

No. 08-1472

Supreme Court, U.S.  
FILED

OCT 1 - 2009

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In The  
**Supreme Court of the United States**

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USA MOBILITY WIRELESS, INC.,

*Petitioner,*

v.

JERILYN QUON; APRIL FLORIO;  
JEFF QUON; STEVE TRUJILLO,

*Respondents.*

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**On Petition For A Writ Of Certiorari  
To The United States Court Of Appeals  
For The Ninth Circuit**

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**RESPONSE TO CONDITIONAL CROSS-PETITION  
FOR A WRIT OF CERTIORARI**

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*Counsel for Additional Defendants and  
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Ontario Police Department, and Lloyd Scharf*

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City of Ontario, Ontario Police Department, and Lloyd Scharf (“City Petitioners”) are petitioners in Case No. 08-1332. That petition is the basis for the Conditional Cross-Petition for a Writ of Certiorari filed by USA Mobility Wireless, Inc. in the instant case. City Petitioners do not oppose the Conditional Cross-Petition, which raises only an issue under the Stored Communications Act, 18 U.S.C. §§ 2701-2712. The Petition for a Writ of Certiorari filed by City Petitioners does not address that issue because City Petitioners prevailed in the trial court on the Stored Communications Act claims against them, and plaintiffs and appellants below did not thereafter pursue any Stored Communications Act claims against City Petitioners on appeal. See Appendix in Case No. 08-1332 at 11 n.3 (Ninth Circuit opinion noting that plaintiffs and appellants did not raise, and therefore waived, any Stored Communications Act claims against City Petitioners on appeal).

Respectfully submitted,

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