

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

COMMSCOPE, INC.
Petitioner,

v.

TQ DELTA, LLC,
Patent Owner.

IPR2023-00064
Patent 8,276,048 B2

Before LYNNE E. PETTIGREW, ROBERT J. WEINSCHENK, and
KEVIN C. TROCK, *Administrative Patent Judges*.

WEINSCHENK, *Administrative Patent Judge*.

DECISION
Denying Institution of *Inter Partes* Review
35 U.S.C. § 314
Denying Motion for Joinder
35 U.S.C. § 315(c); 37 C.F.R. § 42.122

I. INTRODUCTION

A. Background and Summary

CommScope, Inc. (“Petitioner”) filed a Petition (Paper 2, “Pet.”) requesting an *inter partes* review of claims 1–4 (“the challenged claims”) of U.S. Patent No. 8,276,048 B2 (Ex. 1001, “the ’048 patent”). TQ Delta, LLC (“Patent Owner”) filed a Preliminary Response (Paper 13, “Prelim. Resp.”) to the Petition. Petitioner also filed a Motion for Joinder (Paper 3, “Mot.”) requesting that Petitioner be joined to the *inter partes* review in IPR2022-00666 (“the ’666 IPR”). Patent Owner filed an Opposition (Paper 9) to the Motion for Joinder, Petitioner filed a Reply (Paper 10) to the Opposition, and Patent Owner filed a Sur-reply (Paper 12) to the Reply. For the reasons below, the Motion for Joinder is denied as moot, and the Petition is denied under 35 U.S.C. § 315(b).

B. Real Parties in Interest

Petitioner identifies the following real parties in interest:

1) CommScope, Inc.; 2) CommScope Holding Company, Inc.; 3) ARRIS US Holdings, Inc.; 4) ARRIS Solutions, Inc.; 5) ARRIS Technology, Inc.; and 6) ARRIS Enterprises, Inc. Pet. 73. Patent Owner identifies itself as the only real party in interest. Paper 6, 1.

C. Related Matters

The parties indicate that the ’048 patent is the subject of the following district court cases: 1) *TQ Delta, LLC v. 2Wire, Inc.*, No. 1:13-cv-01835 (D. Del.); 2) *TQ Delta, LLC v. ADTRAN, Inc.*, No. 1:14-cv-00954 (D. Del.); 3) *ADTRAN, Inc. v. TQ Delta, LLC*, No. 1:15-cv-00121 (D. Del.); and 4) *TQ Delta, LLC v. CommScope Holding Company, Inc.*, No. 2:21-cv-00310

(E.D. Tex.). Pet. 73; Paper 6, 1–2. The parties also indicate that the '048 patent is the subject of the '666 IPR. Pet. 1; Paper 6, 2.

D. The '048 Patent

The '048 patent relates to “memory sharing in communication systems.” Ex. 1001, 1:21–23. The '048 patent describes a system designed to allocate a first portion of a shared memory to an interleaver and a second portion of the shared memory to a deinterleaver. *Id.* at 5:38–44. More specifically, “[t]he system determines an amount of memory required by the interleaver to interleave a first plurality of [Reed Solomon (‘RS’)] coded data bytes within a shared memory and allocates a first number of bytes of the shared memory to the interleaver.” *Id.* at code (57). “The system also allocates a second number of bytes of the shared memory to a deinterleaver.” *Id.*

E. Illustrative Claim

Of the challenged claims, claim 1 is independent and is reproduced below.

1. A system that allocates shared memory comprising: a transceiver that is capable of:

transmitting or receiving a message during initialization specifying a maximum number of bytes of memory that are available to be allocated to an interleaver;

determining an amount of memory required by the interleaver to interleave a first plurality of Reed Solomon (RS) coded data bytes within the shared memory;

allocating a first number of bytes of the shared memory to the interleaver to interleave the first plurality of Reed Solomon (RS) coded data bytes for transmission at a first data rate, wherein the allocated memory for the interleaver does not exceed the maximum number of bytes specified in the message;

allocating a second number of bytes of the shared memory to a deinterleaver to deinterleave a second plurality of RS coded data bytes received at a second data rate; and

interleaving the first plurality of RS coded data bytes within the shared memory allocated to the interleaver and deinterleaving the second plurality of RS coded data bytes within the shared memory allocated to the deinterleaver, wherein the shared memory allocated to the interleaver is used at the same time as the shared memory allocated to the deinterleaver.

