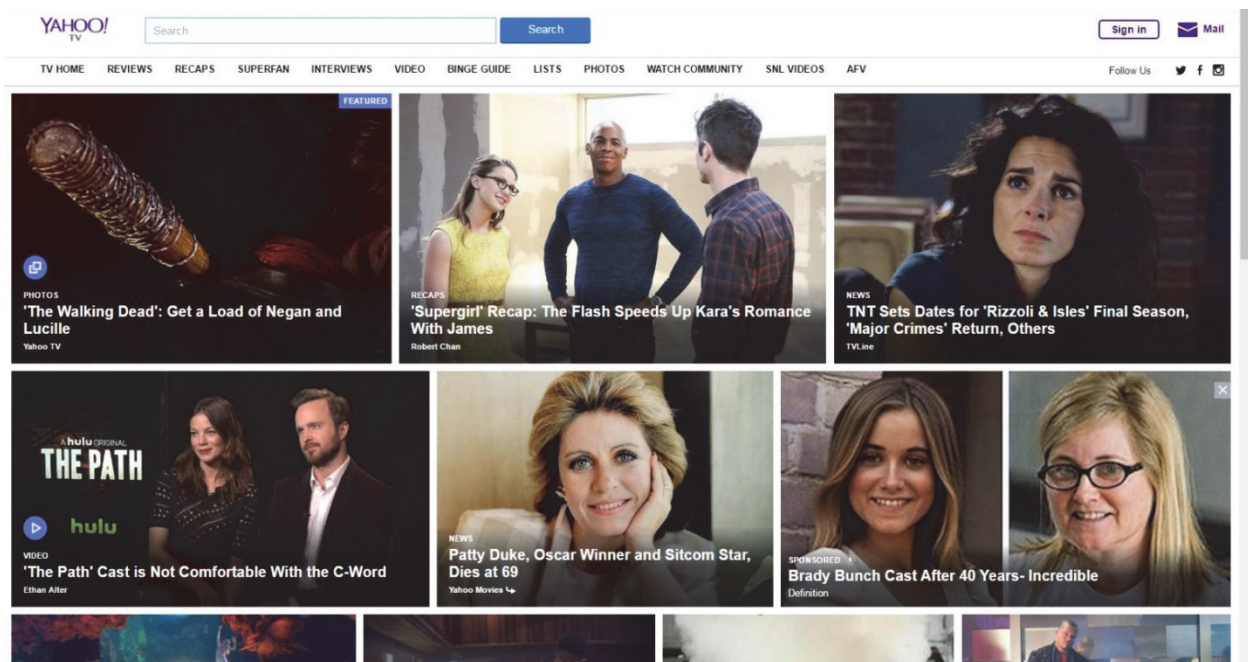


1 be used to help users discover interactive applications. By offering broadcast program  
 2 choices in an EPG to users, and initiating interactive applications associated with the  
 3 broadcast program chosen, Yahoo performs the step of “determining, using an  
 4 electronic program guide, an interactive application associated with a broadcast  
 5 program.”

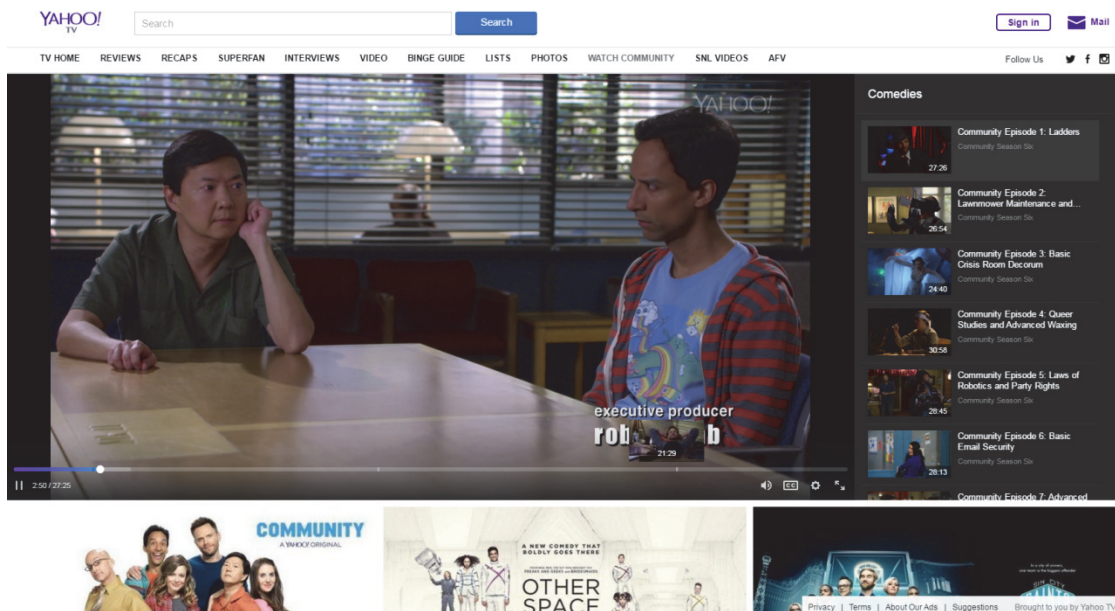
6 b. Though the Complaint does not allege otherwise, Defendants state that Yahoo TV  
 7 practices the other limitations of exemplary Claim 13 as well. The interactive video  
 8 advertising functionality in Yahoo TV ([www.yahoo.com/tv/](http://www.yahoo.com/tv/)) is a computer  
 9 implemented method of controlling a broadcast and reception of an interactive  
 10 application.

