

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

META PLATFORMS, INC.,
Petitioner,

v.

DIALECT, LLC,
Patent Owner.

Case No. IPR2025-01333
U.S. Patent No. 9,263,039

**MOTION FOR JOINDER TO AND CONSOLIDATION WITH
RELATED *INTER PARTES* REVIEW IPR2025-00657
PURSUANT TO 35 U.S.C. § 315(c) AND 37 C.F.R. § 42.122(b)**

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I. INTRODUCTION

Meta Platforms, Inc. (“Petitioner”) respectfully submits this Motion for Joinder, together with a Petition for *Inter Partes* Review (“IPR”) of U.S. Patent No. 9,263,039 (the “’039 Patent”) filed contemporaneously herewith. Pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. § 42.122(b), Petitioner requests institution of this IPR, and joinder and consolidation with IPR2025-00657 (the “Microsoft IPR”). That IPR presents identical grounds for the challenged claims as Petitioner’s IPR.

Joinder here is consistent with the overarching policy of securing “the just, speedy, and inexpensive resolution” of every IPR proceeding. 37 C.F.R. § 42.1(b). Petitioner’s Petition and the Microsoft IPR petition contain identical grounds for the challenged claims including the same prior art combinations. Thus, joinder would neither unduly complicate the Microsoft IPR nor delay its schedule.

To streamline discovery and briefing, Petitioner agrees to take an “understudy” role should this Motion be granted, actively participating substantively in the Microsoft IPR only if Microsoft Corporation (“Microsoft”) terminates its involvement after joinder.¹

¹ If Microsoft terminates its involvement prior to this Motion being granted, then Petitioner requests this Motion be withdrawn as moot so that Petitioner’s timely-filed Petition may be considered on its merits.

Because joinder would promote judicial efficiency in determining patentability without prejudicing Patent Owner, the Board should grant this Motion.

II. STATEMENT OF FACTS

Patent Owner Dialect, LLC (“Dialect”) filed a complaint in the Western District of Texas (“WDTX”) on February 7, 2025, against Meta Platforms, Inc., asserting five patents including the '039 Patent. Complaint, *Dialect, LLC v. Meta Platforms, Inc.*, No. 7:25-cv-00060 (W.D. Tex. Feb. 7, 2025). The patents asserted by Dialect all relate to methods for natural language speech recognition and processing.

Microsoft has filed IPR petitions against several of the nine Dialect patents asserted against them. Microsoft has also filed IPR petitions challenging Dialect patents that have not been asserted against them but asserted against the other Microsoft IPR real party-in-interest Bank of America, N.A., including the '039 Patent. Petitioner is filing a petition asserting identical grounds for the challenged claims to those previously filed by Microsoft against the '039 Patent, and are seeking joinder to the Microsoft IPR.

III. STATEMENT OF REASONS FOR RELIEF REQUESTED

A. Legal Standard

The Board has the authority to join Petitioner as a party to the Microsoft IPR. 35 U.S.C. § 315(c); *see also* 35 U.S.C. § 315(d) (Board also has the authority to

consolidate proceedings). Whether a timely request for joinder should be granted is discretionary. *Kyocera Corp. v. Softview LLC*, IPR2013-00004, Paper 15 at 4 (April 24, 2013).

B. The Motion for Joinder is Timely

A petitioner may request joinder “no later than one month after the institution date” of the original IPR. 37 C.F.R. § 42.122(b). This is the “only timing requirement for a motion for joinder.” *Central Security Group — Nationwide, Inc. v. Ubiquitous Connectivity, LP*, IPR2019-01609, Paper 11, at 8-9 (Feb. 26, 2020).

Here, Petitioner's Motion for Joinder is timely. The Microsoft IPR petition on the '039 Patent has yet to be instituted. Thus, Petitioner is filing its motion for joinder within the time limit set forth in 37 C.F.R. § 42.122(b).

C. The Board Should Permit Joinder

In deciding whether to exercise its discretion and permit joinder, the Board considers: (1) why joinder is appropriate; (2) whether the new petition presents any new grounds of unpatentability; (3) any impact joinder would have on the trial schedule for the existing review; and (4) how briefing and discovery may be simplified. *Kyocera Corp.*, IPR2013-00004, Paper 15 at 4 (April 24, 2013). Here, each of the four factors weighs in favor of joinder.