Ex. 1001, 10:41–65.

F. Evidence

Petitioner submits the following evidence:

Evidence	Exhibit No.
Declaration of Richard Wesel (“Wesel Declaration”)	1003
Mazzoni, US 7,269,208 B2, issued Sept. 11, 2007 (“Mazzoni”)	1005
Fadavi-Ardekani, US 6,707,822 B1, issued Mar. 16, 2004 (“Fadavi-Ardekani”)	1006
European Telecommunications Standards Institute, ETSI TS 101 270-2 V1.2.1 (2003) (“VDSL1”)	1007

G. Asserted Grounds

Petitioner asserts that the challenged claims are unpatentable on the following grounds:

Claims Challenged	35 U.S.C. §	References/Basis
1–4	103	Mazzoni, VDSL1
1–4	103	VDSL1, Fadavi-Ardekani

II. ANALYSIS

Under 35 U.S.C. § 315(b), an *inter partes* review “may not be instituted if the petition requesting the proceeding is filed more than 1 year after the date on which the petitioner, real party in interest, or privy of the

petitioner is served with a complaint alleging infringement of the patent.” Patent Owner served 2Wire, Inc. (“2Wire”), a privy of Petitioner,¹ with a complaint alleging infringement of the ’048 patent in February 2014. Ex. 2001; Ex. 2002. Patent Owner served Petitioner with a complaint alleging infringement of the ’048 patent on August 17, 2021. Ex. 1027; Ex. 3001. Petitioner filed the Petition more than one year later on October 26, 2022. Pet. 79. Petitioner does not dispute those facts, but instead relies on its request to join the ’666 IPR to avoid the time limit in Section 315(b). Pet. 1 (“Because . . . this is a copycat petition . . . accompanied by a motion for joinder . . . , the time bar under § 315(b) does not apply.”); Mot. 8–10 (“the one-year time limitation does not apply to a request for joinder”).

The ’666 IPR, however, has been terminated. *Nokia of Am. Corp. v. TQ Delta, LLC*, IPR2022-00666, Paper 23 at 3 (PTAB Dec. 8, 2022). Thus, there no longer is a pending proceeding in the ’666 IPR for Petitioner to join. As a result, Petitioner’s request to join the ’666 IPR is moot, and the Petition is not timely under Section 315(b).

III. CONCLUSION

The Motion for Joinder is denied as moot because the ’666 IPR already has been terminated, and the Petition is denied because it was not filed within the time period set forth in Section 315(b).

¹ The Board determined that 2Wire is a privy of Petitioner in a related case. *CommScope, Inc. v. TQ Delta, LLC*, IPR2022-00352, Paper 13 at 15–17 (PTAB Aug. 19, 2022). Petitioner does not dispute that it is in privity with 2Wire in this case. See Pet. 1; Mot. 8–10.

IV. ORDER

It is hereby
ORDERED that the Motion for Joinder is *denied* as moot; and
FURTHER ORDERED that the Petition is *denied*, and no trial is
instituted.

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PETITIONER:

Sanjeet K. Dutta
Andrew S. Ong
GOODWIN PROCTER LLP
sdutta@goodwinlaw.com
aong@goodwinlaw.com

PATENT OWNER:

Christian J. Hurt
THE DAVIS FIRM PC
churt@davisfirm.com

Peter J. McAndrews
David Z. Petty
MCANDREWS, HELD & MALLOY LTD.
pmcandrews@mcandrews-ip.com
dpetty@mcandrews-ip.com