

Paper No. _____
Filed: November 6, 2014

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

**Patent Owner's Response
to Petition for *Inter Partes* Review
of U.S. Patent No. 8,107,786**

Table of Contents

- I. Preliminary Statement1
- II. THE '786 PATENT1
 - A. Patented Technology1
 - B. Prosecution of the '786 Patent5
 - C. Person of Ordinary Skill in the Art6
- III. “SECONDARY INFORMATION” MEANS “INFORMATION TO GENERATE SECONDARY CONTENT OR INFORMATION TO ACCESS SECONDARY CONTENT”6
 - A. The Plain Language of the Claims Supports That “Secondary Information” Does Not Mean “Secondary Content”8
 - B. The Specification Supports That “Secondary Information” Does Not Mean “Secondary Content”10
 - C. The Specification’s “Definition” of “Secondary Information” Does Not Change That the Proper Construction of This Term Does Not Include “Secondary Content”15
 - D. The Prosecution History Supports That “Secondary Information Does Not Include “Secondary Content”18
- IV. THE PETITION FAILS TO ESTABLISH THAT ANY CLAIM OF THE '786 PATENT IS UNPATENTABLE.....21
 - A. Applying the Correct Claim Construction, Plotnick Does Not Disclose Every Feature of Claims 1-622
 - 1. Plotnick’s “alternate advertisement” is not the claimed “secondary information” under the correct construction of this term23
 - 2. Plotnick’s “ad metadata” is not the claimed “secondary information”25

- 3. Plotnick’s “information signals” are not the claimed “secondary information” under the correct construction of this term29
- B. Plotnick In View Of Eldering Does Not Render Claim 7 Obvious.....32
- V. Conclusion34

Table of Authorities

	Page(s)
FEDERAL CASES	
<i>Augume Techs., Inc. v. Yahoo! Inc.</i> , __ F.3d __, 2014 WL 2782019 (Fed. Cir. 2014)	8
<i>Baran v. Med. Device Techs., Inc.</i> , 616 F.3d 1309 (Fed. Cir. 2010)	9, 14
<i>Bicon, Inc. v. Straumann Co.</i> , 441 F.3d 945 (Fed. Cir. 2006)	9
<i>Garmin Int'l Inc. v. Cuozzo Speed Tech. LLC</i> , IPR2012-00001, (Paper 15)	7, 18-19
<i>Heart Failure Tech. v. Cardiokintetix, Inc.</i> , IPR2013-00183, (Paper 12)	32, 33-34
<i>KSR Int'l Co. v. Teleflex, Inc.</i> , 550 U.S. 398, 418 (2007)	32, 33-34
<i>Motorola Solutions, Inc. v. Mobile Scanning Tech., LLC</i> , IPR2013-00093, (Paper 28)	7, 19
<i>Process Control Corp. v. Hyderclaim Corp.</i> , 190 F.3d 1350 (Fed. Cir. 1999)	9
<i>Xilinx, Inc. v. Intellectual Ventures I LLC</i> , IPR2013-00112, (Paper 14)	7, 19
<i>Z4 Techs., Inc. v. Microsoft Corp.</i> , 507 F.3d 1340 (Fed. Cir. 2007)	8-9
<i>ZTE Corp. & ZTE (USA) Inc. v. ContentGuard Holdings, Inc.</i> , IPR2013-00134, (Paper 12)	7, 19
FEDERAL STATUTES	
35 U.S.C. § 312	22

35 U.S.C. § 314.....32
35 U.S.C. § 316.....1, 21

FEDERAL REGULATIONS

37 C.F.R. § 42.1009, 14

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.