UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SPORTRADAR AG,
Petitioner

v.

SPORTSCASTR INC.,
(D/B/A PANDA INTERACTIVE),
Patent Owner.

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IPR2025-00265
U.S. Patent No. 10,425,697

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**PETITIONER'S MOTION FOR JOINDER TO INTER PARTES REVIEW IPR2024-01308 PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)**

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## I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Sportradar AG ("Petitioner") hereby respectfully submits this Motion for Joinder for consideration in conjunction with a Petition ("the Petition") for *inter partes* review of U.S. Patent No. 10,425,697 ("the '697 patent") filed on December 11, 2024.

Pursuant to 35 U.S.C. § 315(c), 37 C.F.R. §§ 42.122(b) and 42.22, Petitioner requests institution of an *inter partes* review and joinder with *Genius Sports Ltd. v. SportsCastr Inc. d/b/a Panda Interactive*, IPR2024-01308 ("the Genius IPR"), which the Board instituted on March 6, 2025, concerning the same claims (1-9) of the '697 patent at issue in the December 11, 2024 Petition. This request is being submitted within the one-month time limit set forth in 37 C.F.R. § 42.122(b). Petitioner submits that the request for joinder is consistent with the policy objectives surrounding *inter partes* reviews, as it is the most expedient way "to secure the just, speedy, and inexpensive resolution of every proceeding." *See* 37 C.F.R. § 42.1(b); *see also HTC v. Parthenon Unified Memory Architecture LLC*, IPR2017-00512, Paper No. 12 at 5-6 (P.T.A.B. June 1, 2017). The Petition and the Genius IPR Petition are substantially identical with respect to the asserted grounds, are based on

the same prior art combinations and supporting evidence[1], and asserted against the same claims. Further, upon joining the Genius IPR, Petitioner will act as an "understudy" and will not assume an active role unless Genius ceases to participate in the instituted IPR. Accordingly, the proposed joinder will not unduly complicate the Genius IPR nor adversely impact its schedule. As such, the requested joinder will promote judicial efficiency in determining the patentability of the '697 patent without prejudice to Patent Owner. Moreover, Petitioner has spoken with Genius' counsel of record in IPR2024-01308, and Genius does not oppose this requested joinder.

## II. STATEMENT OF MATERIAL FACTS

1. The '697 patent has been asserted against Petitioner in *SportsCastr Inc. v. Sportradar Group, AG*., No. 2:23-cv-04772-JRG (E.D. Tex.). The '697 patent has also asserted against Genius in *SportsCastr Inc. v. Genius Sports Ltd.*, No. 2:23-cv-04771-JRG (E.D. Tex.). Both cases ("Texas Litigation") were filed October 5, 2023, and are currently pending.

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[1] The Petition is supported by the declaration testimony of Dr. Omid Kia (Ex. 1001), who has adopted the substantive opinions of the expert testimony of Dr. Stephen Wicker relied upon in the Genius IPR. *See also* Ex. 1049.

2. The '697 patent is one member of a patent family, other members of which are also asserted in the Texas Litigation, and each of which shares the same specification: U.S. Patent Nos. 10,805,687; 10,425,697; and 11,039,218.[2] These patents are the subject of six IPR Petitions filed by Genius ("Genius IPRs"): the '697 is the subject of IPR2024-01308 (claims 1-9) and IPR2024-01309 (claims 19-25, 27-30); the '687 is the subject of IPR2024-01305 (claims 1-9) and IPR2024-01307 (claims 19-25, 27-30); and the '218 is the subject of IPR2024-01310 (claims 1-15) and IPR2024-01311 (claims 16-30). In addition to the instant petition, Petitioner has also filed five IPR petitions corresponding to the other five Genius IPRs, and, if instituted, will file §42.122(b) motions to join those IPRs as well.
3. The abovementioned "copycat" Petitions (including the present Petition) are identified as follows: the '697 is the subject of IPR2025-00265 (claims 1-9) and IPR2025-00266 (claims 19-25, 27-30); the '687 is the subject of IPR2025-00268 (claims 1-9) and IPR2025-0269

[2] Each patent in the family will be referenced by its last three digits. PO recently amended its complaint in the Texas Litigation to include claims 10-18 and 26 of the '697 and '687.

(claims 19-25, 27-30); and the '218 is the subject of IPR2025-00273 (claims 1-15) and IPR2025-00275 (claims 16-30).