1. Joinder is Appropriate

Joinder is appropriate here because the concurrently-filed Petition involves the same patent, relies on the same exhibits, and is based on identical grounds for the challenged claims, and includes the same combinations of prior art submitted in the Microsoft IPR. The concurrently-filed Petition contains minor differences from the Microsoft IPR, relating solely to the procedural formalities of having different petitioners file the petition, such as mandatory notices and discretionary denial considerations. Otherwise, there are no changes to the facts, citations, evidence, or arguments presented in the grounds for unpatentability set forth in the Microsoft IPR petition. Because the proceedings present identical grounds for the challenged claims, good cause exists for joining Petitioner as a party to the Microsoft IPR and consolidating the proceedings, so that the Board can efficiently resolve the challenges in a single proceeding. *Cent. Sec. Group*, IPR2019-01609, Paper 11 at 8; *ZyXEL v. UNM Rainforest Innovations*, IPR2021-00739, Paper 17 at 20 (Oct. 1, 2021); *Facebook, Inc. v. Windy City Innovations, LLC*, IPR2017-00655, Paper 28 at 3, 10 (May 31, 2017) (granting institution and joinder of an IPR petition that challenged a subset of the claims challenged in the original proceeding, with identical grounds for the challenged claims); *Advanced Micro Devices, Inc. v. Monterey Research LLC*, IPR2021-00776, Paper 13 at 11-23 (October 13, 2021)(same).

Because joinder will increase efficiency and reduce duplicative proceedings involving the same patentability challenges, this factor favors joinder.

2. Petitioner Proposes No New Grounds of Unpatentability

The concurrently-filed Petition presents identical grounds for the challenged claims as the Microsoft IPR petition. Therefore, Petitioner does not propose any new grounds of unpatentability and this factor also strongly favors joinder.

3. Joinder Will Not Unduly Burden or Negatively Impact the Microsoft Trial Schedule

Because Petitioner's Petition presents the identical grounds for the challenged claims and the same evidence, there are no new issues for Patent Owner to address. Further, joinder with the Microsoft IPR will not unduly burden or negatively impact the schedule in that proceeding in any way. Thus, this factor also favors joinder. *Sony Corp. v. Memory Integrity, LLC*, IPR2015-01353 Paper 11 at 6 (Oct. 5, 2015) (granting motion where joinder does "not necessitate any additional briefing or discovery from Patent Owner beyond that already required [by the original IPR]").

4. How Briefing and Discovery May Be Simplified

The concurrently-filed Petition and the Microsoft Petition present identical grounds for the challenged claims, including the same combinations of art and the same obviousness arguments. Additionally, if this motion for joinder is granted, Petitioner agrees to take an "understudy" role, adhering to the following restrictions:

- (a) *all* filings by [Petitioner] in the joined proceeding [shall] be consolidated with [Microsoft's], unless a filing solely concerns issues that do not involve [Microsoft];
- (b) [Petitioner] shall not be permitted to raise any new grounds

not already instituted by the Board in the [Microsoft IPR], or introduce any argument or discovery not already introduced by [Microsoft]; (c) [Petitioner] shall be bound by any agreement between [Patent Owner] and [Microsoft] concerning discovery and/or depositions; and (d) [Petitioner] at deposition shall not receive any direct, cross-examination or redirect time beyond that permitted for [Microsoft] alone under either 37 C.F.R. § 42.53 or any agreement between [Patent Owner] and [Microsoft].

Mylan Pharms. Inc. v. Novartis AG, IPR2015-00268, Paper 17 at 5 (April 10, 2015) (emphasis in original); *Sony*, IPR2015-01353, Paper 11 at 6 (granting joinder where Petitioner requested an “understudy” role). Petitioner will assume the primary role only if Microsoft ceases to participate in the Microsoft IPR.

By joining Petitioner in the Microsoft IPR and allowing Petitioner to take on an understudy role, both briefing and discovery will be simplified because Patent Owner can maintain its current trial schedule and avoid duplicative efforts. The understudy role will minimize any potential complications or delay that potentially could result by joinder, including duplicative discovery and filings. *Sony*, IPR2015-01353, Paper 11 at 6-7 (“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 sought an “understudy” role). Thus, this factor also favors joinder.

For the foregoing reasons, each of the factors that the Board considers in evaluating potential joinder weighs in favor of granting this Motion.

