

**UNITED STATES PATENT AND TRADEMARK OFFICE**

---

**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

---

COMCAST CABLE COMMUNICATIONS, LLC

Petitioner

v.

REALTIME ADAPTIVE STREAMING, LLC

Patent Owner

---

Patent No. 9,769,477

---

**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. 9,769,477 (the “’477 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. IPR2018-01187 (the “Netflix IPR”).

Petitioner respectfully requests that the accompanying petition be instituted and for joinder 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 IPR2018-01187. 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 ’477 Patent. Realtime sued Netflix for

infringement of several patents including the '477 Patent in the District of Delaware in November 2017. Realtime sued Comcast for infringement of several patents including the '477 Patent in the District of Colorado in June 2018. The '477 Patent has been asserted in the following lawsuits:

- *Realtime Adaptive Streaming LLC v. Amazon.com, Inc.*, Case No. 6:17-cv-549 (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-113 (E.D. Tex.);

- *Realtime Adaptive Streaming LLC v. Wowza Media Systems LLC*, Case No. 1:18-cv-927 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Google LLC et al*, Case No. 2:18-cv-3629 (C.D. Cal.);
- *Realtime Adaptive Streaming LLC v. Avaya Inc.*, Case No. 1:18-cv-1046 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Broadcom Corporation et al.*, Case No. 1:18-cv-1048 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. LG Electronics Inc. et al*, Case No. 6:18-cv-215 (E.D. Tex.);
- *Realtime Adaptive Streaming LLC v. Advanced Micro Devices, Inc.*, Case No. 1:18-cv-1173 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Intel Corporation*, Case No. 1:18-cv-1175 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Mitel Networks, Inc.*, Case No. 1:18-cv-1177 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Charter Communications, Inc. et al*, Case No. 1:18-cv-1345 (D. Colo.);
- *Realtime Adaptive Streaming LLC v. Cox Communications, Inc.*, Case No. 8:18-cv-942 (C.D. Cal.); and
- *Realtime Adaptive Streaming LLC v. Comcast Cable Communications, LLC*, Case No. 1:18-cv-1446 (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 1-6, 9-14, 20-22, and 25-27 of the '477 Patent. Case No. IPR2018-01187, Paper 4. Hulu and Amazon subsequently filed a joint motion to terminate their participation in the proceeding,

which the Board granted. Case No. IPR2018-01187, Paper 10. The Board instituted review with Netflix as the sole petitioner on February 4, 2019. Case No. IPR2018-01187, Paper 22.

In addition to the Netflix IPR (IPR2018-01187), two other petitions for *inter partes* review have been filed challenging claims of the '477 Patent:

- *Sony Corporation and Polycom, Inc., v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01413 (challenging claims 1-29); and
- *Netflix, Inc. v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01630 (challenging claims 7, 8, 15-19, 23, 24, 28, and 29).

The Sony proceeding (IPR2018-01413) has been terminated. Review has not yet been instituted in IPR2018-01630, which remains pending.

### **III. LEGAL STANDARD AND APPLICABLE RULES**

Joinder is governed by 35 U.S.C. § 315(c), which reads as follows:

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

A motion for joinder should “(1) set forth the 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

# 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.