

UNITED STATES PATENT AND TRADEMARK OFFICE

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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*SONY CORPORATION,*  
Petitioner

v.

*RAYTHEON COMPANY,*  
Patent Owner

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**Case IPR2016-00209**

**Patent 5,591,678**

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**PRELIMINARY RESPONSE TO PETITION FOR *INTER PARTES*  
REVIEW OF U.S. PATENT NO. 5,591,678**

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## EXHIBIT LIST

<u>EXHIBIT</u>	<u>DESCRIPTION</u>
2001	First page of Docket Control Order in 15-cv-341, August 17, 2015
2002	Defendants' Invalidation Contentions and Disclosures Pursuant to Patent Rules 3-3 and 3-4, October 2, 2015
2003	Defendants' Motion to Stay Cases Pending Inter Partes Review, January 4, 2016

Raytheon Company (“Patent Owner”) respectfully submits this Preliminary Response to the Petition seeking *inter partes* review of U.S. Patent No. 5,591,678 (“678 Patent”). This filing is timely under 35 U.S.C. § 313 and 37 C.F.R. 42.107, because it is within three months of the November 24, 2015 date of the Notice granting the Petition a filing date. IPR2016-00209, at Paper 4, Notice of Filing Date, November 18, 2015.

## **I. INTRODUCTION**

Patent Owner respectfully submits that the Board should deny *inter partes* review of the 678 Patent under 35 U.S.C. §§ 314(a) and 325(d) and 37 C.F.R. § 42.108(a). In a different proceeding, the Board has already instituted *inter partes* review of claims 1-18 of the 678 patent – the same claims challenged in the present proceeding – based on six separate grounds. Petitioner has not adequately explained how the present Petition does not include substantially the same arguments as those contained in the IPR that is already pending. Rather a review of the petition shows it raises the same arguments that are being reviewed in the instituted IPR. The Petition in the present proceeding is part of a strategy to gain a tactical advantage in underlying litigation involving the same patent where Patent Owner accuses Petitioner and three other defendants of infringement.

By filing this second petition over six months after the first, Petitioner has caused the Patent Owner to answer two IPR petitions and a motion to join them

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