

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AESTHETIC MANAGEMENT PARTNERS, LLC AND AESTHETIC
MANAGEMENT PARTNERS, INC.,
Petitioner,

v.

HYDRAFACIAL LLC,
Patent Owner.

Case No. IPR2025-01217
Patent No. 11,446,477

**CONTINGENT UNOPPOSED MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c) AND 37 C.F.R. §§ 42.22 AND 42.122(b)
TO INTER PARTES REVIEW IPR2025-00453**

TABLE OF CONTENTS

I.	PRELIMINARY STATEMENT	1
II.	STATEMENT OF MATERIAL FACTS	2
III.	STATEMENT OF RELIEF REQUESTED	3
	A. Legal Standard	3
	B. Each of the Factors Weighs in Favor of the Board Granting the Motion for Joinder	3
	1. Joinder with the Eunsung IPR is Appropriate.....	4
	2. Petitioner Does Not Propose New Grounds of Unpatentability	6
	3. No Impact on the Eunsung IPR Trial Schedule	7
	4. Briefing and Discovery Will Be Simplified.....	8
IV.	CONCLUSION.....	10

TABLE OF AUTHORITIES

CASES

<i>Blue Coat Systems, Inc. v. Finjan, Inc.</i> , IPR2016-00480, Paper No. 9 (PTAB June 24, 2016)	1
<i>Dell, Inc. v. Network-1 Security Solutions, Inc.</i> , IPR2013-00385, Paper No. 17 (PTAB July 29, 2013).....	3
<i>Everlight Elecs. Co. Ltd., v. Document Security Sys., Inc.</i> , IPR2018-01260, Paper No. 12 (PTAB Nov. 14, 2018).....	5, 6
<i>Mylan Pharms. Inc. v. Novartis AG</i> , IPR2015-00268, Paper No. 17 (PTAB Apr. 10, 2015)	9
<i>Par Pharm., Inc. v. Novartis AG</i> , IPR2016-01023, Paper No. 20 (PTAB Oct. 27, 2016).....	6
<i>Samsung Elecs. Co., Ltd. v. Raytheon Co.</i> , IPR2016-00962, Paper No. 12 (PTAB Aug. 24, 2016).....	4
<i>Samsung Electronics America, Inc. v. Uniloc 2017 LLC</i> , IPR2018-01383, Paper No. 9 (PTAB Nov. 19, 2018).....	4
<i>Sony Corporation v. Memory Integrity, LLC</i> , IPR2015-01353, Paper No. 11 (PTAB Oct. 5, 2015).....	4, 6, 7, 10

STATUTES

35 U.S.C. § 315(c)	1, 3
35 U.S.C. § 316(a)(11).....	8

REGULATIONS

37 C.F.R. § 42.1(b)	5
37 C.F.R. § 42.100(c).....	8
37 C.F.R. § 42.122(b)	1
37 C.F.R. § 42.22	1

37 C.F.R. § 42.53	9
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I. PRELIMINARY STATEMENT

Aesthetic Management Partners, LLC and Aesthetic Management Partners, Inc. (collectively, “Petitioner”) respectfully submit this Motion for Joinder, together with a Petition for *Inter Partes* Review of U.S. Patent No. 11,446,477 (“the AMP Petition”) filed concurrently herewith. Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner requests institution of an *inter partes* review and joinder with the *inter partes* review in *Eunsung Global Corp. v. HydraFacial LLC*, IPR2025-00453 (“the Eunsung IPR”).

Petitioner’s Motion for Joinder is timely under 37 C.F.R. §§ 42.22 and 42.122(b) as the Board has not yet issued an institution decision in the Eunsung IPR, therefore, the Petition and Motion satisfy the requirement of the request being filed no later than one month from institution of a trial. *Blue Coat Systems, Inc. v. Finjan, Inc.*, IPR2016-00480, Paper No. 9 at 7 (PTAB June 24, 2016) (granting motion for joinder and rejecting patent owner’s contention that joinder motion filed before institution motion was premature). The AMP Petition is also narrowly tailored to the same challenged claims, prior art, and grounds for unpatentability that are the subject of the Eunsung IPR.

Petitioner submits that joinder is appropriate because it will not unduly burden or prejudice the parties to the Eunsung IPR while efficiently resolving the

question of the validity of U.S. Patent No. 11,446,477 (the “’477 patent”) in a single proceeding.

In the alternative, to the extent that IPR2025-00453 terminates prior to the Board’s decision on this Motion for Joinder, rendering this Motion moot, AMP respectfully requests that the Board evaluate its Petition on the merits.

II. STATEMENT OF MATERIAL FACTS

1. On July 8, 2024, Patent Owner filed an infringement action against Aesthetic Management Partners, LLC and Aesthetic Management Partners, Inc. , *HydraFacial LLC f/k/a Edge Systems LLC v. Aesthetic Management Partners, LLC et al*, 2-24-cv-02480 (W.D. Tenn.).

