.

ii. Factor 2: LinkedIn’s Petition proposes no new grounds of unpatentability

LinkedIn’s Petition does not present any new grounds or arguments regarding unpatentability. It is substantively identical to Meta’s Petition in that

regard. The Board “routinely grants motions for joinder where the party seeking joinder introduces identical arguments and the same grounds raised in the existing proceeding.” *BlackBerry Corp. v. Uniloc 2017 LLC*, IPR2019-01283, Paper 10 at 8 (PTAB Nov. 5, 2019) (quoting *Samsung*, IPR2016-00962, Paper 12 at 9) (emphasis added). This factor therefore favors joinder.

iii. Factor 3: Joinder will not unduly burden or negatively impact the Meta IPR

Joinder will not unduly burden Patent Owner. Because LinkedIn’s Petition presents the same grounds and arguments as Meta’s Petition, there would be no new issues for Patent Owner to address post institution. *See Sony Corp. v. Memory Integrity, LLC*, IPR2015-01353, Paper 11 at 6 (PTAB Oct. 15, 2015) (granting motion for joinder and instituting IPR where “joinder should not necessitate any additional briefing or discovery from Patent Owner beyond that already required in [the original IPR]”).

Likewise, joinder will not negatively impact the trial schedule of the Meta IPR. If joinder of LinkedIn is granted, LinkedIn expressly consents to the schedule issued in the Meta IPR (IPR2023-01281, Paper 8). Further, as described below, LinkedIn agrees to take an “understudy” role in the joined proceeding, so long as Meta remains an active party in the joined proceeding.

Finally, LinkedIn's Petition relies on the same technical expert and identical declaration. *See* EX1002 (Decl. of Christopher Schmandt).

iv. Factor 4: Procedures to simplify briefing and discovery

In the event LinkedIn is joined, LinkedIn agrees to take an “understudy” role in the joined proceeding, so long as Meta remains a party and active participant in the proceeding. *See, e.g., Apple Inc. v. INVT SPE LLC*, IPR2019-00958, Paper 9 at 6-8 (PTAB May 30, 2019) (granting motion for joinder where the movant presented a substantively identical petition and agreed to take an “understudy” role in the joined proceeding); *Intel Corp. v. Alacritech, Inc.*, IPR2018-01352, Paper 11 at 3-5 (PTAB Jan. 8, 2019) (same). To be clear, LinkedIn only contemplates assuming the role of primary petitioner in the instituted Meta IPR if (i) Meta is terminated as a party to the proceeding, or (ii) Meta ceases participating in the proceeding such that the proceeding is no longer “meaningfully adversarial,” contrary to the public interest. *See ZTE*, IPR2019-00143, Paper 50 at 7-9 (allowing a joinder petitioner to assume the role of primary petitioner with respect to a motion to amend because the “trial no longer appears to be meaningfully adversarial” given the primary petitioner’s decision not to oppose revised amended claims), *aff’d*, 90 F.4th 1358 (Fed. Cir. 2024).

As an understudy in the Meta IPR, LinkedIn agrees to the following conditions regarding the joined proceeding, so long as Meta remains an active

party in the joined proceeding:

- All filings by LinkedIn in the joined proceeding shall be consolidated with the filings of Meta unless a filing solely concerns issues that do not involve Meta;
- LinkedIn shall not be permitted to raise any new grounds not already instituted by the Board in the Meta IPR, or introduce any argument or discovery not already introduced by Meta;
- LinkedIn shall be bound by any agreement between Patent Owner and Meta concerning discovery and/or depositions; and
- At deposition, LinkedIn shall not receive any direct examination, cross-examination, or redirect time beyond that permitted in this proceeding for Meta alone under either 37 C.F.R. § 42.53 or any agreement between Patent Owner and Meta.

See Apple, IPR2019-00958, Paper 9 at 7-8 (granting a motion for joinder where the movant proposed the above limitations on its role as understudy); *see also Intel Corp.*, IPR2018-01352, Paper 11 at 4-5 (granting a motion for joinder with such limitations on the understudy).

Additionally, with respect to any oral hearing, Meta will be responsible for the presentation before the Board. LinkedIn, when in the understudy role, will not request any additional time to independently argue before the Board or attempt to

submit its own demonstratives.²

Accordingly, if joinder is granted, briefing and discovery in the joined proceeding will be no more complex than if LinkedIn had never been joined. Consolidated briefing and discovery will ensure a simplified and efficient joined proceeding. As such, this factor also favors joinder.

IV. CONCLUSION

For the reasons above, LinkedIn respectfully requests that the Board institute LinkedIn's concurrently filed Petition for *Inter Partes* Review of U.S. Patent No. 10,715,878; and grant joinder.

Respectfully submitted,

Dated: March 20, 2024
HAYNES AND BOONE, LLP
2801 N. Harwood St., Suite 2300
Dallas, Texas 75201
Customer No. 27683

/Scott T. Jarratt/
Scott T. Jarratt
Lead Counsel for Petitioner
Registration No. 70,297

² While LinkedIn will not materially participate in calls with the Board, depositions, and any oral hearing, LinkedIn anticipates that its counsel will attend such events.

CERTIFICATE OF SERVICE

The undersigned certifies that, in accordance with 37 C.F.R. § 42.6(e) and 37 C.F.R. § 42.105, service was made on Patent Owner as detailed below.

Date of service March 20, 2024

Manner of service FEDERAL EXPRESS

Documents served PETITIONER’S MOTION FOR JOINDER UNDER 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22, and 42.122(b).

Persons served LOUIS J. HOFFMAN, P.C.
7689 East Paradise Lane
Suite 2
Scottsdale, AZ 85260
UNITED STATES

/Scott T. Jarratt/

Scott T. Jarratt
Lead Counsel for Petitioner
Registration No. 70,297