

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BRIGHT HOUSE NETWORKS, LLC
WIDOPENWEST FINANCE, LLC
KNOLOGY OF FLORIDA, INC.
BIRCH COMMUNICATINOS, INC.

Petitioner

v.

FOCAL IP, LLC,

Patent Owner

Case IPR2016-01261
Patent Number: 8,457,113 B2

**PATENT OWNER FOCAL IP, LLC'S RESPONSE TO PETITION
FOR INTER PARTES REVIEW**

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TABLE OF AUTHORITIES

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