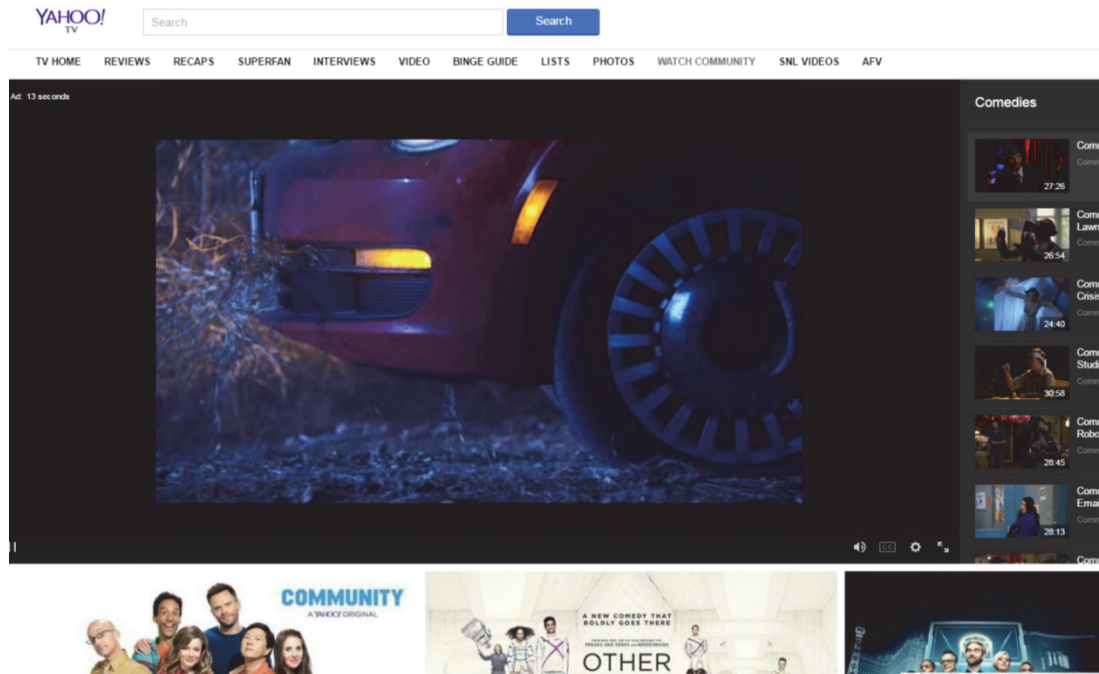
11 c. Yahoo determines, using an electronic program guide, an interactive application  
 12 associated with a broadcast program. *See, e.g.*, <http://www.yahoo.com/tv/> (Yahoo TV  
 13 contains a digital guide (as shown in the below screenshot) that Yahoo uses, based on  
 14 the viewer’s selection of a television show or film from the guide, to determine an  
 15 associated interactive application).



As stated above, Claim 13 does not require use of EPGs to help users discover interactive applications, as Yahoo claims. Instead, it requires that interactive application be *determined* using an EPG which, as the specification explains, may take place subsequent to selection of a broadcast program from the EPG. *See* '327 Patent at 4:33-35 (“In accordance with the invention, the program identifier from the EPG is then coordinated with a list of timing offset objects specific to the broadcast program.”).

- d. Yahoo TV controls the interactive application to maintain synchrony with the display of the broadcast program. *See, e.g.,* <http://www.yahoo.com/tv/> (Yahoo TV’s interactive controls (“interactive application”) are suspended when the broadcast program breaks, for example, for an advertisement, and are then resumed once the broadcast program resumes). The following screenshots compare the Yahoo TV functionality during playback of the broadcast program (above) and during an advertisement (below).





- e. Yahoo determines timing offsets associated with the broadcast program. For example, the pre-roll advertisements shown on Yahoo TV demonstrate that Yahoo determines at least the program's start time.
- f. Yahoo controls the interactive applications to maintain synchrony with the display of the broadcast program in accordance with the timing offsets. For example, the interactive controls (interactive applications) are suspended during the pre-roll and mid-roll advertisements and then resumed or activated at the broadcast program's start/resume time (timing offset).
- g. Yahoo's broadcast programs are television shows. For example, in the above illustration, the "broadcast program" is Community, a television show.
- h. Yahoo generates a command, in response to determining that there is a break in the television show, to suspend execution of the interactive application, and then generates a command to resume execution upon determining that the break in the television show has ended. As discussed above in (d), the interactive controls are suspended only for the duration of the advertisement breaks, and are resumed once playback of the television show has resumed.

