"automatic" or "automatically," in regards to establishing a connection, is found in Throckmorton. Prelim. Resp. 12-15. However, each of Petitioner's mappings identified by Patent Owner states that the connection is established automatically because the system performs the connection and retrieving. *Id.* at 13-14. As discussed above, in each of the automatically establishing limitations, the connection is established in response to some user initiated command. Thus, in this case, as discussed in our construction of the automatically establishing limitations, the "automatic" or "automatically" means that the connection is established without further input from the user *after* receipt of the user initiated command. Therefore, we are persuaded Petitioner has shown sufficiently that Throckmorton teaches the automatically establishing limitations.

Patent Owner also argues that the Petition does not provide a complete obviousness analysis. *Id.* at 15-17. In particular, Patent Owner argues that the Petition cites to disparate sections of Throckmorton (i.e., both of Throckmorton's preferred embodiments) without explaining which of the embodiments is being relied on for the proposed ground or how the two embodiments would be combined to render the claims obvious. *Id.* at 16-17. Patent Owner also asserts the obviousness analysis is incomplete because the proposed motivation is conclusory and insufficient. *Id.* at 17-19.

We agree with the parties that Throckmorton teaches both a one-way communications embodiment and a two-way communications embodiment. Throckmorton's disclosure indicates that both embodiments provide a

consumer with access to online information during the process of program reception. As discussed above, Throckmorton's description of the two-way communications embodiment explains that the two-way communications embodiment adds a two-way communication channel to the system described by the one-communications way embodiment. Ex. 1004, Abstract, 8:16-9:25; *See* Pet. 9. Therefore, for purposes of this decision, we are persuaded by Petitioner's argument that combining the two embodiments, for establishing a connection in response to a user initiated command, is "simply combining elements contained in the same reference in precisely the manner described in the reference." Pet. 13.

III. CONCLUSION

For the foregoing reasons, we determine that Petitioner has shown a reasonable likelihood that it would prevail in demonstrating that: (1) claims 1-3 and 6-12 of the '736 patent are unpatentable as obvious in view of Throckmorton; (2) claim 4 is unpatentable as obvious in view of the combination of Throckmorton and Williams; and (3) claim 5 is unpatentable as obvious in view of the combination of Throckmorton and Kerman. The Board has not made a final determination on the patentability of any challenged claim.

IV. ORDER

For the reasons given, it is:

ORDERED that pursuant to 35 U.S.C. § 314(a), an *inter partes* review is hereby instituted as to claims 1-12 of the '736 patent;

FURTHER ORDERED that the trial is limited to the stated grounds and no other grounds are authorized; and

FURTHER ORDERED that pursuant to 35 U.S.C. § 314(c) and 37 C.F.R. § 42.4, the trial commences on the entry date of this decision, and notice is hereby given of the institution of a trial.

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Paper 34
Entered: January 26, 2015

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

Cases IPR2014-00252 (Patent 8,107,786 B2)
IPR2014-00267 (Patent 7,409,437 B2)
IPR2014-00269 (Patent 6,233,736 B1)

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

MEDLEY, *Administrative Patent Judge.*

JUDGMENT
Termination of the Proceeding
37 C.F.R. § 42.73

On January 20, 2015, the parties filed, in each proceeding, a joint motion to terminate, along with a true copy of their written agreement, made in connection

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