

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS,
Petitioner,

v.

FRACTUS, S.A.,
Patent Owner.

Case No. IPR2026-00196
Patent No. 11,031,677

**PATENT OWNER'S OPPOSITION
TO PETITIONER'S MOTION FOR JOINDER**

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EXHIBIT LIST

Exhibit No.	Title
Ex. 2001	RESERVED
Ex. 2002	Defendants' Preliminary Invalidity Contentions dated June 18, 2025 in 2:24-cv-01009-JRG-RSP (E.D.Tex.)
Ex. 2003	Invalidity Contentions for U.S. Patent No. 11,031,677 in 2:24-cv-01009-JRG-RSP (E.D.Tex.)
Ex. 2004 through Ex. 2020	RESERVED
Ex. 2021	Proof of Service of Summons and Complaint to Cellco Partnership d/b/a Verizon Wireless in 2:24-cv-01009-JRG-RSP (E.D.Tex.)
Ex. 2022	PACER Docket Reports from February 5, 2026 in <i>Fractus, S.A. v. Verizon Connect Inc. et al</i> , 2:24-cv-01009-JRG-RSP (E.D.Tex.) and <i>Fractus, S.A. v. Geotab Inc.</i> 2:24-cv-01008-JRG-RSP (E.D.Tex.)
Ex. 2023	Second Amended Docket Control Order dated December 17, 2025 in 2:24-cv-01009-JRG-RSP (E.D.Tex.)
Ex. 2024	Complaint dated December 6, 2024 in 2:24-cv-01009-JRG-RSP (E.D.Tex.)

I. STATEMENT OF THE PRECISE RELIEF REQUESTED

Cellco Partnership d/b/a Verizon Wireless (“Petitioner”) submitted a Petition (“the Petition”) for inter partes review of U.S. Patent No. 11,031,677 (“the ’677 patent”) on January 5, 2026, filed concurrently with a Motion for Joinder (“the Motion”) to join the proceeding with Inter Partes Review IPR2025-01026 (the “’1026 proceeding”). Patent Owner Fractus, S.A. (“Patent Owner”) submits that joinder is inappropriate and requests that the Motion be denied.

II. STATEMENT OF MATERIAL FACTS

For purposes of this paper, Patent Owner adopts the following three items from Petitioner’s statement of materials facts:

1. The ’677 patent is being asserted in the following litigations:
(i) Fractus, S.A. v. Geotab Inc., No. 2:24-cv-01008 (E.D. Tex.), (ii) Fractus, S.A. v. Verizon Connect Inc. et al., No. 2:24-cv-01009 (E.D. Tex.), and (iii) Fractus, S.A. v. ResMed Inc. et al., No. 3:25-cv-02680 (S.D. Cal.).
2. Geotab filed a Petition for inter partes review of claims 1-20 of the ’677 patent on June 6, 2025, which was assigned IPR2025-01026. On December 3, 2025, the Board instituted review of the ’677 patent in IPR2025-01026 as to all claims and all grounds.

3. The present Petition asserts the same grounds of unpatentability against the same claims and relies on the same public expert declaration and evidence as asserted and relied upon on in the Geotab IPR.

However, Petitioner omitted the most pertinent fact from its motion:

4. Petitioner was served with a complaint for infringement of the ‘677 patent on December 31, 2024, more than one year prior to the filing of the Petition in this proceeding, which took place on January 5, 2026.

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS		
FRACTUS, S.A v. VERIZON CONNECT INC., et al.	Plaintiff(s) Defendant(s)	CASE NUMBER: 2:24-cv-01009
		PROOF OF SERVICE SUMMONS AND COMPLAINT (Use separate proof of service for each person/party served)

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (specify documents):

☐ summons	☐ first amended complaint	☐ third party complaint
☒ complaint	☐ second amended complaint	☐ counter claim
☐ alias summons	☐ third amended complaint	☐ cross claim
☒ other See attached Document List		

2. Person served:

a. ☒ Defendant (name:) **Cellco Partnership d/b/a Verizon Wireless**

b. ☒ Other (specify name and title or relationship to the party/business named):
Robin Hutt-Banks, Authorized to Accept Service on behalf of - The Corporation Trust Center, Registered Agent for Service of Process

c. ☒ Address where the papers were served: **1209 N Orange St
Wilmington, DE 198011120**

3. Manner of Service in compliance with (the appropriate box must be checked):

a. ☒ Federal Rules of Civil Procedure

b. ☐ California Code of Civil Procedure

4. I served the person named in Item 2:

a. ☒ By **Personal Service**. By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least twelve (12) years of age.

1. ☒ **Papers were served on (date): 12/31/2024 at (time): 10:30 AM**

EX2021 at 1 (annotated).

