

Fujitsu Semiconductor Limited and Fujitsu Semiconductor America, Inc. v. Zond, LLC: Granting Motion for Joinder IPR2014-00845

Article By:

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Takeaway: In opposing a motion for joinder, arguments directed to how the resulting joined proceeding should be conducted will likely not be considered by the Board as opposing the motion and may not be considered at all.

In its [Decision](#), the Board granted Petitioner's Revised Motion for Joinder of the instant Petition with IPR2014-00781. The petitioner in IPR2014-00781 did not oppose the motion, and Patent Owner opposed.

The Board began by explaining that it has discretion to join an IPR with another IPR and that in exercising its discretion, it must be "mindful that patent trial regulations, including the rules for joinder, must be construed to secure the just, speedy, and inexpensive resolution of every proceeding." The moving party bears the burden of showing that joinder is appropriate.

Petitioner contended that joinder is appropriate because "(1) it is the most expedient way to secure the just, speedy, and inexpensive resolution of the related proceedings; (2) Fujitsu's Petition is substantively identical to TSMC's Petition filed in IPR2014-00781; (3) Fujitsu agrees to consolidated filings and discovery; (4) joinder would not affect the schedule in IPR2014-00781; (5) joinder would streamline the proceedings, reduce the costs and burdens on the parties, and increase efficiencies for the Board without any prejudice to Zond." (internal citations omitted).

The Board agreed that joinder would not affect the substantive issues in the two proceedings because they are substantively identical – challenging the same claims on the same grounds, submitting the same claim constructions, and relying upon the same declaration. Petitioner also agreed to consolidate filings and discovery with the petitioner in IPR2014-00781, thereby streamlining the proceedings.

In addition, the Board noted that although Patent Owner filed an Opposition to the Motion, Patent Owner was not opposed to joinder but instead proposed a procedure for the joined proceeding. The Board did not address the proposed procedure in Patent Owner's Opposition and found that Petitioner met its burden to demonstrate that joinder is appropriate.

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Paper 14: Decision Granting Revised Motion for Joinder

Dated: October 2, 2014

Patent: 7,147,759 B2

Before: Kevin F. Turner, Debra K. Stephens, Joni Y. Chang, Susan L.C. Mitchell, and Jennifer M. Meyer

Written by: Chang

Related Proceeding: IPR2014-00781

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