**UNITED STATES PATENT AND TRADEMARK OFFICE**

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**BEFORE THE PATENT TRIAL AND APPEAL BOARD**

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Hytera Communications Corp. Ltd.,

Petitioner,

v.

Motorola Solutions, Inc.

Patent Owner.

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Patent No. 7,369,869 B2
Filing Date: July 26, 2004
Issue Date: May 6, 2008

Title: Method and System of Scanning a TDMA Channel

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Case No. IPR2017-02179

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# PATENT OWNER'S PRELIMINARY RESPONSE TO PETITION FOR *INTER PARTES* REVIEW

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## Cases

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## I. INTRODUCTION

This petition was filed by Hytera Communication Co. Ltd. ("Hytera" or "Petitioner") against Motorola Solutions, Inc. ("Motorola")'s U.S. Patent 7,369,869 (Ex. 1001, "the '869 patent") six months after Motorola sued Hytera in district court and the U.S. International Trade Commission for infringing this patent, and seven months after Motorola sued Hytera for misappropriating its trade secrets through hiring of multiple Motorola engineers who surreptitiously downloaded thousands of confidential Motorola documents to take with them to Hytera to build a competing digital mobile radio ("DMR") product. Motorola's '869 patent generally involves scanning in a two-way radio system that uses a control message on the channel where activity is present. The Board should deny institution of Hytera's petition because Hytera has not shown a reasonable likelihood that it would prevail with respect to any challenged claim of the '869 patent.

Hytera has raised three Grounds in its petition, based on two references: (1) Anticipation by *Wan*; (2) obviousness due to *Wan*, and (3) obviousness due to a combination of the *Wan* and *Brennan* references. There are significant differences between the prior art on which Hytera relies and the challenged claims of the '869 Patent. *Wan* is directed to improvements to a ***paging*** system, which is a wholly different type of system the technology of which is inapplicable to the ***scanning*** system inventions of the '869 patent. Based on the manifest differences in these



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