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Case IPR2014-00746  
U.S. Patent No. 5,563,883

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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ARRIS GROUP, INC.

Petitioner

v.

C-CATION TECHNOLOGIES, LLC

Patent Owner

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CASE IPR2014-00746  
Patent 5,563,883

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CONFERENCE CALL

Thursday, June 26, 2014

3:00 p.m.

Reported by:

ROBIN NUNEZ

JOB NO. 81630

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## 1 CONFERENCE CALL

2 THE COURT: So I think I heard from  
3 the point in which you were citing the  
4 trial practice guide.

5 MR. POPOVSKI: Yes, ma'am, so we've  
6 identified some evidence here that would,  
7 we believe, show that one can reasonably  
8 believe that Arris had at the very least  
9 the opportunity and the contractual  
10 obligation to control the portion of that  
11 previous litigation that relates to the use  
12 of Arris's products by Comcast. Two pieces,  
13 first, Arris has stated terms and  
14 conditions of sale that it publishes on its  
15 website. Those terms and conditions show  
16 that Arris, at the time of the filing of  
17 the complaint and through the entire  
18 damages period, is contractually obligated  
19 to indemnify customers only where, and this  
20 is a critical portion of this, "customer  
21 gives Arris reasonable assistance and sole  
22 control and defense of all negotiations  
23 towards settlement or compromise."

24 We believe that type of document is  
25 very critical, and again, according to the

1 CONFERENCE CALL

2 guide, is common, as evidentiary support  
3 for a claim of privity.

4 Second, from Arris's SEC  
5 disclosures, we know that Comcast was in  
6 fact indemnified by Arris, as those  
7 disclosures state. Arris agreed to pay  
8 Comcast a settlement indemnification claim  
9 related to that lawsuit, related to the  
10 claims being asserted on Comcast's use of  
11 Arris's products.

12 THE COURT: I'm sorry, counsel. Can  
13 you repeat that? They agreed to pay what?

14 MR. POPOVSKI: The SEC disclosure  
15 states that Arris agreed to pay Comcast to  
16 settle indemnification claims related to  
17 the Comcast use of Arris products in the  
18 Texas litigation. The quote is "Arris  
19 agreed to pay Comcast settled  
20 indemnification claims."

21 THE COURT: And you said your  
22 standard terms and conditions found in the  
23 website offers the terms that Arris would  
24 indemnify?

25 MR. POPOVSKI: Under paragraph 22 of

## 1 CONFERENCE CALL

2 the document that's published on the  
3 website, it says Arris will indemnify and  
4 hold customer harmless against damages,  
5 liabilities, cost, and then it goes on.  
6 And then as a condition of that, it says  
7 that it requires that, quote, "customer  
8 give Arris reasonable assistance in and  
9 sole control of the defense and all  
10 negotiations for its settlement or  
11 compromise."

12 That's a precondition to  
13 indemnification.

14 THE COURT: Okay.

15 MR. POPOVSKI: So we wanted to  
16 confirm our understanding of the exact  
17 nature of the relationship between Comcast  
18 and Arris at the time, so we did. We served  
19 upon them a very, very narrow document  
20 request, a single document request that  
21 requests one thing, and one thing only, we  
22 are seeking the agreements between Arris  
23 and Comcast, that include provisions to  
24 asserting Arris's ability to control the  
25 defense of claims asserted against it,

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