

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

QUALCOMM INCORPORATED,
Petitioner,

v.

COBBLESTONE WIRELESS, LLC,
Patent Owner.

IPR2024-01336
Patent 7,924,802 B2

PATENT OWNER'S PRELIMINARY SUR-REPLY

PATENT OWNER'S EXHIBIT LIST

No.	Description
Ex. 2001	<i>Samsung Elecs. Am, Inc. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00606, Institution Decision, Paper 13 (PTAB Sept. 10, 2024)
Ex. 2002	<i>Cellco P'ship d/b/a Verizon Wireless et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00946, Petition, Paper 1 (PTAB June 28, 2024)
Ex. 2003	<i>Hewlett Packard Enter. Co. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00707, Institution Decision, Paper 17 (PTAB Sept. 24, 2024)
Ex. 2004	<i>Cellco P'ship d/b/a Verizon Wireless et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00946, Termination Decision, Paper 12 (PTAB Nov. 15, 2024)
Ex. 2005	<i>Samsung Elecs. Am, Inc. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00606, Motion to Terminate, Paper 19 (PTAB Nov. 1, 2024)
Ex. 2006	Email correspondence between PTAB and counsel regarding conference call addressing Petitioner's motion for joinder in this IPR, dated November 13-18, 2024
Ex. 2007	<i>Samsung Elecs. Am, Inc. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00606, Scheduling Order, Paper 14 (PTAB Sept. 12, 2024)
Ex. 2008	<i>Hewlett Packard Enter. Co. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00707, Patent Owner Preliminary Response, Paper 7 (PTAB June 27, 2024)
Ex. 2009	<i>Samsung Elecs. Am, Inc. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00606, Petition, Paper 3 (PTAB Feb. 26, 2024)
Ex. 2010	<i>Hewlett Packard Enter. Co. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00707, Petition, Paper 3 (PTAB Mar. 19, 2024)
Ex. 2011	<i>Samsung Elecs. Am, Inc. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00606, Patent Owner Preliminary Response, Paper 8 (PTAB June 14, 2024)
Ex. 2012	<i>Samsung Elecs. Am, Inc. et al. v. Cobblestone Wireless, LLC</i> , IPR2024-00606, Termination Order, Paper 20 (PTAB Jan. 2, 2025)

The Board should exercise its discretion and deny institution of the Petition as an unjustified follow-on petition under *General Plastic*. Petitioner does not dispute that it had actual knowledge of the prior art in the Petition at least by the time the prior Cisco IPR was filed (Factor 2). Petitioner also provides no explanation for the fact that it filed the Petition over five months after the filing of the Cisco IPR (Factors 4 and 5). Petitioner further does not dispute that it had access to both the petitions and the POPRs in the Samsung IPR as well as the Cisco IPR (Factor 3). And Petitioner cannot dispute that its motion to join the Samsung IPR must be denied (Factors 6 and 7)—the Samsung IPR was terminated on January 2, 2025. Ex. 2012.

Petitioner Qualcomm focuses its arguments for institution of its follow-on petition on the fact that Cisco, one of the parties to an instituted IPR with different grounds but on the same patent, is not identical to Qualcomm. But, of course, no such identity of parties is required. Where, as here, Cisco and Qualcomm have a “significant relationship”—Cisco is not only a Qualcomm customer, but is also an RPI to Qualcomm’s proceeding—Factor 1, like all of the other *General Plastic* factors, weighs in favor of denial of institution.

I. Petitioner Qualcomm has a “significant relationship” with Cisco.

Petitioner Qualcomm entirely ignores that Cisco is an RPI to the Petition. Pet. at 105 (“Qualcomm also identifies its customer Cisco Systems, Inc., which has been named as a defendant in a pending litigation involving the ’802 Patent, as an

additional real party in interest in this Petition.”). Moreover, Qualcomm admits that it “file[d] this Petition because Cobblestone has sued at least one of Qualcomm’s customers [Cisco] for infringing the ’802 Patent.” *Id.* This is the precise type of “significant relationship” that *Valve* and its progeny contemplate.

For example, in *Valve Corp. v. Electronics Scripting Products, Inc.*, HTC had previously filed a prior petition challenging the same patent that Valve challenged in the petition at issue in that proceeding. IPR2029-00062, Paper 11 at 9 (PTAB Apr. 2, 2019). There, petitioner Valve provided certain technology to the prior petitioner HTC, HTC was alleged to infringe due to incorporation of the Valve technology in its products, and Valve was aware of the infringement allegations at the time HTC filed its petition. *Id.* at 9-10. In this precedential decision, the Board held this was a “significant relationship” that weighed in favor of denying institution. *Id.* at 10.

And here, there is an even more “significant relationship” between Cisco and Qualcomm. Not only is the prior petitioner Cisco a customer of Qualcomm and Qualcomm filed the petition in response to its customer being sued for infringement, Cisco is *an RPI* to the instant Qualcomm Petition. Congress has recognized the significance of the relationship between a petitioner and other RPIs. For example, Section 315(b) bars not only IPR petitions “filed more than 1 year after the date on which the *petitioner, real party in interest*, or privy of the petition is served with a complaint alleging infringement of the patent.” A “statutory estoppel provision[]”

like Section 315(b) “seeks to protect patent owners from harassment via successive petitions by the same or related parties, to prevent parties from having a ‘second bite at the apple,’ and to protect the integrity of both the USPTO and federal courts by assuring that all issues are promptly raised and vetted.” CTPG at 12-13. Applying *General Plastic* to discretionarily deny a follow-on petition in which a prior petitioner is a co-RPI is consistent with these same public policy goals.¹

II. The *Network Systems* case is readily distinguishable.

Qualcomm’s preliminary reply relies heavily on *Qualcomm Inc. v. Network System Technologies, LLC*, IPR2024-01081, Paper 14 (PTAB Oct. 1, 2024) (“*Network Systems*”). *Network Systems* is readily distinguishable. The Board found that there was not a “significant relationship” between Qualcomm and the prior petitioner in that proceeding (Samsung) because the only connection between Qualcomm and Samsung was that they had both been sued for infringing the same patent by the same plaintiff. *Id.* at 32. There was no allegation or evidence either was a customer of the other. Nor was Samsung listed as an RPI in the later proceeding.

¹ Petitioner criticizes Patent Owner’s reliance on *T-Mobile* and *Uniloc* in its Factor 1 analysis. Reply at 1-2. But Patent Owner does not rely on these cases for the “significant relationship” issue, but rather for the point that having overlapping challenged claims favors denial of institution under Factor 1. POPR at 8.

Date: January 15, 2025

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CERTIFICATE OF SERVICE (37 C.F.R. § 42.6(e)(1))

The undersigned hereby certifies that the above document was served on January 15, 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 Petitioner:

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