

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ADVANCED MICRO DEVICES, INC.,
Petitioner,

v.

ADVANCED CLUSTER SYSTEMS, INC.,
Patent Owner.

Case No. IPR2025-00862

U.S. Patent No. 10,333,768

**PETITIONER'S MOTION FOR JOINDER UNDER
35 U.S.C. § 315(c), 37 C.F.R. §§ 42.22 AND 42.122(b)**

I. STATEMENT OF PRECISE RELIEF REQUESTED

Petitioner Advanced Micro Devices, Inc. (“AMD”) respectfully submits this Motion for Joinder, concurrently with a Petition for *inter partes* review of U.S. Patent No. 10,333,768 (the “768 Patent”).

Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner moves for joinder with any *inter partes* review that is instituted as to the 768 Patent in *Intel Corporation v. Advanced Cluster Systems, Inc.*, IPR2025-00794 (the “Intel IPR”). Petitioner requests that action on this motion be held in abeyance until, and the motion be granted if, the Intel IPR is instituted. Should the Intel IPR be terminated prior to any institution decision or otherwise not instituted for any reason, Petitioner submits this motion for joinder would be moot, and requests the Board consider Petitioner’s *inter partes* review Petition on its own merits. Petitioner’s Motion for Joinder is timely under 37 C.F.R. §42.122(b) because it is being filed before institution of the Intel IPR.

Petitioner’s concurrently filed Petition for *inter partes* review is substantively the same as the Intel IPR petition. Petitioner’s Petition challenges the same claims, on the same grounds, and relies on the same prior art as the Intel IPR petition. Accordingly, no additional burden would be created for the Board, Intel, or Patent Owner if joined. Indeed, joinder would lead to an efficient resolution of the invalidity of the 768 Patent.

AMD is currently a defendant in a district court litigation in the Western District of Texas, *Advanced Cluster Systems, Inc. v. Advanced Micro Devices, Inc.*, 7-24-cv-00244 (W.D. Tex.). In this proceeding, AMD has been accused of infringing the 768 Patent. Petitioner AMD has not previously filed a petition for *inter partes* review challenging the validity of the 768 Patent.

Petitioner agrees to proceed solely on the grounds, evidence, and arguments advanced, or that will be advanced, in the Intel IPR if it is instituted. AMD's Petition therefore warrants institution under 35 U.S.C. § 314, and 35 U.S.C. § 315(c) permits AMD's joinder to the Intel IPR if it is instituted.

Petitioner stipulates that if joinder is granted, AMD will act as an "understudy" and will not assume an active role unless Intel ceases to participate in the proceeding. Intel will maintain the lead role in the proceeding so long as Intel remains in the proceeding. These limitations will avoid lengthy and duplicative briefing. Petitioner will also not seek additional depositions or deposition time. Accordingly, the proposed joinder will neither unduly complicate the Intel IPR nor delay its schedule; in fact, by joinder, a single Board decision may dispose of the issues raised in the Intel IPR for all interested parties.

Joinder will not unduly prejudice any party. Because joinder will not add any new substantive issues, delay the schedule, burden deponents, or increase needless filings, any additional costs to the Patent Owner will be minimal. On the

other hand, denial of joinder would prejudice Petitioner. Petitioner's interests may not be adequately protected in the Intel IPR, particularly if Intel settles with the Patent Owner. Petitioner AMD should be allowed to join in a proceeding affecting a patent asserted against AMD.

II. ARGUMENT

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). In determining whether to exercise its discretion to grant joinder, the Board 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. See *Dell, Inc. v. Network-1 Security Solutions, Inc.*, IPR2013-00385, Paper No. 17 at 4 (PTAB July 29, 2013); see also *Samsung Elecs. Co. Ltd., v. Demaray LLC*, IPR2021-01091, Paper No. 8 at 9-10 (PTAB Dec. 20, 2021).

B. Petitioner's Motion for Joinder is Timely

A petitioner may request joinder, without prior authorization, up to one month after the institution date of the proceeding to which joinder is requested. 37 C.F.R. § 42.122(b). The Intel IPR was filed on March 28, 2025, and an institution

decision has yet to issue. IPR2025-00794, Paper 1 (PTAB March 28, 2025). Thus, Petitioner’s current motion is timely.

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

Each of the four factors weighs in favor of granting Petitioner’s Motion for Joinder. Petitioner’s Petition is substantively identical to the Intel IPR petition; it presents no new grounds of unpatentability. Additionally, because all substantive issues are identical, joinder should have no impact on the pending schedule of the Intel IPR. Moreover, the briefing and discovery will be simplified by resolving all issues in a single proceeding.

1. Joinder with the Intel IPR is Appropriate Because It Will Promote an Efficient Determination of the Validity of the 768 Patent Without Prejudice to Any Party

Petitioner seeks to join the Intel IPR, if instituted, to ensure that an accused infringer with an active interest in the proceeding remains a party to the Intel IPR if Intel’s participation is terminated prior to completion. Thus, joining Petitioner to the Intel IPR is the most practical way to secure the just, speedy, and inexpensive resolution of the challenge to the 768 Patent. *See* 37 C.F.R. § 42.1(b). If Petitioner is joined as a party, the validity of the grounds raised in the Intel IPR—if instituted—can be determined in a single proceeding.

