

United States Court of Appeals for the Federal Circuit

COMCAST CORPORATION, COMCAST CABLE
COMMUNICATIONS, LLC, COMCAST CABLE
COMMUNICATIONS MANAGEMENT, LLC,
COMCAST BUSINESS COMMUNICATIONS, LLC,
COMCAST HOLDINGS CORPORATION, COMCAST
SHARED SERVICES, LLC, ARRIS ENTERPRISES,
INC., ARRIS GLOBAL LTD., ARRIS GROUP, INC.,
ARRIS INTERNATIONAL PLC, ARRIS SOLUTIONS,
INC., ARRIS TECHNOLOGY, INC., PACE
AMERICAS, LLC, TECHNICOLOR, S.A.,
TECHNICOLOR CONNECTED HOME USA LLC,
TECHNICOLOR USA, INC.,

Appellants

v.

INTERNATIONAL TRADE COMMISSION,

Appellee

ROVI CORPORATION, ROVI GUIDES, INC.,

Intervenors

2018-1450, 2018-1653, 2018-1667

Appeals from the United States International Trade
Commission in Investigation No. 337-TA-1001.

Decided: March 2, 2020

DONALD B. VERRILLI, JR., Munger, Tolles & Olson LLP, Washington, DC, argued for all appellants. Appellants Comcast Corporation, Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, Comcast Business Communications, LLC, Comcast Holdings Corporation, Comcast Shared Services, LLC also represented by GINGER ANDERS; DAVID LISSON, Davis Polk & Wardwell LLC, Menlo Park, CA; STEVEN ANZALONE, Winston & Strawn LLP, Washington, DC.

SIDNEY A. ROSENZWEIG, Office of General Counsel, United States International Trade Commission, Washington, DC, argued for appellee. Also represented by RONALD TRAUD, DOMINIC L. BIANCHI, WAYNE W. HERRINGTON.

JEFFREY A. LAMKEN, MoloLamken LLP, Washington, DC, argued for intervenors. Also represented by MICHAEL GREGORY PATILLO, JR., RAYINER HASHEM; RODERICK GEORGE DORMAN, McKool Smith PC, Los Angeles, CA; JOSHUA WRIGHT BUDWIN, JOEL LANCE THOLLANDER, Austin, TX; DOUGLAS AARON CAWLEY, Dallas, TX; JOHN M. WHEALAN, Chevy Chase, MD.

MITCHELL G. STOCKWELL, Kilpatrick Townsend & Stockton LLP, Atlanta, GA, for appellants ARRIS Enterprises, Inc., ARRIS Global Ltd., ARRIS Group, Inc., ARRIS International plc, ARRIS Solutions, Inc., ARRIS Technology, Inc., Pace Americas, LLC. Also represented by JOSHUA HAMILTON LEE, MICHAEL TURTON; MATTHEW MEYER, Menlo Park, CA; JOSHUA B. POND, Washington, DC.

PAUL M. BARTKOWSKI, Adduci, Mastriani & Schaumberg, LLP, Washington, DC, for appellants Technicolor, S.A., Technicolor Connected Home USA LLC, Technicolor USA, Inc.

JOHN THORNE, Kellogg, Hansen, Todd, Figel &

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Frederick, P.L.L.C., Washington, DC, for amicus curiae Verizon Services Corp. Also represented by GREGORY G. RAPAWY, ARIELA M. MIGDAL.

Before NEWMAN, REYNA, and HUGHES, *Circuit Judges*.

NEWMAN, *Circuit Judge*.

Appellants Comcast Corporation, Comcast Cable Communications, LLC, Comcast Cable Communications Management, LLC, Comcast Business Communications, LLC, Comcast Holdings Corporation, Comcast Shared Services, LLC (collectively “Comcast”); ARRIS Enterprises, Inc., ARRIS Global Ltd., ARRIS Group, Inc., ARRIS International plc, ARRIS Solutions, Inc., ARRIS Technology, Inc., Pace Americas, LLC (collectively “ARRIS”); and Technicolor SA, Technicolor Connected Home USA LLC, and Technicolor USA, Inc. (collectively “Technicolor”) appeal the decision and orders of the United States International Trade Commission (“ITC” or “Commission”). The ITC’s rulings¹ are in accordance with law and supported by substantial evidence, and are affirmed.

BACKGROUND

Rovi Corporation and Rovi Guides, Inc. (collectively “Rovi”) filed a complaint with the ITC alleging violation of Section 337 of the Tariff Act of 1930. Rovi asserted, *inter alia*, infringement of claims 1, 2, 14, and 17 of United

¹ *Certain Digital Video Receivers and Hardware and Software Components Thereof*, Inv. No. 337-TA-1001, USITC Pub. 4931, 2017 WL 11249982 (Dec. 6, 2017) (“Comm. Op.”); *Certain Digital Video Receivers and Hardware and Software Components Thereof*, Inv. No. 337-TA-1001, USITC Pub. 4931, 2017 WL 3485153 (May 26, 2017) (“Final ID”).

States Patent No. 8,006,263 (“the ’263 patent”) and claims 1, 3, 5, 9, 10, 14, and 18 of United States Patent No. 8,578,413 (“the ’413 patent”). Rovi stated, and the Commission found, that Comcast’s customers directly infringe the ’263 and ’413 patents by using Comcast’s X1 system. The Commission found that Comcast is in violation of Section 337 by importing the X1 set-top boxes that are used in the infringing system.

The ’263 and ’413 patents describe and claim an interactive television program guide system for remote access to television programs. The asserted claims require a remote program guide access device, such as a mobile device, that is connected to an interactive television program guide system over a remote access link, whereby users can remotely access the program guide system. Claim 1 of the ’263 patent is representative:

1. A system for selecting television programs over a remote access link comprising an Internet communications path for recording, comprising:
 - a local interactive television program guide equipment on which a local interactive television program guide is implemented, wherein the local interactive television program guide equipment includes user television equipment located within a user’s home and the local interactive television program guide generates a display of one or more program listings for display on a display device at the user’s home; and
 - a remote program guide access device located outside of the user’s home on which a remote access interactive television program guide is implemented, wherein the remote program guide access device is a mobile device, and wherein the remote access interactive television program guide:

generates a display of a plurality of program listings for display on the remote program guide access device, wherein the display of the plurality of program listings is generated based on a user profile stored at a location remote from the remote program guide access device;

receives a selection of a program listing of the plurality of program listings in the display, wherein the selection identifies a television program corresponding to the selected program listing for recording by the local interactive television program guide; and

transmits a communication identifying the television program corresponding to the selected program listing from the remote access interactive television program guide to the local interactive television program guide over the Internet communications path;

wherein the local interactive television program guide receives the communication and records the television program corresponding to the selected program listing responsive to the communication using the local interactive television program guide equipment.

'263 patent col. 28, ll. 27–63.

The administrative law judge (“ALJ”) conducted an investigation and trial, and found violation of Section 337. The ALJ found that the X1 set-top boxes are imported by ARRIS and Technicolor, and that “Comcast is sufficiently involved with the design, manufacture, and importation of the accused products, such that it is an importer for purposes of Section 337.” Final ID at *11. The full Commission affirmed “the Final ID’s findings and conclusion that

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