D. *General Plastics* is Inapplicable

The *General Plastic* analysis is inapplicable to this joinder motion and concurrently-filed Petition. In *General Plastic*, the Board set forth factors for analyzing follow-on petitions. Generally, these factors are intended to help conserve the Board's resources and to prevent a subsequent petitioner from gaining a strategic advantage from filing a later petition. *General Plastic Indus. Co. v. Canon Kabushiki Kaisha*, IPR2016-01357, Paper 19 (Sept. 6, 2017).

Here, Petitioner is not filing a follow-on petition. Rather, Petitioner seeks to join the Microsoft IPR as an understudy and does not present any new grounds. This is not the type of serial petition necessitating a *General Plastic* analysis. Indeed, the Board has found that the *General Plastic* factors are “not particularly relevant” in this situation, i.e., where a different petitioner files a “me-too” or “copycat” petition with a timely motion for joinder. *Central Security Group*, IPR2019-01609, Paper 11 at 8; *Celltrion, Inc. v. Genentech, Inc.*, IPR2018-01019, Paper 11 at 9-11 (Oct. 30, 2018).²

² Unlike in *Apple v. Uniloc 2017 LLC*, IPR2020-00854, Paper 9 (Oct. 28, 2020) (precedential) (“*Uniloc*”), where joinder was denied, this is Petitioner's first IPR

Even if the Board were to consider the *General Plastic* factors, they would weigh in favor of institution. Petitioner has not previously filed a petition against the '039 Patent. Petitioner and Microsoft (prior Petitioner) are not the same party and have no significant relationship. Petitioner is accused of infringement based on the sale and performance of its products. In contrast, Microsoft and the other Microsoft IPR real party-in-interest Bank of America, N.A. are unrelated to Petitioner, and Microsoft is not accused of infringing the '039 Patent. This weighs against denial. *NetNut Ltd. v. Bright Data Ltd.*, IPR2021-00465, Paper 11, at 9 (Aug. 12, 2021) (declining to extend *General Plastic* and *Valve* to different petitioner with no relationship to previous Petitioner); *Mercedes-Benz USA, LLC v. Carucel Invs. L.P.*, IPR2019-01404, Paper 12, at 11-12 (Jan. 22, 2020); *Toshiba Am. Info. Sys., Inc. v. Wallelex Microelecs. Ltd.*, IPR2018-01538, Paper 11, at 20 (Mar. 5, 2019).

petition challenging these claims of the '039 Patent, and Petitioner's "me-too" petition is not otherwise time-barred. Accordingly, the factors that influenced the Board's application of the *General Plastic* factors in *Uniloc*—where the petitioner had already filed a previous petition, was time-barred from filing a second petition, and sought to bring a second petition through joinder after denial of the first petition (*id.* at 4, 7)—are not present.

The second through fifth factors relate to timing issues that are largely irrelevant here. When Petitioner learned of the prior art, received Patent Owner's preliminary response or an institution decision, and the length of time between the filing of the petitions, are all irrelevant since Petitioner has substantively duplicated the Microsoft IPR, alleging the same facts, grounds, and prior art, and has agreed to take an understudy role. Notably, Petitioner has not previously filed an IPR petition against the '039 Patent, and files this Petition diligently (the week after Patent Owner identified the asserted claims in the parallel litigation). As a result, this IPR cannot be considered an attempt to harass Patent Owner or otherwise engage in serial, tactical filings. Indeed, the exact opposite is true. Petitioner seeks to simplify and minimize the number of distinct proceedings by joining the Microsoft IPR rather than pursuing a separate IPR based on different grounds.

The sixth factor considers the Board's resources and the seventh factor relates to the Board's ability to meet the one-year statutory deadline. Allowing joinder here would not impact the Board's resources (beyond those dedicated to deciding this Motion), and therefore would not impact the Board's ability to meet the one-year statutory deadline.

For the foregoing reasons, the *General Plastic* factors do not weigh against institution and joinder of Petitioner to Microsoft's IPR.

IV. CONCLUSION

Petitioner respectfully requests that the Board institute Petitioner's concurrently-filed IPR Petition, and join Petitioner as a party to the Microsoft IPR.

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CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of **PETITIONER'S MOTION FOR JOINDER** has been served in its entirety by U.S. Priority Mail Express on the following attorney shown as the correspondence Address for the Patent Owner:

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