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.

CONVERGENT MEDIA SOLUTIONS, LLC,
Patent Owner.

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Case IPR2016-01812
Patent 8,640,183 B2

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Before JAMESON LEE, KEN B. BARRETT, and JOHN F. HORVATH,
Administrative Patent Judges.

HORVATH, *Administrative Patent Judge*.

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

I. INTRODUCTION

A. Background

Netflix, Inc. ("Petitioner") filed a Petition (Paper 2, "Pet.") to institute *inter partes* review of claims 1–5, 16, 18–20, 24, 32, 34, 35, 37, 38, 42, 44, 47, 50–55, and 58–60 of U.S. Patent No. 8,640,183 B2 (Ex. 1032, "the '183 patent"). Convergent Media Solutions, LLC, ("Patent Owner") did not file a Preliminary Response.

Upon consideration of the Petition, we are persuaded, under 35 U.S.C. § 314(a), that Petitioner has demonstrated a reasonable likelihood that it would prevail in showing the unpatentability of claims 1–5, 16, 18–20, 24, 32, 34, 35, 37, 38, 42, 44, 47, 50–55, and 58–60 of the '183 patent. Accordingly, we institute an *inter partes* review of these claims.

B. Related Matters

Petitioner identifies the following as matters that could affect, or be affected by, a decision in this proceeding: *Convergent Media Solutions LLC v. Netflix Inc.*, Case No. 3:15-cv-02160 (N.D. Tex.); *Convergent Media Solutions LLC v. AT&T Inc.*, Case No. 3:15-cv-02156 (N.D. Tex.), the latter being a lead case consolidating individual cases brought by Convergent Media Solutions LLC against AT&T Inc., Hulu, Inc., and Roku, Inc. Pet. 2. Patent Owner identifies the same matters. Paper 4, 2.

C. Evidence Relied Upon

Reference		Date	Exhibit
Zintel	US 6,910,068 B2	Mar. 16, 2001 (filed)	Ex. 1003
Elabbady	US 7,483,958 B1	Mar. 26, 2002 (filed)	Ex. 1004
Palm	US 2001/0042107 A1	Jan. 8, 2001 (filed)	Ex. 1006

Reference		Date	Exhibit
Katz	US 7,103,906 B1	Sept. 29, 2000 (filed)	Ex. 1033

Petitioner also relies on the Declaration of Andrew Wolfe, Ph.D. Ex. 1028.

D. The Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

References	Basis	Claims Challenged
Elabbady, Palm, and Zintel	§ 103(a)	1–5, 16, 18–20, 24, 32, 34, 35, 37, 38, 44, 47, 50–52, 55, and 58–60
Elabbady, Palm, Zintel, and Katz	§ 103(a)	42, 53, and 54

II. ANALYSIS

A. The '183 Patent

The '183 patent relates to systems and methods for navigating hypermedia using multiple coordinated input/output device sets. Ex. 1032, 3:13–15. The method allows "a user and/or an author to control what resources are presented on which device sets." *Id.* at 3:15–17. The device sets may include laptops, desktops, tablets, personal digital assistants (PDAs), televisions (TVs), set-top boxes (STBs), video cassette recorders (VCRs) and digital video recorders (DVRs). *Id.* at 16:28–43, 18:32–59, 19:32–47. The term hypermedia refers to "any kind of media that may have the effect of a non-linear structure of associated elements," and includes "graphics, video, and sound." *Id.* at 7:13–22. The '183 patent characterizes video and sound as examples of "continuous media," or a "representation of 'content' elements that have an intrinsic duration, that continue (or extend) and may change over time." *Id*. at 20:5–9.

The multiple input/output device sets described in the '183 patent may be coordinated using "a device set management process that performs basic setup and update functions . . . to pre-identify and dynamically discover device sets." Ex. 1032, 37:36–43. This management process can "be based on and compatible with related lower-level processes and standards defined for linking such existing devices and systems . . . based on UPnP, HAVi, OSGi, Rendezvous and/or the like." *Id.* at 37:46–50. The process enables basic communications among the devices in the device set, and "provide[s] discovery, presence, registration, and naming services to recognize and identify devices as they become available to participate in a network, and to characterize their capabilities." *Id.* at 37:50–55.

Claims 1 and 58–60 of the '183 patent are independent. Claim 1, reproduced below, is illustrative. Each of the other challenged claims depends from claim 1 or claim 60.

> 1. A method for use in a second computerized device set which is configured for wireless communication using a wireless communications protocol that enables wireless communication with a first computerized device set, wherein the first and second computerized device sets include respective first and second continuous media players, the method comprising:
>
> making available to a user a first user interface that allows the user to select a continuous media content to be presented to the user, wherein the continuous media content includes a set of encoded video data;
>
> making available to the user a second user interface that allows the user to select to have the continuous media content presented on either one of the first computerized device set and the second computerized device set;
>
> receiving discovery information at the second computerized device set in accordance with a device management discovery protocol that is implemented at a

communication layer above an internet protocol layer, and wherein the discovery information allows the second computerized device set to determine that the first computerized device set is capable of receiving the continuous media content and playing the continuous media content;

wherein, in the event the user selects, via the second user interface, to have the continuous media content presented on the second computerized device set, the second media player decoding the continuous media content for presentation on the second computerized device set;

wherein, in the event the user selects, via the second user interface, to have the continuous media content presented on the first computerized device set, wirelessly transmitting, in accordance with a wireless local area network protocol, at least a resource indicator, wherein the resource indicator comprises at least one of a URL, URI, and URN, from the second computerized device set to the first computerized device set, wherein the resource indicator facilitates obtaining the continuous media content for presentation to the user on the first computerized device set; and

wherein the continuous media content is not presented on the second computerized device set during presentation on the first computerized device set, and the first user interface and the second user interface together comprise a unified media selection and presentation user interface, wherein the unified media selection and presentation user interface presents user input controls for selection of the continuous media content and for selection of either one of the first computerized device set and the second computerized device set for presentation of the continuous media content.

Ex. 1032, 164:22–165:6.

B. Claim Construction

The Board interprets claims of an unexpired patent using the broadest reasonable interpretation in light of the specification of the patent in which they appear. *See* 37 C.F.R. § 42.100(b); *Cuozzo Speed Techs., LLC v. Lee,*

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