4. Petitioner has also filed four other, contemporaneous IPR petitions challenging additional claims of the '697 and '687 belatedly asserted in the Texas Litigation and not addressed by the Genius IPRs: two IPR Petitions collectively challenging claims 1, 10-18, 23, 24, and 26 of the '697; and two IPR Petitions collectively challenging claims 1, 10-18, 23, 24, and 26 of the '687.
5. The four other IPR Petitions challenging the additional claims of the '697 and '687 not addressed by the Genius IPRs are identified as follows: the '697 is the subject of IPR2025-00313 (claims 1, 10-18) and IPR2025-00314 (claims 23, 24 and 26); and the '687 is the subject of IPR2025-00315 (claims 1, 10-18) and IPR2025-00316 (claims 23, 24 and 26).
6. While in a different patent family than the '697, '687 and '218, PO has also belatedly asserted US 11,871,088 ("the '088") against Petitioner in the Texas Litigation. The '088 is the subject of the following IPRs filed by Genius: IPR2025-00251 (claims 1-7 and 24-34) and IPR2025-002522 (claims 8-23). Petitioner has now also filed two "copycat"

Petitions direct to the '088: IPR2025-00634 (claims 1-7 and 24-34) and IPR2025-00635 (claims 8-23).

7. The Board instituted trial in Genius' IPR2024-01308 (claims 1-9 of the '697 patent) on March 6, 2025.
8. The present Petition asserts the same grounds of unpatentability against the same claims, relies on the same evidence, and relies on expert witness testimony of corresponding substance, as the Genius IPR.

## III. REASONS FOR REQUESTED RELIEF

### A. Legal Standard

The Board may grant a motion for joining an inter partes review petition with another inter partes review proceeding. 35 U.S.C. § 315(c). A petitioner may request joinder up to one month after the institution date of the proceeding to which joinder is requested, without prior authorization. 37 C.F.R. § 42.122(b). The Board, in determining whether to exercise its discretion to grant joinder, considers whether the joinder motion: (1) sets forth the reasons why joinder is appropriate; (2) identifies any new grounds of unpatentability asserted in the petition; (3) explains what impact (if any) joinder would have on the trial schedule for the existing review; and (4) addresses specifically how briefing and discovery may be simplified. *Central Security Group — Nationwide, Inc. d/b/a Alert360 v. Ubiquitous Connectivity, LP*, IPR2019-01610, Paper No. 12, p. 6 (P.T.A.B. Feb. 26, 2020).

### B. The Motion for Joinder is Timely

Pursuant to 37 C.F.R. § 42.122(b), joinder can be requested without prior authorization no later than one month after the institution date of the proceeding to which joinder is requested. This motion is being filed no later than one month from the March 6, 2025 institution date of IPR2024-01309. This motion is timely.

### C. The Factors Weigh in Favor of Granting the Motion for Joinder

All four factors weigh in favor of granting the motion for joinder. The Petition is substantively identical to the petition in the Genius IPR. Petitioner does not present any new grounds of unpatentability. Additionally, as all issues are substantively the same and Petitioner will act as an "understudy," joinder will have no impact on the pending schedule of the Genius IPR. *See Sony Corp. et al. v. Memory Integrity, LLC.*, IPR2015-01353, Paper No. 11, p. 6 (P.T.A.B. Oct. 5, 2015) (granting motion for joinder where petitioner requested an "understudy" role). Moreover, the briefing and discovery will be simplified by resolving all issues in a single proceeding. Accordingly, joinder is appropriate.

#### 1. Joinder with the Genius IPR Is Appropriate

The Board "routinely grants motions for joinder where the party seeking joinder introduces identical arguments and the same grounds raised in [an] existing proceeding." *Central Security*, IPR2019-01610, Paper No. 12, p. 6 (internal citations omitted). Here, joinder with the Genius IPR is appropriate because the present

Petition introduces the same arguments and the same grounds raised in the existing Genius IPR (i.e., challenges the same claims of the same patent, relies on substantively the same expert opinions, and is based on the same grounds and combinations of prior art submitted in the instituted Genius Petition). Although there are minor differences related to the mandatory notices and grounds for standing, there are no substantive changes to the facts, citations, evidence, or arguments relied upon to assert unpatentability of the claims relative to the Genius Petition.