III. JOINDER SHOULD BE DENIED BECAUSE THE PETITION WAS FILED MORE THAN ONE YEAR AFTER THE DATE OF SERVICE OF A COMPLAINT FOR INFRINGEMENT OF THE ‘677 PATENT

Petitioner filed the Petition in this proceeding more than a year after being served with a complaint for patent infringement of the ‘677 Patent. EX2021. “Petitions filed by time-barred parties should proceed only in exceptional circumstances.” *Realtek Semiconductor Corp. v. ParkerVision, Inc.*, IPR2025-00324, Paper 11 (Stewart, June 25, 2025). Petitioner’s Motion for Joinder fails to identify any exceptional circumstances that would justify joinder. For this reason alone, the motion should be denied.

Further, the Board will join a petition filed after the one-year time bar only “where fairness requires it and to avoid undue prejudice to a party.” *Proppant Express Investments, LLC v. Oren Techs., LLC*, Case IPR2018-00914, Paper 38 at 19 (PTAB March 13, 2019). Fairness does not require joinder in this case, nor would Petitioner be unduly prejudiced by denying the motion for joinder. Quite the opposite. Fairness dictates the Board deny the motion and decline to join this proceeding with the ‘1026 proceeding.

Specifically, Petitioner seeks the benefit of this proceeding while potentially avoiding the risk presented by the estoppel provisions of 35 U.S.C. § 315 (e)(2). The Federal Circuit has held that a joining party to an IPR may, in some circumstances, avoid the estoppel provisions of 35 U.S.C. § 315(e)(2) as a joining party cannot

reasonably raise additional ground in the IPR proceeding. *Network-1 Techs., Inc. v. Hewlett-Packard Co.*, 981 F.3d 1015, 1027 (Fed. Cir. 2020) (“HP, however, was not estopped from raising other invalidity challenges against those claims because, as a joining party, HP could not have raised with its joinder any additional invalidity challenges.”). Further, Petitioner has not stipulated that it will not pursue the same invalidity grounds in the co-pending litigation. *See, e.g., Elong Int’l USA Inc. v. Feit Electric Co., Inc.*, IPR2025-00258, Paper 16, at 3 (PTAB June 25, 2025) (Precedential) (“Petitioners ... will not assert invalidity positions based on the same prior art in the district court” should they be joined.”)(internal quotations omitted). Nor has Petitioner stipulated that it will not pursue alternative grounds based on prior art printed publications in litigation. Accordingly, it is patently unfair to Patent Owner to permit Petitioner to join this proceeding as it would provide Petitioner with the benefits of an IPR proceeding without Petitioner having to accept any of the risks.

Further, Petitioner seeks to potentially continue a proceeding that it is statutorily prevented from initiating on its own. Petitioner declined to file its own IPR petition prior to the one-year-from-service deadline. Having missed that deadline, Petitioner is statutorily barred from initiating its own proceeding. Petitioner, however, seeks an active role in this proceeding in the event Geotab, the petitioner in the ’1026 proceeding, settles with Patent Owner. Motion at 7-8. This is

unfair to Patent Owner in the event of a settlement with Geotab – Patent Owner will not only have to continue to defend the '1026 Proceeding, but it will have to do so against a party who has successfully circumvented the statutory provisions of 35 U.S.C. § 315(b) and (e).

Finally, denying the Motion would not prejudice Petitioner. Petitioner has no right to joinder – joinder is always discretionary. 35 U.S.C. § 315(c). Petitioner had a year in which to seek its own IPR proceeding, and it declined to do so. Any “harm” to Petitioner by not joining it to the '1026 proceeding is its own doing by failing to file its own IPR petition within the one year deadline of 35 U.S.C. § 315(a). Petitioner’s decision to employ a “wait-and-see” approach was a strategic decision made by Petitioner with a full understanding of its consequences. This strategic decision does not implicate fairness and prejudice concerns.

IV. JOINDER WOULD BE CONTRARY TO PUBLIC POLICY

Public and Board policies have long favored settlement between the parties in IPR and *termination* of proceedings upon such settlement. *E.g.*, Consolidated Trial Practice Guide at § N (“There are strong public policy reasons to favor settlement between the parties to a proceeding. ...The Board expects that a proceeding will terminate after the filing of a settlement agreement unless the Board has already decided the merits of the proceeding.”) (*citing* 35 U.S.C. §§ 317(a), 327). Allowing Petitioner to join the '1026 proceeding would disincentivize settlement between

Geotab and Patent Owner, eliminating the possibility that Patent Owner could end this proceeding through such a settlement. As joining Petitioner to the '1026 proceeding would disincentivize settlement between the parties in that proceeding, joining Petitioner to the '1026 proceeding is contrary to Public and Board policy that heavily favors settlement and termination of proceedings.

