

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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QUALCOMM INCORPORATED,  
Petitioner,

v.

COBBLESTONE WIRELESS, LLC,  
Patent Owner.

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Case No. IPR2024-01336  
U.S. Patent No. 7,924,802

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**PETITIONER'S PRELIMINARY REPLY**

In effect, Patent Owner asks the Board to deny institution of *inter partes* review—the merits of which have already resulted in institution of the Samsung IPR<sup>1</sup>—simply because one of Qualcomm’s customers independently successfully petitioned for *inter partes* review on different grounds. The Board should deny Patent Owner’s request, and institute review, for at least the following reasons.

**I. PATENT OWNER IMPROPERLY TREATS QUALCOMM AND CISCO AS ONE AND THE SAME.**

Underlying the entire POPR—but especially Patent Owner’s discussion of *General Plastic* factors 1, 2, 4, and 5—is Patent Owner’s erroneous assertion that Qualcomm and Cisco are one and the same. *See* POPR 9–12. They are not. Cisco is just one of Qualcomm’s many customers. Qualcomm is not seeking a “second bite at the apple,” because it never had a first bite. Qualcomm had no involvement or input into the Cisco/HPE petition. The PTAB has held that such circumstances **do not** support discretionary denial under *General Plastics*. *See, e.g., Qualcomm Inc. v. Network System Technologies*, IPR2024-01081, Paper 14 at 31-33 (P.T.A.B. Oct. 1, 2024) (“*Network System*”).

**II. PATENT OWNER’S CITED CASES ARE DISTINGUISHABLE.**

Patent Owner’s own cases show why its factor 1 analysis misses the mark. *See* POPR at 7–9 (first citing *T-Mobile USA, Inc. v. VoIP-Pal.com, Inc.*, IPR2023-

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<sup>1</sup> The Samsung IPR was terminated January 2, 2025.

00638, Paper 11 (P.T.A.B. July 28, 2023) (“*T-Mobile*”); and then citing *Apple, Inc. v. Uniloc 2017 LLC*, IPR2020-00854, Paper 9 (P.T.A.B. Oct. 28, 2020) (precedential)) (“*Uniloc*”). Each case presented the very different situation in which the same Petitioner filed a second petition after the Board *denied* institution of an earlier petition. *See T-Mobile* at 4 (denying institution where “a second petition has been filed after the first was denied on the merits”); *Uniloc* at 4 (denying institution where the “petition is Petitioner’s second challenge to the patent”). Here, in contrast, the Board *granted* institution of the earlier relevant petitions *after* Qualcomm filed its petition in the present case: the Samsung IPR, of which the instant petition is a copycat; and the Cisco IPR, to which Patent Owner argues the instant petition is serial. Indeed, the *T-Mobile* decision recognizes that *General Plastic* may be inapplicable in circumstances like the present case. *Contra T-Mobile* at 4 (“The current circumstances, in which a second petition has been filed after the first was denied on the merits, are the particular circumstances that *General Plastic* was intended to address.”).

Thus, unlike in *T-Mobile* and *Uniloc*, there is no concern here that Qualcomm seeks an unfair second bite at the apple.

### **III. A RECENT BOARD DECISION INTERPRETING *GENERAL PLASTIC* SUPPORTS INSTITUTION.**

The POPR fails to account for the fact that this is a copycat petition, which heavily weighs against denial under factors 3, 6, and 7. Like here, in *Network System*,

the parties to the earlier IPR settled and moved to terminate. *Network System* at 37. After considering the *General Plastic* factors, the Board instituted the petition.

Under factor 3, the Board found that the “potential for abuse” from roadmapping is minimized for a copycat petition that is “based on the same prior art and the same unpatentability theories” as in the earlier petition. *Id.* at 34–45. Likewise, here, Patent Owner faces minimal prejudice in responding to patentability arguments to which it had already responded in the Samsung IPR and which the Board has already instituted.

Under factors 6 and 7, the Board found that the copycat IPR would have minimal impact on Board operations because the Board had already “contemplated using its resources” for the earlier, instituted IPR. *Id.* at 37–38. Additionally, the Board emphasized that “the Board’s mission to improve patent quality and restore confidence in the presumption of validity that comes with issued patents outweighs the impact on Board resources needed to evaluate the merits of a petition.” *Id.* (quoting *Code200, UAB v. Bright Data Ltd.*, IPR2022-00861, Paper 18 at 5 (Vidal Aug. 23, 2022) (Director decision) (precedential)). For the same reasons, instituting the instant petition furthers the Board’s mission while using no more resources than the Board had contemplated using in the Samsung IPR.

Thus, the Board should not allow Patent Owner to avoid instituted invalidity grounds simply because one Qualcomm customer independently filed a petition.

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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the above document was served on January 8, 2025, 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 Patent Owner:

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## **CERTIFICATE OF COMPLIANCE**

Pursuant to 37 C.F.R the undersigned hereby certifies that this reply complies with the type-volume limitation of 37 C.F.R. § 42.24 because this reply contains 707 words, and is 3-pages, excluding the parts of the brief exempted by 37 CFR § 42.24(a).

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