

No. 21-1233  
(oral argument not yet scheduled)

---

---

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

---

CHINA TELECOM (AMERICAS) CORPORATION,  
*Petitioner,*

v.

FEDERAL COMMUNICATIONS COMMISSION and  
UNITED STATES OF AMERICA,  
*Respondents.*

---

On petition for review from  
the Federal Communications Commission

---

PETITIONER'S BRIEF

---

Andrew D. Lipman  
Russell M. Blau  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Ave., NW  
Washington, D.C. 20004  
T: 202-739-3000  
russell.blau@morganlewis.com

---

---

## CERTIFICATE AS TO PARTIES AND AMICI, RULINGS UNDER REVIEW, AND RELATED CASES

Pursuant to D.C. Circuit Rule 28(a)(1), Petitioner China Telecom (Americas) Corporation hereby states as follows:

### I. Parties and amici

The following are the parties, intervenors, and amici in this Court and were the parties, intervenors, and amici to the proceedings before the Federal Communications Commission:

*Petitioner:* China Telecom (Americas) Corporation

*Respondents:* Federal Communications Commission and  
United States of America

*Intervenors:* Not applicable

*Amicus curiae:* Not applicable

### II. Order on review

Petitioner seeks review of the opinion and order of the Federal Communications Commission, dated November 2, 2021, revoking China Telecom (Americas) Corporation's domestic 214 authority and revoking and terminating two international Section 214 authorizations.

### III. Related cases

The case on review has not previously been before this Court. China Telecom (Americas) Corporation previously petitioned the United States

Court of Appeals for the Fourth Circuit to review the Federal Communications Commission's denial of a hearing in the revocation proceedings at issue in this case. On May 10, 2021, the Fourth Circuit dismissed that petition because "[t]he order [China Telecom Americas] seeks to appeal is neither a final agency action nor an appealable interlocutory or collateral order." Case No. 20-2365, Doc. 53.

Currently pending before this Court as Case Number 21-5215 is China Telecom (Americas) Corporation's appeal of the September 2, 2021, order and opinion of the United States District Court for the District of Columbia (Friedrich, J.) granting the United States' Petition to Initiate a Determination that Certain [Foreign Intelligence Surveillance Act ("FISA")] Surveillance Was Lawfully Authorized and Conducted. The FISA materials at issue in that appeal informed the Federal Communications Commission's revocation decision at issue in this appeal.

/s/ Russell M. Blau

Russell M. Blau  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Ave., NW  
Washington, D.C. 20004  
T: 202-739-3000  
russell.blau@morganlewis.com

February 1, 2022

## CORPORATE DISCLOSURE STATEMENT

Pursuant to Circuit Rule 28(a)(1)(A) and Federal Rule of Appellate Procedure 26.1(a), China Telecom (Americas) Corporation states that it is a wholly-owned subsidiary of China Telecom Corporation Limited, a corporation whose stock is publicly held. China Telecom Corporation Limited is a subsidiary of China Telecommunications Corporation, a state-owned enterprise of the People's Republic of China. China Telecom Americas has no other direct or indirect parent companies.

Pursuant to Circuit Rule 26.1(b), China Telecom Americas states that it is an international telecommunications company operating in the United States and other countries in the Western Hemisphere. It is a Delaware corporation that operates its U.S. business as an independent profit-making commercial enterprise.

/s/ Russell M. Blau

Russell M. Blau  
MORGAN, LEWIS & BOCKIUS LLP  
1111 Pennsylvania Ave., NW  
Washington, D.C. 20004  
T: 202-739-3000  
russell.blau@morganlewis.com

February 1, 2022

---

## TABLE OF CONTENTS

GLOSSARY .....	xii
JURISDICTION .....	xii
QUESTIONS PRESENTED .....	2
STATUTES AND REGULATIONS .....	3
BACKGROUND .....	4
I. Statutory Background.....	4
II. China Telecom Americas’ Section 214 Authority and Authorizations.....	8
III. China Telecom Americas’ Longstanding National Security Commitments .....	10
IV. The China <i>Mobile</i> Order and Team Telecom’s Recommendation.....	14
V. The <i>FCC</i> ’s Revocation Order.....	19
VI. Judicial Review .....	20
A. Foreign Intelligence Surveillance Act Appeal.....	20
B. Revocation Appeal.....	21
SUMMARY OF ARGUMENT.....	23
STANDING .....	26
ARGUMENT .....	27
I. China Telecom Americas was entitled to a live or written-record hearing, with discovery and a neutral adjudicator, before the FCC revoked its common-carrier authorizations.....	27

# 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.