V. JOINDER SHOULD BE DENIED TO ENSURE EFFICIENT USE OF BOARD RESOURCES

As discussed above, joining Petitioner to the '1026 proceeding would prevent termination of that proceeding in the event of a settlement between Patent Owner and Geotab. Joining Petitioner to the '1026 proceeding, therefore, limits the Boards ability to ensure efficient use of its resources. In the precedential *Elong* case, it was determined that a joined party that prevents the Board from terminating a proceeding places an additional burden on the Board. *Elong*, IPR2025-00258, Paper 16 at 3. Such a burden is contrary to the Board being able to make efficient use of its resources.

VI. JOINDER SHOULD BE DENIED UNDER THE FINTIV FACTORS

The *Fintiv* discretionary factors furnish another basis to deny this “me-too” joinder request, under “a holistic view of whether efficiency and integrity of the system are best served” by rejecting it. *E.g., LG Elecs., Inc. v. Ancora Techs. Inc.*, IPR2021-00581, Paper 16, 7 (June 10, 2021) (“LG”) (applying *Fintiv*, denying me-

too joinder request); *see also Apple Inc. v. Fintiv, Inc.*, IPR2020-00019, Paper 11 (PTAB Mar. 20, 2020) (precedential).

Patent Owner provides the following discussion of the *Fintiv* Factors, illustrating that denying the motion for joinder is appropriate.

A. Fintiv Factor 1: The district court has not granted a stay, and likely will not

The District Court Litigation involves multiple patents, some of which the Board declined to review in *inter partes* and post grant review procedures. EX2024 at 1. Given some of the patents involved in the case are not subject to review by the Patent Office, it is unlikely that the district court judge will grant a stay. Accordingly, the first *Fintiv* Factor favors denying the motion for joinder.

B. Fintiv Factor 2: The District Court Litigation's trial date is earlier

The District Court Litigation is continuing to proceed in accordance with the Court's Docket Control Order with trial scheduled for September 14, 2026. EX2023 at 1. The '1026 proceeding was instituted on December 3, 2025, and therefore, has an anticipated final written decision due date of December 3, 2026. '1026 Institution Decision; 35 U.S.C. § 316(a)(11). Accordingly, the District Court Litigation is likely to complete well in advance of the '1026 proceeding. Therefore, the second *Fintiv* Factor favors denying the motion for joinder.

C. Fintiv Factor 3: The parties have invested resources in the District Court Litigation

The parties have already exchanged detailed infringement and invalidity contentions in the District Court Litigation. EX2002; EX2003. The parties have prepared a joint claim construction statement. EX2022 at Docket Index (“D.I.”) 70. The parties have presented technical tutorials to the court. *Id.* at D.I. 73, 76. Finally, Patent Owner has provided its opening claims construction brief to the court. *Id.* at D.I. 75. Accordingly, the parties have heavily invested resources in the District Court litigation and continue to do so. Therefore, the third *Fintiv* Factor favors denying the motion for joinder.

D. Fintiv Factor 4: The same invalidity contentions are at issue in the Petition and the District Court Litigation

The invalidity contentions jointly served by Petitioner and Geotab include, among others, the same arguments made in the Petition. *E.g.*, EX2002 at 11-17, 50-62; EX2003, *passim*. Accordingly, the fourth *Fintiv* Factor favors denying the motion for joinder.

E. Fintiv Factor 5: Petitioners are defendants in the District Court Litigation

Petitioners are defendants in the District Court Litigation. Accordingly, the fifth *Fintiv* Factor favors denying the motion for joinder.

F. Fintiv Factor 6: The Petition is meritless

The patentability challenges in the Petition are weak and Petitioner is unlikely to prevail. Specifically, the primary prior art grounds in the '1026 proceeding were determined to have not met the threshold showing for institution. '1026 Institution Decision at 50, 52. The sole invalidity ground that purportedly met the institution standard was based on an incorrect legal analysis (*see* Request for Rehearing). Worse yet, it is based on an erroneous factual conclusion, which Patent Owner will bring to light in its Discretionary Denial Brief in this proceeding and its Patent Owner Response in the '1026 proceeding. Accordingly, the sixth *Fintiv* Factor favors discretionary denial.

As all six *Fintiv* Factors favor denying joinder, Patent Owner submits that the Motion for Joinder should be denied under the *Fintiv* analysis provided above.

VII. CONCLUSION

Based on the factors discussed above, Patent Owner respectfully requests that the Board deny the Motion for Joinder.

Dated: February 5, 2026

Respectfully submitted,

/Mark J. DeBoy/
Mark J. DeBoy (Reg. 66,983)
Attorney for Patent Owner
Fractus S.A.

CERTIFICATE OF SERVICE

The undersigned certifies that pursuant to 37 C.F.R. § 42.6(e), a copy of the foregoing **PATENT OWNER'S OPPOSITION TO PETITIONER'S MOTION FOR JOINDER** and accompanying **EXHIBITS** were served via email (as previously consented to by counsel) on February 5, 2026 to lead and backup counsel of record for Petitioner as follows:

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SYam@Venable.com

Dated: February 5, 2026

/Mark J. DeBoy/

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