

Case IPR2015-00364
Corrected Petition for *Inter Partes* Review

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS
AT&T MOBILITY LLC
Petitioners

v.

SOLOCRON MEDIA, LLC
Patent Owner

Case IPR2015-00364
Patent No. 7,295,864

**CORRECTED PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 7,295,864
UNDER 35 U.S.C. §§ 311-319 AND 37 C.F.R. § 42.100 *ET SEQ.***

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<i>Hyatt v. Boone</i> , 146 F.3d 1348 (Fed. Cir. 1998)	22
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