2. On August 16, 2024, Patent Owner filed an infringement action against Eunsung Global Corp. (“Eunsung”), *HydraFacial LLC v. Luvo Medical Technologies et al*, 2-24-cv-00587 (DUT).

3. On January 14, 2025, Eunsung filed a petition for *inter partes* review (IPR2025-00453) (“the Eunsung Petition”) requesting cancellation of claims 1-20 of the ’477 patent.

4. The Eunsung Petition and the AMP Petition are substantively identical; they contain the same grounds (based on the same prior art combinations and supporting evidence) against the same claims and rely on the same evidence,

including an expert declaration that adopts the relevant portions of the expert declaration submitted in the Eunsung IPR.

5. Petitioner has conferred with counsel for Eunsung and confirmed that it does not oppose this motion.

III. STATEMENT OF RELIEF REQUESTED

A. Legal Standard

Pursuant to 35 U.S.C. § 315(c), the Board may grant a motion for joining an *inter partes* review petition with another *inter partes* review proceeding. *See* 35 U.S.C. § 315(c). 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. *Dell, Inc. v. Network-1 Security Solutions, Inc.*, IPR2013-00385, Paper No. 17 at 4 (PTAB July 29, 2013).

B. Each of the Factors Weighs in Favor of the Board Granting the Motion for Joinder

All four factors weigh in favor of granting the motion for Petitioner. The AMP Petition is substantively identical to the Eunsung Petition. Petitioner does not present any new grounds of unpatentability, consistent with PTAB joinder practice. Additionally, as all substantive issues are identical and Petitioner will act as an

“understudy,” joinder should have no impact on the pending schedule of the Eunsung IPR. *See Sony Corporation v. Memory Integrity, LLC*, IPR2015-01353, Paper No. 11 at 6 (PTAB Oct. 5, 2015) (granting motion for joinder where petitioners requested an “understudy” role); *see also Samsung Electronics America, Inc. v. Uniloc 2017 LLC*, IPR2018-01383, Paper No. 9 at 4-5 (PTAB Nov. 19, 2018) (granting motion for joinder). Moreover, the briefing and discovery will be simplified by resolving all issues in a single proceeding. Accordingly, joinder is appropriate.

1. Joinder with the Eunsung IPR is Appropriate

The Board “routinely grants motions for joinder where the party seeking joinder introduces identical arguments and the same grounds raised in the existing proceeding.” *Samsung Elecs. Co., Ltd. v. Raytheon Co.*, IPR2016-00962, Paper No. 12 at 9 (PTAB Aug. 24, 2016) (emphasis in original) (internal quotations and citations omitted). Here, joinder with the Eunsung IPR is appropriate because the AMP Petition submits identical arguments and the same grounds introduced in the existing Eunsung IPR, consistent with PTAB joinder practice.

More specifically, the AMP Petition copies verbatim the challenges set forth in the Eunsung Petition and relies on an expert declaration that adopts the relevant portions of the expert declaration submitted in the Eunsung IPR. The only differences between the AMP Petition and the Eunsung Petition relate to

formalities of a different party filing the petition; there are no other changes to the facts, citations, evidence, or arguments introduced in the Eunsung Petition. While the AMP Petition relies on a declaration from a different expert witness, AMP's expert reviewed and adopted the relevant portions of the expert declaration supporting Eunsung's IPR, and AMP's expert declaration does not include any new or additional opinions. *See Everlight Elecs. Co. Ltd., v. Document Security Sys., Inc.*, IPR2018-01260, Paper No. 12 at 6-7 (PTAB Nov. 14, 2018) (granting motion for joinder where petitioner submitted separate but substantially identical expert declaration). Moreover, assuming that Eunsung does not terminate its IPR before its expert is deposed, Petitioner waives their expert declaration and agrees to be bound by the declaration(s) and deposition(s) of Eunsung's expert. Because these proceedings are virtually identical, good cause exists for joining this proceeding with the Eunsung 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 AMP Petition and the Eunsung Petition in a single proceeding.

Moreover, granting joinder will not prejudice Patent Owner or the current petitioner, Eunsung. As discussed above, the AMP Petition does not raise any new ground that is not raised in the Eunsung Petition. Therefore, there should be little or no additional cost to Patent Owner or Eunsung due to AMP's joinder. Petitioner

has conferred with counsel for Eunsung and confirmed that it does not oppose this motion.

2. Petitioner Does Not Propose New Grounds of Unpatentability

As discussed above, the AMP Petition does not assert any new grounds of patentability. It challenges the same claims of the '477 patent based on the same arguments, substantially the same evidence, and the same grounds of unpatentability as the Eunsung IPR. *See Sony*, IPR2015-01353, Paper No. 11 at 5-6 (granting institution of IPR and motion for joinder where petitioners relied “on the same prior art, same arguments, and same evidence, including the same expert and a substantively identical declaration”); *Everlight*, IPR2018-01260, Paper No. 12 at 6-7 (granting motion for joinder where petitioner “asserts the same unpatentability grounds” and “relies on the same prior art analysis [even] though it relies on a different expert”) (emphasis added); *see also Par Pharm., Inc. v. Novartis AG*, IPR2016-01023, Paper No. 20 at 14 (PTAB Oct. 27, 2016) (granting motion for joinder where petitioners “do not assert any new ground of unpatentability that is not already being considered in [an instituted IPR proceeding], rely on the same arguments and evidence, and do not require any modification to the existing schedule”).