The Board “routinely grants motions for joinder where” as here, “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). There are no substantive differences between Petitioner’s Petition for *inter partes* review and the Intel IPR petition. Petitioner also relies on the same supporting evidence, including a declaration from the same retained expert who has adopted his prior opinions.¹ Because Petitioner’s Petition introduces identical unpatentability arguments and the same grounds, a consolidated proceeding including both Petitioner and Intel will be more efficient and less wasteful. *See, e.g., Everlight Elecs. Co. Ltd., v. Document Security Sys., Inc.*, IPR2018-01260, Paper 12 at 6-7 (PTAB Nov. 14, 2018) (granting motion for joinder where petitioner submitted separate but substantially identical expert declaration).

Furthermore, joining Petitioner as a party to the Intel IPR would promote the public interest in the unpatentability of the 768 Patent and not cause any undue prejudice to Intel or the Patent Owner. Petitioner has conferred with counsel for Intel and confirmed that Intel does not oppose this motion. And the Patent Owner

¹ Petitioner retained the same expert as Intel, Chandrajit L. Bajaj, Ph.D. Dr. Bajaj has adopted his prior opinions as set forth in his previously submitted declaration for the Intel IPR. Ex. 1003.

must respond to the common invalidity grounds identified in both *inter partes* review petitions regardless of joinder.

2. Petitioner Does Not Propose New Grounds of Unpatentability

As discussed above, Petitioner’s Petition does not assert any new grounds of unpatentability. It challenges the same claims of the 768 Patent based on the same arguments, evidence, and unpatentability grounds as the Intel IPR. *See* IPR2025-00794, Paper 1 (PTAB March 28, 2025). For simplicity and efficiency, the substantive portions of Petitioner’s Petition are identical to those of the Intel IPR petition and even refer to the same accompanying expert declaration, which necessarily does not contain any opinions not raised in the Intel IPR. *See id.* Consolidation of this proceeding with Intel’s via joinder therefore will not raise any new issues of unpatentability. *See Par Pharm., Inc. v. Novartis AG*, IPR2016-01023, Paper No. 20 at 14 (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. Joinder Will Have No Impact on the Intel IPR Trial Schedule

Petitioner’s participation should result in no changes to the schedule because Petitioner’s Petition does not seek to broaden the scope of the Intel IPR petition or

introduce new substantive issues. There are no new issues for the Board to address. Furthermore, the Patent Owner's Response, if any, will not be affected because the Patent Owner will not be required to provide analysis or arguments beyond what it will already provide in responding to the Intel IPR petition. Accordingly, joinder of Petitioner will not affect the schedule of the Intel IPR.

4. Briefing and Discovery Will Be Simplified Because Petitioner Has Agreed to Consolidated Filings and Agreed to Take an Understudy Role if Intel Remains Involved

To further prevent joinder from imposing a burden on Intel, Patent Owner, or the Board, Petitioner agrees to take an "understudy" role. Specifically, Petitioner agrees that, if joined, the following conditions shall apply so long as Intel remains an active party:

- (a) all filings by Petitioner in the Intel IPR shall be consolidated with Intel's filings, unless a filing concerns termination, settlement, or issues solely involving Petitioner;
- (b) Petitioner shall not be permitted to raise any new grounds not instituted by the Board in the Intel IPR, or introduce any argument or discovery not introduced by Intel;
- (c) Petitioner shall be bound by any agreement between Patent Owner and Intel concerning discovery and/or depositions; and

- (d) Petitioner at deposition shall not request any direct, cross examination, or redirect time beyond that permitted for Intel alone under either 37 C.F.R. § 42.53 or any agreement between Patent Owner and Intel. *See Mylan Pharms. Inc. v. Novartis AG*, IPR2015-00268, Paper 17 at 5-6 (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.”).

Unless and until Intel ceases to participate, Petitioner will not assume an active role in the Intel IPR. Petitioner will not rely on expert testimony beyond that submitted by Intel unless Intel is terminated from the case prior to any necessary depositions.

Because Petitioner is accepting an “understudy” role, Patent Owner and Intel can comply with the existing trial schedule without needing any duplicative efforts by the Board or the Patent Owner. These steps will minimize the possibility of any complication or delay from joinder. *See Sony Corp. v. Memory Integrity, LLC*, IPR2015- 01353, Paper No. 11 at 6-7 (Oct. 5, 2015) (instituting IPR and granting 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.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests *inter partes* review of U.S. Patent No. 10,333,768 and joinder with *Intel Corporation v. Advanced Cluster Systems, Inc.*, IPR2025-00794 if instituted.

Respectfully submitted,

Date: April 16, 2025

/s/ Brian E. Ferguson

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

The undersigned hereby certifies that on April 16, 2025, true and correct copies of the foregoing document and supporting materials were served in their entirety on the Patent Owner at the following address of record as listed on Patent Center via Federal Express Priority Overnight:

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Courtesy copies were also sent via electronic mail to Patent Owner's counsel of record in the related district court proceeding:

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