

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

INFINERA CORP.,
Petitioner,

v.

CORE OPTICAL TECHNOLOGIES, LLC,
Patent Owner

Case IPR2018-01259
Patent 6,782,211

**PATENT OWNER'S MOTION & CERTIFICATION UNDER 37 C.F.R. §
42.100(b) FOR DISTRICT COURT (*PHILLIPS*) CLAIM CONSTRUCTION**

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P.O. Box 1450
Alexandria, VA 22313-1450

I. Statement of the Relief Requested

Patent Owner, Core Optical Technologies, LLC, requests a district court-type claim construction approach under the standard provided by *Phillips v. AWH Corp.*, 415 F.3d 1303 (Fed. Cir. 2005), in accordance with 37 C.F.R. § 42.100(b),¹ during *inter partes* review of U.S. Patent No. 6,782,211 (Ex. 1001, “’211 patent”).

II. Statement of the Reasons for the Relief Requested

The ’211 patent will expire within 18 months of the Notice of Filing Date Accorded to the Petition. Under 37 C.F.R. § 42.100(b) (as amended May 2, 2016), a party in an *inter partes* review may request a district court-type claim construction of the involved patent where the patent will expire within 18 months from entry of the Notice of Filing Date Accorded to Petition.

The application that issued as the ’211 patent was filed on November 4, 1999. (’211 patent, (22).) The ’211 patent, which is not subject to any terminal disclaimer or patent term adjustment, will expire twenty years from filing, i.e., on November 4, 2019. 35 U.S.C. § 154. The Board has not yet issued the Notice of Filing Date Accorded to Petition. Accordingly, the ’211 patent must expire within 18 months of the future date of mailing of the Notice of Filing Date Accorded to Petition.

¹ As amended, effective May 2, 2016 (81 Fed. Reg. 18750, 18766 (April 1, 2016)).

III. Certification

Patent Owner certifies that the '211 patent will expire within 18 months from the entry of the Notice of Filing Date Accorded to Petition.

IV. Conclusion

Patent Owner respectfully requests that the Board apply a district court-type claim construction in this proceeding.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

Date: July 16, 2018

/Jason D. Eisenberg/

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

The undersigned hereby certifies that on July 16, 2018, the foregoing
**PATENT OWNER'S MOTION & CERTIFICATION UNDER 37 C.F.R. §
42.100(b) FOR DISTRICT COURT (*PHILLIPS*) CLAIM CONSTRUCTION**
was served electronically via e-mail in its entirety on the following counsel of
record for Petitioners:

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