

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NETFLIX, INC.  
Petitioner

v.

OPENTV, INC  
Patent Owner

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Case IPR2014-00267  
Patent 7,409,437 B2

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Before SALLY C. MEDLEY, JAMES T. MOORE, and JUSTIN BUSCH,  
*Administrative Patent Judges.*

MOORE, *Administrative Patent Judge*

DECISION  
Institution of *Inter Partes* Review  
37 C.F.R. § 42.108

## I. INTRODUCTION

Petitioner, Netflix, Inc., filed a Petition requesting an *inter partes* review of claims 1- 4 of U.S. Patent No. 7,409,437 (Ex. 1001, “the ’437 Patent”). Paper 1 (“Pet.”). Patent Owner, OpenTV, Inc., filed a Patent Owner Preliminary Response. Paper 11 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C.

§ 314(a):

**THRESHOLD** – The Director may not authorize an *inter partes* review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Pursuant to § 314(a), the Board institutes an *inter partes* review of claims 1-4 of the ’437 Patent.

### *A. Related Proceedings*

The ’437 Patent is involved in litigation in the U.S. District Court for the District of Delaware. *See* Pet. 1 (citing *OpenTV Inc. v. Netflix, Inc.*, 1-12-cv-01733 (D. Del.)). Petitioner describes the Delaware proceeding as an infringement action asserted against Petitioner’s real party-in-interest, Netflix, Inc. Pet 1. In addition to this proceeding, related *inter partes* review petitions *Netflix, Inc. v. OpenTV, Inc.*, Case IPR2014-00252 (PTAB Dec. 16, 2013) of U.S. Patent 8,107,786 B2; *Netflix, Inc. v. OpenTV, Inc.*,

Case IPR2014-00269 (PTAB Dec. 18, 2013) of U.S. Patent 6,233,736 B1; and *Netflix, Inc. v. OpenTV, Inc.*, Case IPR2014-00274 (PTAB Dec. 19, 2013) of U.S. Patent 6,018,768 are before the Patent Trial and Appeal Board (the “Board”) involving the same parties and related patents.

### *B. The '437 Patent*

The '437 Patent describes a system for integrating video programming with the information resources of the Internet. A computer-based system receives a video program with embedded uniform resource locators (“URLs”), which are the electronic addresses of locations on the Internet. The URLs are interpreted by the system and direct the system to the Web site locations to retrieve related Web pages, which then may be synchronized to the video content for display. *See* Ex. 1001, Abstract.

### *C. Claims*

Claims 1-4 are independent claims. Claim 4 is illustrative and is reproduced below:

4. A system for receiving a programming signal containing an embedded address, the address identifying a source of at least one online information segment related to the programming signal, the system comprising:
  - a receiver for receiving a programming signal and the embedded address, the address identifying the source of the online information segment which relates to the programming signal;
  - an address extractor which extracts the address from the programming signal;
  - a web browser;
  - a processor which automatically directs the web browser to establish a communications link with the online information source identified by the address, whereby the processor retrieves the online

information segment from the online information source via the communications link; and

a display monitor for presenting the programming signal, comprising a video signal or an audio signal concurrently with the online information segment;

wherein the programming signal comprises the video signal and the video signal and the online information segment are presented on the display monitor.

Claims 1-3 recite roughly the same limitations as claim 4, differing only in the presentation of the video signal and the online information segment.

Claim 1 recites that the video signal and the online information segment are presented on the display monitor in a picture-in-picture format.

Claim 2 recites that the video signal is presented on one half, and the online information segment is presented on the opposite half, of a split-screen display.

Claim 3 recites that the video signal is presented in a first window and the online information segment is presented in a second window in a multiple window display format.

#### *D. References Relied Upon*

Petitioner relies upon the following references:

Romesburg	US 5,113,259	May 12, 1992	Ex. 1005
Batchelor	US 5,724,103	March 3, 1998	Ex. 1006
Throckmorton	US 5,818,441	October 6, 1998	Ex. 1004
Palmer	US 5,905,865	May 18, 1999	Ex. 1007

*E. The Asserted Grounds*

Petitioner asserts the following grounds of unpatentability under 35 U.S.C. § 103:

<b>Reference[s]</b>	<b>Basis</b>	<b>Challenged Claims</b>
Throckmorton and Romesburg	§ 103	1
Throckmorton and Batchelor	§ 103	2 and 3
Throckmorton	§ 103	4
Palmer and Romesburg	§ 103	1
Palmer and Batchelor	§ 103	2, 3, and 4

II. ANALYSIS

*A. Claim Construction*

In an *inter partes* review, “[a] claim in an unexpired patent shall be given its broadest reasonable construction in light of the specification of the patent in which it appears.” 37 C.F.R. § 42.100(b); *see also* Office Patent Trial Practice Guide, 77 Fed. Reg. 48756, 48766 (Aug. 14, 2012) (*Claim Construction*).

Petitioner proposes a specific definition for one term in various claims. Pet. 9. Patent Owner declines to do so at this time. Prelim. Resp. 6, n.1.

Referring to all claims, Petitioner proposes to construe the term “a processor which automatically directs the web browser to establish a communications link with the online information source” to mean that the act of directing the web browser occurs “without intervention by a human

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