

**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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COMCAST CABLE COMMUNICATIONS, LLC

Petitioner

v.

REALTIME ADAPTIVE STREAMING, LLC

Patent Owner

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Patent No. 8,934,535

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**MOTION FOR JOINDER**

## **I. INTRODUCTION**

Petitioner Comcast Cable Communications, LLC (“Petitioner” or “Comcast”) submits concurrently with this motion a petition for *inter partes* review of U.S. Patent No. 8,934,535 (the “’535 Patent”) based on the identical grounds that form the basis for the pending *inter partes* review initiated by Netflix, Inc. concerning the same patent: Case No. IPR2018-01169 (the “Netflix IPR”).

Petitioner respectfully requests that the accompanying petition be instituted and moves the Board to join this proceeding with the Netflix IPR pursuant to 35 U.S.C. § 315(c) and 37 C.F.R. §§ 42.22 and 42.122(b). Petitioner merely requests an opportunity to join with the Netflix IPR as an “understudy” to Netflix, only assuming an active role in the event Netflix settles with Patent Owner Realtime Adaptive Streaming, LLC (“Realtime”). Petitioner does not seek to alter the grounds upon which the Board has already instituted the Netflix IPR, and joinder will have no impact on the Netflix IPR’s existing schedule. Petitioner has conferred with counsel for Netflix and confirmed that it does not oppose this motion. This motion is timely as it was filed within one month of the institution of IPR2018-01169. 35 U.S.C. § 21(b); 37 C.F.R. § 42.122(b).

## **II. BACKGROUND AND RELATED PROCEEDINGS**

In 2017 and 2018, Realtime filed a number of lawsuits alleging infringement of various patents including the ’535 Patent. As noted above, Realtime sued

Netflix for infringement of several patents including the '535 Patent in the District of Delaware in November 2017. Realtime sued Comcast for infringement of several patents including the '535 Patent in the District of Colorado in June 2018.

The '535 Patent has been asserted in the following lawsuits:

- *Realtime Data LLC d/b/a IXO v. Echostar Corp.*, Case No. 6:17-cv-84 (E.D. Tex.);
- *Realtime Data LLC d/b/a IXO v. DISH Network Corporation et al.*, Case No. 6:17-cv-00421 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. Sling TV, LLC*, Case No. 1:17-cv-2097 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Amazon.com, Inc.*, Case No. 6:17-cv-549 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. EchoStar Technologies, LLC et al.*, Case No. 6:17-cv-00567 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. Hulu, LLC*, Case No. 2:17-cv-7611 (C.D. Cal.);
- *Realtime Adaptive Streaming LLC v. Cisco Systems, Inc.*, Case No. 6:17-cv-591 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. Brightcove, Inc.*, Case No. 1:17-cv-1519 (D. Del.);
- *Realtime Adaptive Streaming LLC v. Haivision Network Video, Inc.*, Case No. 1:17-cv-1520 (D. Del.);
- *Realtime Adaptive Streaming LLC v. Polycom, Inc.*, Case No. 1:17-cv-2692 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Netflix, Inc.*, Case No. 1:17-cv-1692 (D. Del.);

- *Realtime Adaptive Streaming LLC v. Sony Elecs., Inc.*, Case No. 1:17-cv-1693 (D. Del.);
- *Realtime Adaptive Streaming LLC v. Apple, Inc.*, Case No. 1:17-cv-2869 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Adobe Systems Inc.*, Case No. 1:18-cv-10355 (D. Mass.);
- *Realtime Adaptive Streaming LLC v. Samsung Elec. Co., Ltd.*, Case No. 6:18-cv-00113 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. Wowza Media Systems LLC*, Case No. 1:18-cv-00927 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Google LLC et al*, Case No. 2:18-cv-03629 (C.D. Cal.);
- *Realtime Adaptive Streaming LLC v. Avaya Inc.*, Case No. 1:18-cv-01046 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Broadcom Corporation et al.*, Case No. 1:18-cv-01048 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. LG Electronics Inc. et al*, Case No. 6:18-cv-00215 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. Advanced Micro Devices, Inc.*, Case No. 1:18-cv-01173 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Intel Corporation*, Case No. 1:18-cv-01175 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Mitel Networks, Inc.*, Case No. 1:18-cv-01177 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Charter Communications, Inc. et al*, Case No. 1:18-cv-01345 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Cox Communications, Inc.*, Case No. 8:18-cv-00942 (C.D. Cal.); and

- *Realtime Adaptive Streaming LLC v. Comcast Cable Communications, LLC*, Case No. 1:18:cv-01446 (D. Colo.).

Several of these lawsuits have since been dismissed.

In June 2018, Hulu, LLC, Amazon.com, Inc., and Netflix, Inc. filed a petition for *inter partes* review challenging claims 1-14 of the '535 Patent. Case No. IPR2018-01169, Paper 8. Hulu and Amazon subsequently filed a joint motion to terminate their participation in the proceeding, which the Board granted. Case No. IPR2018-01169, Paper 18. The Board instituted review with Netflix as the sole petitioner on January 17, 2019. Case No. IPR2018-01169, Paper 20.

In addition to the Netflix IPR (IPR2018-01169), several other petitions for *inter partes* review have been filed challenging claims of the '535 Patent:

- *Unified Patents Inc. v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-00883 (challenging claims 15-17, 19, and 22-23);
- *Hulu, LLC, Amazon.com, Inc., and Netflix, Inc. v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01170 (challenging claims 15-30);
- *Sling TV LLC, et al v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01332 (challenging claims 15-17, 19, 21, 22, and 24);
- *Sling TV LLC, et al v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01342 (challenging claims 1-6, 8-12, and 14); and
- *Cisco Systems, Inc. v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01384 (challenging claims 1-6, 8-12, 14-17, 19, 21, 22, and 24).

Reviews have been instituted in both the Netflix IPR (IPR2018-01169) and IPR2018-01342. The other four proceedings (IPR2018-00883, IPR2018-01170, IPR2018-01332, and IPR2018-01384) have been terminated.

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