1           44.     Yahoo has indirectly infringed, and is indirectly infringing, at least Claims 13 and 36 of  
2 the '327 Patent in violation of 35 U.S.C. § 271 *et seq.*, by making, using, offering for sale, selling,  
3 and/or importing in or into the United States without authority the interactive video advertising  
4 functionality employed by Yahoo's streaming video delivery services available through yahoo.com and  
5 Yahoo's branded mobile applications available at least on Android or iOS devices and Yahoo's  
6 Connected TV platform, including, for example, Yahoo TV available online at  
7 <https://www.yahoo.com/tv/>. As discussed above, to receive the benefit of Yahoo's interactive video  
8 advertising functionality, users may be required to perform one or more actions, to the extent user  
9 actions are considered to meet steps of the patented method, Yahoo maintains full control over the  
10 manner and/or timing of the infringing steps. Further, Yahoo induces its customers to infringe one or  
11 more claims of the '327 Patent at least by encouraging them to use its interactive video advertising  
12 functionality, such as on Yahoo TV, alone or in combination with Yahoo services on the users' devices,  
13 in an infringing manner. For example, Yahoo advertises Yahoo TV as one of its services on  
14 <https://everything.yahoo.com>, and also promotes a variety of broadcast programs for users to access on  
15 Yahoo TV on its social media pages such as <https://www.facebook.com/YahooTV>. Yahoo also dictates  
16 through specific programming instructions how the interactive controls of the media player respond  
17 during the presentation of video content through its streaming video delivery services, including with  
18 regard to commercials. Yahoo has been aware of the '327 Patent since at least December 22, 2015, by  
19 way of actual notice of infringement, and also by way of OpenTV's assertion that Yahoo infringes that  
20 patent at the time of the filing of these Counterclaims. The Yahoo interactive video advertising  
21 functionality employed by Yahoo's streaming video delivery services available through yahoo.com and  
22 Yahoo's branded mobile applications at least on Android or iOS devices and Yahoo's Connected  
23 platform, including Yahoo TV are specially made and adapted to infringe the '327 Patent, are not staple  
24 articles of commerce, and have no substantial non-infringing uses. Yahoo contributorily infringes one or  
25 more claims of the '327 Patent by offering for sale or selling its interactive video advertising  
26 functionality employed by Yahoo's streaming video delivery services available through yahoo.com and  
27 Yahoo's branded mobile applications at least on Android or iOS devices and Yahoo's Connected TV  
28 platform, including Yahoo TV.

1 45. Yahoo's infringement of the '327 Patent has been and continues to be willful and  
2 deliberate. Yahoo has been on notice of its infringement of the '327 Patent since at least December 22,  
3 2015. However, Yahoo continued to make, use, sell, offer to sell, and/or import the interactive video  
4 advertising functionality employed by Yahoo's streaming video delivery services despite an objectively  
5 high likelihood that its actions constituted infringement of the '327 Patent.

6 46. As a result of Yahoo's infringement, OpenTV has suffered and will continue to suffer  
7 damages in an amount to be proved at trial.

8  
9 **COUNT 4: INFRINGEMENT OF THE '169 PATENT**

10 47. The allegations of paragraphs 1-16 of these Counterclaims are incorporated by reference  
11 as though fully set forth herein.

12 48. OpenTV owns by assignment the entire right, title, and interest in the '169 Patent.

13 49. The '169 Patent was issued by the United States Patent and Trademark Office on May 30,  
14 2006, and is entitled "Supporting Common Interactive Television Functionality Through Presentation  
15 Engine Syntax." A true and correct copy of the '169 Patent is attached hereto as Exhibit 4.

16 50. The '169 Patent is valid and enforceable under the laws of the United States.

17 51. The technologies claimed in the '169 Patent were aimed at solving problems specific to  
18 interactive electronic content delivery systems, such as the Internet, and in particular, the problem of  
19 coupling content distribution with interactivity, i.e., responsive to user-specific characteristics, or user-  
20 specific interactions with the electronic content delivery platforms. For example, the '169 Patent  
21 addresses the problem of how to determine when, in light of available resources, such as bitrate  
22 resources required for an audio, video, and/or graphic presentation, to initiate the audio, video, and/or  
23 graphic presentation. A person of ordinary skill in the art reading the '169 Patent understands that the  
24 patent's disclosure and claims are rooted in complex computer-implemented methods that require  
25 complex computer hardware and software technologies that can be used to overcome the problem  
26 described above. For example, the '169 Patent teaches and claims a method for enabling control of  
27 interactive television content using directives wherein "a centrally located proxy server is configured to  
28 receive, transcode and convey transcoded web based content to client devices." '169 Patent, Abstract. At

# 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.