

Filed on behalf of TQ Delta, LLC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ARRIS GROUP, INC.
Petitioner

v.

TQ DELTA, LLC
Patent Owner

Case No. IPR2016-00430
Patent No. 7,835,412

PATENT OWNER'S PRELIMINARY RESPONSE

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EXHIBIT LIST

Exhibit 2001: Co-operation Agreement

Exhibit 2002: 10/21/2015 Arris Press Release

Exhibit 2003: Common Defense Agreement, May 20, 2015

Exhibit 2004: 12/23/2015 Pace Press Release

Exhibit 2005: 1/4/2016 Arris Press Release

Exhibit 2006: Corporate Disclosure Statement, 13-cv-01835-RGA, (D. Del.), D.I.
142, Filed 02/17/16

Exhibit 2007: Second Amended Complaint for Patent Infringement, 13-cv-01835-
RGA, (D. Del.), D.I. 24, Filed and Served via ECF on 02/07/14

I. INTRODUCTION

Patent Owner TQ Delta, LLC (“TQ Delta” or “Patent Owner”) submits this preliminary response to the Petition filed by Arris Group, Inc. (“Arris” or “Petitioner”) requesting *inter partes* review of claims 1-21 of U.S. Pat. No. 8,238,412 (“the ’412 patent”).

As an initial matter, the Board must deny Institution of this proceeding under the 1-year bar date of 35 U.S.C. § 315(b). 2Wire, Inc., a privy of Petitioner Arris and a real party in interest, was served with a complaint alleging infringement of the ’412 Patent on February 7, 2014—more than one year before the January 3, 2016 filing date of this Petition. Arris is the acquirer and successor-in-interest of 2Wire. Arris should not be allowed to circumvent the statutory bar of § 315(b), especially when Arris controls the on-going district court proceedings where it can still challenge the validity of the ’412 patent.

But in any event, the Petition fails to demonstrate a reasonable likelihood that claims 1-21 of the ’412 patent are unpatentable. Each of the asserted prior art references differs significantly from the inventions claimed by the ’412 patent. Numerous claim limitations are missing from each of the asserted prior art references. Not surprisingly, each of Petitioner’s asserted grounds for unpatentability therefore relies on obviousness. Petitioner, however, unsuccessfully attempts to cobble together various discrete features from multiple

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