

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

Case IPR2014-00252
Patent 8,107,786

Before SALLY C. MEDLEY and JUSTIN BUSCH,
Administrative Patent Judges.

BUSCH, *Administrative Patent Judge.*

ORDER
Conduct of the Proceeding

37 C.F.R. § 42.5

On September 15, 2014, a conference call was held between counsel for the respective parties and Judges Busch and Medley. The purpose of the call was for Patent Owner to meet its requirement that it confer prior to filing a motion to amend. 37 C.F.R. § 42.121(a).

Counsel for Patent Owner indicated that Patent Owner intends to file a contingent motion to amend in this proceeding. Specifically, Patent Owner proposes to substitute an independent claim for each original independent claim.

Guidance was provided to Patent Owner regarding motions to amend, including directing attention to the following orders: *Nichia Corp. v. Emcore Corp.*, Case IPR2012-00005, Paper 27 (June 3, 2013); *Idle Free Systems, Inc. v. Bergstrom, Inc.*, IPR2012-00027, Paper 26 (June 11, 2013); and *Int'l Flavors & Fragrances Inc. v. The United States of America*, IPR2013-00124, Paper 12 (May 20, 2014).

In the event Patent Owner elects to file substitute claims for any dependent claim, Patent Owner was directed to *ZTE Corp. & ZTE (USA) Inc. v. ContentGuard Holdings Inc.*, IPR2013-00136, Paper 33 (November 7, 2013), which, at pages 3–4, explains the scenario of substituting dependent claims for the sole purpose of changing the dependency from the proposed substitute claim. Those claims would need to be listed and included in Patent Owner's motion to amend.

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