

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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TERREMARK NORTH AMERICA LLC, VERIZON  
COMMUNICATIONS INC., VERIZON SERVICES CORP., TIME  
WARNER CABLE INC., ICONROL NETWORKS, INC., and  
COXCOM, LLC  
Petitioner,

v.

JOAO CONTROL & MONITORING SYSTEMS, LLC,  
Patent Owner.

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Case IPR2015-01485  
Patent 7,397,363 B2

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Before HOWARD B. BLANKENSHIP, STACEY G. WHITE, and  
JASON J. CHUNG, *Administrative Patent Judges*.

CHUNG, *Administrative Patent Judge*.

DECISION  
Denying Institution of *Inter Partes* Review  
37 C.F.R. § 42.108

## I. INTRODUCTION

Petitioner, Terremark North America LLC, Verizon Communications Inc., Verizon Services Corp., Time Warner Cable Inc., iControl Networks, Inc., and Coxcom, LLC, filed a Petition requesting an *inter partes* review of claims 1, 3–5, 8, 13–17, and 20 of U.S. Patent No. 7,397,363 B2 (Ex. 1001, “the ’363 patent”). Paper 1 (“Pet.”). In addition, on August 5, 2015, Petitioner filed a Motion to Recognize June 23, 2015, as the filing date. Paper 6 (“Motion”). On August 19, 2015, in response to Petitioner’s Motion, Patent Owner, Joao Control & Monitoring Systems, LLC, filed Patent Owner’s Opposition to Motion to Recognize June 23 as the filing date. Paper 7. Patent Owner filed a Preliminary Response. Paper 9 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

For the reasons set forth below, we determine that the Petition was not filed timely within the statutory period of 35 U.S.C. § 315(b). We, thus, deny *inter partes* review of the ’363 patent.

### A. Identifying the Petitioner

Petitioner presents various lists of petitioning parties throughout the Petition. The Petition lists Terremark North America LLC, Verizon Communications Inc., Verizon Services Corp., Time Warner Cable Inc., iControl Networks, Inc., and Coxcom, LLC in the caption of the Petition.

Only three of the listed petitioners, Terremark North America LLC, Verizon Business Network Services Inc., and Verizon Services Corp., however, are identified in the Petition as Petitioners in the “[r]eal party-in-interest” section. Pet. 1. Five entities, CoxCom, LLC, Terremark North America LLC, Verizon Communications Inc., Time Warner Cable, Inc., and iControl Networks, Inc. are identified in the Petition as petitioners in the “[l]ead and back-up counsel” section. Pet. 4–5.

Verizon Communications Inc., Verizon Corporate Resources Group LLC, and Verizon Data Services LLC are identified in the Petition as real parties-in-interest. Pet. 2. Petitioner notes that Verizon Communications Inc. has more than 500 affiliated entities and states that “each of these entities agrees to be estopped under the provisions of 35 U.S.C. §§ 315 and/or 325 as a result of any final written decision in the requested IPR to the same extent that the Petitioners are estopped.” On this record, we construe any mismatch between the named Verizon entities to be a typographical error.

Because Petitioner identifies five entities, CoxCom, LLC, Terremark North America LLC, Verizon Communications Inc., Time Warner Cable, Inc., and iControl Networks, Inc. as Petitioners in the “[l]ead and back-up counsel” section (*id.*), and, as stated *supra*, any mismatch between the named Verizon entities (e.g., Verizon Communications Inc., Verizon Business Network Services, and Verizon Services Corp.) is a typographical error, we construe any mismatch between the caption of the Petition, the “[r]eal party-in-interest” section, and the “[l]ead and back-up counsel” section to be a typographical error.

We, thus, identify Petitioner as Terremark North America LLC, Verizon Communications Inc., Verizon Services Corp., Verizon Business Network Services, Time Warner Cable Inc., iControl Networks, Inc., and Coxcom, LLC.