Because these proceedings are substantively identical, good cause exists for joining this proceeding with the Genius IPR so that the Board, consistent with 37 C.F.R. § 42.1(b), can efficiently "secure the just, speedy, and inexpensive resolution" of the present Petition and Genius' Petition in a single proceeding, as compared with two separate proceedings.

**2. Petitioner Does Not Propose New Grounds**

As noted above, the Petition challenges the same claims of the '697 patent, relying on substantively the same expert opinions, and on the same grounds and combinations of prior art at issue in the Genius IPR. *See Sony Corp. et al. v. Memory Inegrity, LLC*, IPR2015-01353, Paper No. 11 at 5-6 (P.T.A.B. Oct. 5, 2015) (granting institution of IPR and motion for joinder where petitioner relied "on the same prior art, same arguments, and same evidence, including the same expert and a substantively identical declaration"); *see also Central Security*, IPR2019-01610,

Paper No. 12, p. 8 (granting motion for joinder where the Petitions challenge the same claims on the same grounds using the same prior art).

### 3. Joinder Will Not Negatively Impact the Genius IPR Trial Schedule

Joinder should have no meaningful impact on the Genius IPR trial schedule because the present Petition presents no new issues or grounds of unpatentability. *See Sony Corp*., IPR2015-01353, Paper No. 11 at 6 (granting IPR and motion for joinder where "joinder should not necessitate any additional briefing or discovery from Patent Owner beyond that already required in [the original IPR]"). Further, Petitioner explicitly consents to the existing IPR2024-01308 trial schedule. There are no new issues for the Board to address, and Patent Owner will not be required to present any additional responses or arguments upon joinder.

Furthermore, with respect to the entirely optional Patent Owner's Preliminary Response ("POPR") to the present Petition due April 8, 2025, Patent Owner has already analyzed the same substantive issues presented in the present Petition, and presented those arguments in its POPR filed on December 10, 2024 in the Genius IPR.

Accordingly, joinder with the Genius IPR does not unduly burden or negatively impact the trial schedule.

### 4. Procedures to Simplify Briefing and Discovery

Petitioner explicitly agrees to take an "understudy" role, which will simplify briefing and discovery. Specifically, Petitioner explicitly agrees, upon joining the Genius IPR, that the following conditions shall apply so long as the current lead petitioner in IPR2024-01308 remains an active party:

a) Petitioner consents to be bound by the Scheduling Order Issued in IPR2024-01308 (Paper No. 10);

b) Petitioner shall not make any substantive filings and shall be bound by the filings of Genius, unless a filing concerns termination and/or settlement;

c) Petitioner shall not present any argument or make any presentation at oral hearing;

d) Petitioner shall not seek to cross-examine or defend the cross-examination of any witness; and

e) Petitioner shall not seek discovery from Patent Owner.

*See*, e.g., *Central Security*, IPR2019-01610, Paper No. 12, p. 8 ("Petitioner avers it will take an 'understudy' role in the [joined] IPR by consolidating all filings, refraining from advancing new arguments, binding itself to any discovery agreements, and limiting its deposition time to the time already allotted . . . Thus, joinder would result in the just, speedy, and inexpensive resolution of the instant Petition as well as the petition filed in the [joined] IPR.").

Unless and until the current petitioner ceases to participate in the instituted IPR proceeding, Petitioner will not assume an active role therein.

Thus, by Petitioner accepting an "understudy" role, Patent Owner and the current petitioner in the Genius IPR can comply with the existing trial schedule without requiring any duplicative efforts by the Board or the Patent Owner. These steps will minimize any potential complications or delay that potentially may result from joinder. Petitioner is further amenable to any other reasonable conditions the Board deems necessary.

## IV. GENERAL PLASTIC DOES NOT WARRANT DENIAL

*General Plastic* is largely inapplicable to the current situation. *General Plastic* addresses serial/or follow-on petitions, not copycat petitions like this one. *Videndum Prod. Sols., Inc. v. Rotolight Ltd.*, IPR2023-01218, Paper No. 12 at 6 (Vidal April 19, 2024) (Director decision) (citing *Ford*, IPR2023-00763, Paper No. 28 at 11) ("General Plastic has not been extended to any cases in which the first and second petitioners do not have a significant relationship."); *eBay, Inc. v. Lexos Media IP, LLC*, IPR2024-00336, Paper No. 11, at 13 (P.T.A.B. Feb. 23, 2024) ("Here the General Plastic factors are not at issue; Petitioner here is not filing this Petition as a follow-on to prior petitions filed by Petitioner challenging claims of the same patent.").

