

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. IPR2018-01630 (the “Netflix IPR”).

Petitioner respectfully requests that the accompanying petition be instituted and further that this motion 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) be granted. 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 IPR2018-01630. 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 September 2018, Netflix, Inc. filed a petition for *inter partes* review challenging claims 7, 8, 15-19, 23, 24, 28, and 29 of the '477 Patent. Case No. IPR2018-01630, Paper 2. The Board instituted review on April 19, 2019. Case No. IPR2018-016307, Paper 13.

In addition to the Netflix IPR (IPR2018-01630), four 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);
- *Netflix, Inc. v. Realtime Adaptive Streaming LLC*, Case No. IPR2018-01187 (challenging claims 1-6, 9-14, 20-22, and 25-27);
- *Comcast Cable Communications, LLC v. Realtime Adaptive Streaming, LLC*, Case No. IPR2019-00786 (challenging claims 1-6, 9-14, 20-22, and 25-27); and
- *Google LLC v. Realtime Adaptive Streaming LLC*, IPR2019-01035 (challenging claims 1, 3, 4, 7, 9, 16, 17, and 20-22).

The Sony proceeding (IPR2018-01413) has been terminated. Review was instituted in the earlier Netflix petition challenging the '477 Patent (IPR2018-01187) on February 4, 2019, and Comcast filed a petition and motion to join the earlier Netflix proceeding. Review has not yet been instituted and no response has yet been filed in Comcast's proceeding (IPR2019-00786), which remains pending. Similarly, review has not yet been instituted and no response has yet been filed in Google's proceeding (IPR2019-01035), 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,

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