*B. Related Matters*

Petitioner indicates that the '363 patent has been asserted in the following proceedings: (1) *Joao v. LifeShield, Inc.*, No. 2-15-cv-02772 (E.D. Pa.); (2) *Joao v. Telular Corp.*, No. 1-14-cv-09852 (N.D. Ill.); (3) *Joao v. Mobile Integrated Solutions, LLC*, No. 2-14-cv-02643 (D. Ariz.); (4) *Joao v. Comverge, Inc.*, No. 1-14-cv-03862 (N.D. Ga.); (5) *Joao v. Slomin's Inc.*, No. 2-14-cv-02598 (E.D.N.Y.); (6) *Joao v. Cox Communications, Inc.*, No. 1-14-cv-00520 (D. Del.); (7) *Joao v. Nissan North America, Inc.*, No. 1-14-cv-00523 (D. Del.); (8) *Joao v. Verizon Communications, Inc.*, No. 1-14-cv-00525 (D. Del.); (9) *Joao v. Time Warner Cable, Inc.*, No. 1-14-cv-00524 (D. Del.); (10) *Joao v. Consolidated Edison, Inc.*, No. 1-14-cv-00519 (D. Del.); (11) *Joao v. Volkswagen Group of America, Inc.*, No. 1-14-cv-00517 (D. Del.); (12) *Alarm.com Inc. v. Joao*, No. 1-14-cv-00284 (D. Del.); (13) *Joao v. FrontPoint Security Solutions LLC*, No. 1-13-cv-01760 (D. Del.); (14) *Joao v. Chrysler Corp.*, No. 4-13-cv-13957 (E.D. Mich.); (15) *Joao v. Ford Motor Co.*, No. 4-13-cv-13615 (E.D. Mich.); (16) *Joao v. Lowe's Cos., Inc.*, No. 5-13-cv-00056 (W.D.N.C.); (17) *Joao v. Vivint Inc.*, No. 1-13-cv-00508 (D. Del.); (18) *Joao v. Chrysler Corp.*, No. 1-13-cv-00053 (S.D.N.Y.); (19) *Joao v. Ford Motor Co.*, No. 1-12-cv-01479 (D. Del.); (20) *Joao v. City of Yonkers*, No. 1-12-cv-

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07734 (S.D.N.Y.); (21) *Joao v. Ford Motor Co.*, No. 4-12-cv-14004 (E.D. Mich.); (22) *Joao v. Xanboo, Inc.*, No. 2-12-cv-03698 (C.D. Cal.); (23) *Joao of California, LLC v. Sling Media, Inc.*, No. 3-11-cv-06277 (C.D. Cal.); (24) *Joao of California, LLC v. ACTI Corp.*, No. 8-10-cv-01909 (C.D. Cal.); and (25) *Joao v. Protect America, Inc.*, No. 1-14-cv-00134 (W.D. Tex.).  
Pet. 2–4; Paper 5.

According to Patent Owner, the '363 patent also is the subject of four *ex parte* reexaminations, Reexamination Control Nos.: (1) 90/013,303; (2) 90/013,301; (3) 90/013,302; and (4) 90/013,300. Paper 5, 5. Petitioner concurrently filed petitions requesting an *inter partes* review of the following U.S. Patent Nos.: (1) 6,549,130 (Case IPR2015-01509); (2) 6,542,077 B2 (Case IPR2015-01466); (3) 6,587,046 (Case IPR2015-01477); (4) 7,277,010 (Case IPR2015-01484); (5) 6,542,076 (Case IPR2015-01478); and (6) 6,542,076 (Case IPR2015-01508). *Id.* at 4–5.

## II. ANALYSIS

Because at least one of the petitioning parties was served with a complaint on June 23, 2014 (Exs. 2002–2005), the statutory bar date for IPR2015-01485 is June 23, 2015. 35 U.S.C. § 315(b); 37 C.F.R. § 42.101(b). Petitioner, however, was accorded a filing date of June 24, 2015. Paper 3. Petitioner filed, served, and paid the fee for IPR2015-01485 on June 24, 2015, which is one day after the statutory bar date. Motion 2–5 (citing Ex. 1 ¶¶ 1–12).<sup>1</sup>

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<sup>1</sup> Exhibits 1–4, filed by Petitioner with the Motion, do not comply with 37 C.F.R. § 42.63(c), requiring all exhibits to be separately and uniquely

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