Consideration of the specific General Plastic factors themselves only reinforces this conclusion. The factors are set forth below:

> 1) whether the same petitioner previously filed a petition directed to the same claims of the same patent;
>
> 2) whether at the same time of filing of the first petition the petitioner knew of the prior art asserted in the second petition or should have known of it;
>
> 3) whether at the time of filing of the second petition the petitioner already received the patent owner's preliminary response to the first petition or received the Board's decision on whether to institute review in the first petition;
>
> 4) the length of time that elapsed between the time the petitioner learned of the prior art asserted in the second petition and the filing of the second petition;
>
> 5) whether the petitioner provides adequate explanation for the time elapsed between the filings of multiple petitions directed to the same claims of the same patent;
>
> 6) the finite resources of the Board; and
>
> 7) the requirement under 35 U.S.C. § 316(a)(11) to issue a final determination not later than 1 year after the date on which the Director notices institution of review.

*General Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper No. 19 (P.T.A.B. Sept. 6, 2017) (precedential as to § II.B.4.i).

Factors one-three of the General Plastic factors all strongly favor Petitioner. Petitioner had not previously filed an IPR challenge to the '697

patent prior to filing the present Petition, a key fact that fact weighs heavily against the exercise of discretionary denial. Furthermore, Petitioner has included a *Sotera* stipulation in its Petition. There is also clearly no effort by the Petitioner to "road-map" or watch-and-learn from the previously filed petition(s) and/or preliminary responses – Petitioner has simply filed a "copycat" version of the Genius IPR petition. These factors all counsel against discretionary denial.

Factors four, five and seven have limited relevance when a motion for joinder with a copycat petition is presented. Moreover, those factors favor Petitioner as the Petition had already been filed months ago (December 11, 2014), and the instant Motion is being filed within days of institution of the Genius IPR (March 6, 2025). Additionally, there should be no delay in Genius IPR trial given that Petitioner has stipulated that it will adhere to the Scheduling Order currently in place in the Genius IPR.

The sixth factor also favors Petitioner as the Board has already found that the same challenges presented in the present Petition are meritorious and demonstrate a reasonable likelihood that Petitioner will prevail at trial. Genius IPR, Institution Decision, Paper No. 9. *See also Code200 v. Bright Data Ltd.,* IPR2022-00861, Paper No. 18, p. 6 (P.T.A.B. Aug. 23, 2022) (citing *Cuozzo Speed Techs.*, 579 U.S. at 272) ([It is] "the Board's 'mission to improve patent

quality and restore confidence in the presumption of validity that comes with issued patents'" which "outweighs the impact on Board resources needed to evaluate the merits of a petition.").

Accordingly, all of the General Plastic factors counsel against discretionary denial and in favor granting of Petitioner's Motion. Indeed, any "concerns of fairness are outweighed by the benefits to the patent system of improving patent quality by reviewing the merits of the challenges raised in the petition[], which have not been addressed to date." *Code200*, Vidal Remand (Paper No. 18) at 6, citing *General Plastic* at 16 (citing H.R. Rep. No. 112-98, pt. 1, at 40 (2011)); *see also Samsung Elecs. Am., Inc. v. Uniloc Lux. S.A.,* IPR2017-01797, Paper No. 8 at 33 (P.T.A.B. Feb. 6, 2018) ("Patent Owner's complaint about the multiple [IPR] petitions filed against [its] patent is not persuasive when ***the volume appears to be a direct result of its own litigation activity***.") (emphasis added).

## V. CONCLUSION

For at least the reasons explained above, Petitioner respectfully requests that the Board grant the Petition and grant this motion for joinder with the instituted Genius IPR.

Date: March 14, 2025

Respectfully submitted,

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## CERTIFICATE OF SERVICE

In compliance with 37 C.F.R. § 42.6(e), the undersigned hereby certifies that a copy of the foregoing Petitioner's Motion for Joinder to *Inter Partes* Review IPR2024-01308 Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b) was served by email correspondence on the following correspondence email addresses of record for Patent Owner:

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Date: March 14, 2025

Respectfully submitted,

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