

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

TERREMARK NORTH AMERICA LLC, VERIZON BUSINESS NETWORK
SERVICES INC., VERIZON SERVICES CORP., TIME WARNER CABLE INC.,
ICONTROL NETWORKS, INC., AND COXCOM, LLC,
Petitioners,

v.

JOAO CONTROL & MONITORING SYSTEMS, LLC,
Patent Owner

INTER PARTES REVIEW NO:

IPR2015-01485 (Pat. 7,397,363)

DECLARATION OF RENÉ A. VAZQUEZ

I, René A. Vazquez, declare as follows:

1. I am a lawyer at the law firm of Heninger, Garrison Davis, LLC. I am back-up counsel for Patent Owner Joao Control & Monitoring Systems, LLC (hereinafter, "JCMS") in the request for *Inter Partes* Review of U.S. Patent 7,397,363 in case IPR2015-01485. I submit this declaration in opposition to Petitioners Terremark North America LLC, *et al.*'s Motion to Recognize June 23, 2015 as Filing Date of Petition for *Inter Partes* Review of U.S. Patent 7,397,363 ("the '363 petition") in case IPR2015-1485. I have knowledge of the facts set forth in this declaration and could and would competently testify to the facts stated herein.

2. On June 23, 2014, Verizon Communications, Inc. was served with a Complaint alleging infringement of the '363 Patent. *See JCMS v. Terremark North America LLC*, C.A. No. 14-525-GMS, D.I. 5 (D. Del.) ("Proof of Service," attached hereto as Exhibit 2002).

3. After service, by stipulation of the parties, Petitioner Terremark North America LLC was substituted as a defendant in place of Verizon Communications Inc. *Id.* at D.I. 11 (Stipulation attached hereto as Exhibit 2004). Petitioner Terremark North America LLC is a wholly-owned subsidiary of Verizon Communications Inc. *See JCMS v. Terremark North America LLC*, C.A. No. 14-525-GMS, D.I. 10 (D. Del. 2014)(Terremark's Rule 7.1 Disclosure Statement,

attached hereto as Exhibit 2003). Petitioners here have identified Verizon Communications Inc. as a real party in interest to the present petition. Paper 1 at 1-2.

4. On June 23, 2014, Petitioner Time Warner Inc. was also served with a Complaint alleging infringement of the '363 Patent. *See JCMS, LLC v. Time Warner, Inc.*, C.A. No. 14-524-GMS, D.I. 5 (D. Del.) (“Proof of Service,” attached hereto as Exhibit 2005).

5. The USPTO’s Public PAIR records show that the “Attorney/Agent” for the '363 Patent is Mr. Raymond Joao. The same record provides Mr. Joao’s correspondence address and telephone number.

6. Attached hereto as Exhibit 2006 is a true and correct copy of the U.S.P.S. tracking data demonstrating service of IPR2015-01482, IPR2015-01485 and IPR2015-01486 via Priority Mail Express to the Patent Owner on June 24, 2015.

7. Attached hereto as Exhibit 2007 is a true and correct copy of the FedEx tracking data demonstrating service of IPR2015-01466, IPR2015-01477, 2015-01478 and IPR2015-01484 via FedEx to the Patent Owner on June 24, 2015.

8. I am registered to practice before the U.S.P.T.O. and am fully aware of the regulations and rules for filing procedure with the PRPS.

9. The Board's trial practice rules, particularly 37 C.F.R. 42.6(d) require that each paper be filed one time in a proceeding.

10. On information and belief, Petitioners were required to submit the Exhibits for each Petition in each proceeding; Petitioners could not refer back to a previously filed exhibit in a separate proceeding as evidence in support of the IPR2015-01485 IPR proceeding. Thus, on information and belief, statements made by the paralegal Ms. Robinson, who was experienced with the IPR proceedings before the PTAB were incorrect and did not adhere to the Board's procedures.

11. In my years of experience, I have completed many filings with the USPTO including filings using the PRPS system.

12. Patent Owner did not discover that Petitioners' originally-filed Certificate of Service was false until my colleague took the tracking number on the box sent to Mr. Joao and looked it up in U.S.P.S. tracking system as set forth in Exhibit 2006.

13. Attached hereto as Exhibit 2008 is a true and correct copy of an email I sent to Petitioners' counsel Clay Holloway on July 17, 2015, inquiring about the accuracy of Petitioners' certificates of service.

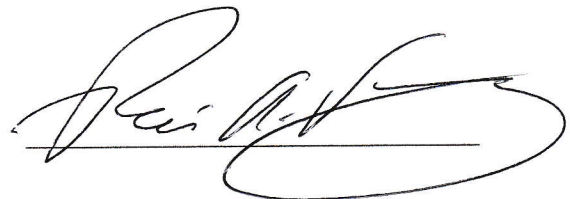
14. On July 29, 2015, I received an email from Petitioners' counsel that the Expert Declaration in support of the '363 Petition (IPR2015-01482) was not

yet filed with the PTAB and was never served on Patent Owner.

15. Attached hereto as Exhibit 2009 is a true and correct copy of the email from Petitioner's counsel Clay Holloway informing me of the omission of the Declaration (Petitioner's Exhibit 1002).

16. Attached hereto as Exhibit 2010 is a true and correct copy of the email of July 31, 2015 from Clay Holloway confirming that the Declaration was never served on Patent Owner.

I 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; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code.



Rene A. Vaquez
Heninger Garrison Davis LLC

Date: August 19, 2015