

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.
Petitioner

v.

C-CATION TECHNOLOGIES, LLC
Patent Owner

Case IPR2014-00746

Patent 5,563,883

**DECLARATION OF ANDREW R. SOMMER IN SUPPORT OF
PETITIONER'S MOTION TO EXPUNGE ORIGINAL EXHIBIT 1009 AND
TO ACCEPT THE SUBMISSION OF CORRECTED EXHIBIT 1009**

Petitioner ARRIS Group, Inc.'s

I, Andrew R. Sommer hereby declare as follows:

1. I am lead counsel for Petitioner ARRIS Group, Inc. (“ARRIS”) in connection with IPR2014-00746. I am a partner at the law firm of Winston & Strawn LLP and am registered to practice before the United States Patent and Trademark Office, as well as in the Commonwealth of Virginia and the District of Columbia. I have personal knowledge of the facts set forth herein and if called upon to testify to them I can do so.

2. I personally handled the filing of the petition for IPR filed in connection with IPR2014-00746. I also personally handled the exhibit numbering, but not the Bates numbering of the Exhibits submitted on May 13, 2014 in connection with the petition. I also was the primary draftsman of the petition for IPR I filed on behalf of ARRIS.

3. While I was drafting the petition filed in connection with IPR2014-00746, I was keeping a running list of exhibits to be filed to support the proposed grounds for trial. During the drafting process, I overlooked the fact that I had cited the same version of Newton’s Telecom Dictionary for different definitions and identified those different definitions as being included as Exhibits 1005 and 1009. Since the petition and the supporting declaration were essentially complete, rather than re-number all of the exhibits after 1009, or leave exhibit 1009 blank, I

decided I would submit exhibits 1005 and 1009 with the same cover page and copyright page, but include the different definitions that corresponded to the appropriate citations in the petition and supporting declaration.

4. After I made this decision, I asked my secretary to scan the dictionary definitions as separate exhibits, but to include the same cover page and copyright page. Based on my email records, my secretary complied with my request. As I was opening the scanned images, I was applying the appropriate exhibit numbers to the various exhibits to prepare them for filing. During this process, rather than open the two different files corresponding to different excerpts from Newton's Telecom Dictionary, I opened the same file twice and gave it two different exhibit labels (numbers 1005 and 1009, respectively).

5. I then sent all of the exhibits to my secretary so that they could be bates numbered. When I checked the bates numbering at the bottom of the pages to ensure compliance with the Board's rules, I overlooked the fact that Exhibits 1005 and 1009 were identical. This oversight was unintentional and was due to the fact that I had two exhibits with the same cover page.

6. I was advised of the clerical error in the submission of exhibit 1009 on the morning of May 14, 2014, and I promptly contacted the Board to request authorization to file a replacement exhibit. I received an email back from the Board instructing me to file a corrected version of Exhibit 1009 promptly, which I

did. I also instructed staff in my office to ensure that the replacement exhibit was properly served on Patent Owner.

7. I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true. I further declare that these statements were made with the knowledge that willful false statements are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.

Respectfully Submitted,

/s Andrew R. Sommer/

Andrew R. Sommer

Dated: June 10, 2014