

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

COX COMMUNICATIONS, INC.

Petitioner

v.

C-CATION TECHNOLOGIES, LLC

Patent Owner

Patent No. 5,563,883

Filing Date: July 18, 1994

Issue Date: October 8, 1996

Title: DYNAMIC CHANNEL MANAGEMENT AND SIGNALLING METHOD  
AND APPARATUS

---

*Inter Partes* Review No. Unassigned

---

**MOTION FOR JOINDER  
UNDER 37 C.F.R. §§ 42.22 AND 42.122(b)**

Cox Communications, Inc. (“Cox”) submits concurrently herewith a Petition for *Inter Partes* Review of U.S. Patent No. 5,563,883 (“Petition”) based on grounds identical to those that formed the basis for pending IPR proceeding *ARRIS Group, Inc. v. C-Cation Technologies, LLC*, IPR2015-00635 (“the ARRIS IPR”). Pursuant to 35 U.S.C. § 315(c), Cox respectfully moves that its Petition be instituted and joined with the ARRIS IPR.<sup>1</sup> Cox does not seek to alter the grounds upon which the Board has already found support in instituting the ARRIS IPR, and joinder will have no impact on the existing schedule in the joined IPRs. ARRIS does not oppose Cox’s present motion for joinder.

Cox submits that joinder is appropriate because it will promote efficient resolution of the issues without affecting scheduling for the pending proceeding and will not prejudice the parties to the ARRIS IPR. Absent joinder, Cox may be prejudiced as it has a significant interest in the underlying validity determination at issue in this proceeding, given the potential impact on litigation proceedings between C-Cation Technologies and Cox involving the same patent. Joinder would protect Cox’s interests and avoid the potential prejudice to Cox that could result from a settlement between C-Cation Technologies and ARRIS.

---

<sup>1</sup> As stated in the Frequently Asked Questions section of the Patent Trial and Appeal Board’s website (<http://www.uspto.gov/ip/boards/bpai/prps.jsp>), “No prior authorization is required for filing the motion for joinder with the petition.”

Cox's motion for joinder and accompanying Petition are timely under 37 C.F.R. §§ 42.22 and 42.122(b), as they are submitted within one month of July 31, 2015, the date that the ARRIS IPR was instituted.

## **I. BACKGROUND AND RELATED PROCEEDINGS**

C-Cation Technologies, LLC is the owner of U.S. Patent No. 5,563,883. The '883 Patent is asserted against Cox in *C-Cation Techs., LLC v. Atlantic Broadband Group LLC, et al.*, C.A. No. 15-295 (RGA) (D. Del.). The '883 Patent is also asserted in *C-Cation Techs., LLC v. Time Warner Cable Inc., et al.*, No. 2:14-cv-00059 (E.D. Tex.) (naming ARRIS as a defendant) (together the "Underlying Litigations"). The '883 Patent is also involved in pending *inter partes* review Nos. IPR2015-00635 filed by ARRIS Group, Inc. and IPR2015-01045 filed by Unified Patents Inc. Unified Patents Inc. has also filed an Unopposed Motion for Joinder to join the ARRIS IPR. *See* IPR2015-01045, Paper No. 11.

The '883 Patent was also asserted in the following actions: *C-Cation Techs., LLC v. Cable One, Inc.*, No. 2:11-cv-00030 (E.D. Tex.) (filed Jan. 25, 2011; terminated Jan. 21, 2014); *Comcast Cable Commc'ns, LLC v. C-Cation, Inc.*, No. 1:11-cv- 01922 (S.D.N.Y.) (filed Mar. 18, 2011; terminated Jan. 21, 2014). It was

also the subject of IPR2014-00454 filed by Cisco Systems, Inc.<sup>2</sup> and IPR2014-00746 filed by ARRIS Group, Inc.

IPR2015-00635 was filed by ARRIS Group, Inc. on February 5, 2015. The ARRIS IPR covered claims 1, 3, and 4 of the '883 patent. On July 31, 2015, the Board instituted trial on claims 1, 3, and 4 of the '883 patent in the ARRIS IPR.

## **II. STATEMENT OF REASONS FOR RELIEF REQUESTED**

### **A. Legal Standard**

The Leahy–Smith America Invents Act (AIA) allows an IPR party to be joined with a preexisting IPR. *See generally* Pub. L. No. 112-29, 125 Stat. 284 (2011). The statutory provision governing IPR joinder, 35 U.S.C. § 315(c), reads:

(c) JOINDER.--If the Director institutes an inter partes review, the Director, in his or her discretion, may join as a party to that inter partes review any person who properly files a petition under section 311 that the Director, after receiving a preliminary response under section 313 or the expiration of the

---

<sup>2</sup> The Board denied institution in IPR2014-00454 finding that the petition failed to “provide sufficient articulated reasoning with rational underpinning explaining why one with ordinary skill in the art would modify the teachings of the applied references to arrive at the claimed invention.” *See Cisco Systems, Inc. v. C-Cation Technologies, LLC*, IPR2014-00454, Paper 12 at 14-15 (Aug. 29, 2014).

time for filing such a response, determines warrants the institution of an inter partes review under section 314.

Motions for joinder should: (1) set forth reasons why joinder is appropriate; (2) identify any new grounds of unpatentability asserted in the petition; (3) explain what impact (if any) joinder would have on the trial schedule for the existing review; and (4) address specifically how briefing and discovery may be simplified. *See Kyocera Corporation v. Softview LLC*, IPR2013-00004, Paper No. 15 at 4 (April 24, 2013). Under its discretion, the Board considers how joinder will affect the substance and procedure of the preexisting proceeding. *See Decision on Motion for Joinder, Motorola Mobility LLC v. Softview LLC*, IPR2013-00257, Paper 10 (June 20, 2013).

#### **B. Joinder is Appropriate.**

Joinder is appropriate here because it will not “unduly complicate or delay” the ARRIS IPR. *SAP America Inc. v. Clouding IP, LLC*, Case IPR2014-00306, Paper No. 13 (May 19, 2014) at 4. In other IPR proceedings, the Board has found that joinder is appropriate when, like here, (1) joinder is timely (2) no new grounds of unpatentability are introduced; (3) the party joining the proceeding agrees to consolidated filings and discovery; (4) joinder will not affect the schedule; and (5) joinder will streamline the proceedings, reduce the costs and burdens on the parties, and increase efficiencies for the Board without prejudicing the parties. *See*

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.