3. No Impact on the Eunsung IPR Trial Schedule

Joinder should have no impact on the Eunsung IPR trial schedule because the AMP Petition presents no new issues or grounds of unpatentability. *See Sony*, 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]”). There are no new issues for the Board to address, and Patent Owner will not be required to present any additional responses or arguments. Moreover, once issued, Petitioner will adhere to all deadlines set by the Board’s Scheduling Order for the Eunsung IPR.

The Patent Owner’s Response will not be impacted because the issues presented in the AMP Petition are identical to the issues presented in the Eunsung Petition. Patent Owner will not be required to provide any additional analysis or arguments beyond what, if anything, it will already provide in responding to the Eunsung Petition.

Additionally, no additional expert discovery will be needed. While the AMP Petition relies on a declaration from a different expert witness, Petitioner’s expert has reviewed and adopts the relevant portions of the expert declaration submitted in the Eunsung IPR. Assuming Eunsung does not terminate its IPR before its expert is deposed, Petitioner agrees to rely entirely on, and be bound by, the expert declaration(s) and deposition(s) in the Eunsung IPR, and Petitioner waives its own

expert declaration. Accordingly, if Eunsung does not terminate its IPR prematurely, there will be no need for any deposition of AMP's expert.

Accordingly, joinder of Petitioner to the Eunsung IPR will not affect the Board's ability to complete its review and final decision within the statutory time limits under 35 U.S.C. § 316(a)(11) and 37 C.F.R. § 42.100(c).

4. Briefing and Discovery Will Be Simplified

Petitioner agrees to a complete and silent "understudy" role and will not raise any issues. Specifically, Petitioner agrees that, if joined, the following conditions shall apply so long as Eunsung remains an active party. These conditions are less burdensome on the Patent Owner and lead petitioner than conditions that have been previously approved by the Board in similar circumstances:

- a) All substantive filings will be consolidated, for which Eunsung will maintain responsibility (*i.e.*, Petitioner will rely on the filings of Eunsung), unless a filing solely concerns issues that do not involve Eunsung (*e.g.*, Mandatory Notices);
- b) Petitioner shall rely on the grounds instituted by the Board in the Eunsung IPR, and the arguments and discovery introduced by Eunsung; Petitioner shall not be permitted to raise any new grounds

not already instituted by the Board in the Eunsung IPR, or introduce any argument or discovery not already introduced by Eunsung;

- c) Petitioner shall be bound by any agreement between Patent Owner and Eunsung concerning discovery and/or depositions; and
- d) Petitioner at deposition shall not request any direct, cross examination or redirect time beyond that permitted for Eunsung alone under either 37 C.F.R. § 42.53 or any agreement between Patent Owner and Eunsung. *See Mylan Pharms. Inc. v. Novartis AG*, IPR2015-00268, Paper No. 17 at 5-6 (PTAB Apr. 10, 2015) (finding the same proposed limitations “are consistent with the ‘understudy’ role that Petitioner agrees to assume, as well as Petitioner’s assertion that its presence would not require introducing any additional arguments, briefing, or discovery.”).
- e) Petitioner agrees to be bound by the expert deposition(s) and declaration(s) of Eunsung’s expert and Petitioner waives its own expert declaration, unless Eunsung ceases to be an active participant in its IPR prior to Eunsung’s expert’s deposition.

In short, Petitioner agrees to participate in the joined proceedings as an “understudy” and would assume an active role only if Eunsung is dismissed from the joined proceedings or elects to transfer control to Petitioner.

Thus, by Petitioner accepting an “understudy” role, Patent Owner and Eunsung can comply with the existing trial schedule without needing any duplicative efforts by the Board or the Patent Owner. These steps will minimize any potential complications or delay that potentially may result by joinder. *See Sony*, IPR2015-01353, Paper No. 11 at 6-7 (granting IPR and motion for joinder because “joinder would increase efficiency by eliminating duplicative filings and discovery, and would reduce costs and burdens on the parties as well as the Board” where petitioners agreed to an “understudy” role). Petitioner is further willing to agree to any other reasonable conditions the Board deems necessary.

IV. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Board grant its Petition for *Inter Partes* Review of the ’477 patent and that the proceedings be joined with IPR2025-00453.

Respectfully submitted,

Date: July 7, 2025

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CERTIFICATE OF SERVICE UNDER 37 C.F.R. § 42.6 (E)(4)

I certify that on July 7, 2025, a copy of the foregoing document, including any exhibits or appendices filed therewith, is being served via *Overnight FedEx* at the following correspondence address of record for the patent:

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