

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NFL ENTERPRISES LLC,
Petitioner,

v.

OPENTV, INC.,
Patent Owner.

Case IPR2018-00463
Patent 7,055,169 B2

Before JAMESON LEE, SALLY C. MEDLEY, and
CHRISTOPHER L. OGDEN, *Administrative Patent Judges*.

OGDEN, *Administrative Patent Judge*.

DECISION
Instituting *Inter Partes* Review
35 C.F.R. § 314(a)

I. INTRODUCTION

NFL Enterprises LLC (“NFL”)¹ filed a Petition for *inter partes* review (Paper 1, “Pet.”) of claims 1, 2, 22, and 23 of U.S. Patent No. 7,055,169 B2 (Ex. 1001, “the ’169 patent”). OpenTV, Inc. (“OpenTV”), the Patent Owner², filed a Preliminary Response (“Prelim. Resp.”) to the Petition. Paper 6.

We have discretion to institute an *inter partes* review when “the information presented in the petition . . . and any response . . . 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.” 35 U.S.C. § 314(a). Applying that standard, we institute *inter partes* review of claims 1, 2, 22, and 23 of the ’169 patent, for the reasons explained below.

The following findings of fact and conclusions of law are not final, and we make them solely to determine that NFL meets the threshold for initiating review. We will base our final decision on the full trial record, including any timely-filed response by OpenTV.

II. BACKGROUND

A. RELATED PROCEEDINGS

The parties identify the following as actions that may affect or be affected by this proceeding (Pet. 1–2; Paper 4 at 2–3):

¹ Petitioner, NFL Enterprises LLC, identifies NFL Ventures, L.P. as a real party-in-interest. Pet. 1.

² Patent Owner, OpenTV, Inc., identifies Nagra USA, Inc. and Kudelski S.A. as real parties-in-interest. Paper 4, 2.

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Nagravision SA and OpenTV, Inc. v. NFL Enterprises LLC, No. 2:17-cv-3919-AB-SK (C.D. Cal., filed May 24, 2017).

OpenTV, Inc. v. NFL Enterprises LLC, No. 2:17-cv-00031-JRG-RSP (E.D. Tex., filed Jan. 12, 2017).

Apple Inc. v. OpenTV, Inc., IPR2016-01004 (PTAB, filed May 4, 2016).

Time Warner Cable Inc. v. OpenTV, Inc. et al., No. 3:16-cv-02433 (N.D. Cal., filed May 4, 2016).

Apple Inc. v. OpenTV, Inc., CBM2016-00066 (PTAB, filed May 2, 2016).

Yahoo! Inc. v. Kudelski SA et al., 5:16-cv-00349 (N.D. Cal., filed Jan. 21, 2016).

OpenTV, Inc. et al v. Verizon Communications, Inc. et al., No. 6:15-cv-00951 (E.D. Tex., filed Oct. 30, 2015).

OpenTV, Inc. et al v. Apple Inc., No. 5:15-cv-02008 (N.D. Cal., filed May 5, 2015).

OpenTV, Inc. et al v. Netflix, Inc., No. 3:14-cv-01723 (N.D. Cal., filed Apr. 14, 2014).

OpenTV Inc. v. Netflix Inc., No. 3:14-cv-01525 (N.D. Cal., filed Apr. 2, 2014).

OpenTV Inc. v. Netflix, Inc., No. 1:12-cv-01733 (D. Del., filed Dec. 19, 2012).

U.S. Provisional Application No. 60/373,883 (filed Apr. 19, 2002) (submitted as Ex. 1003).

B. THE '169 PATENT (EX. 1001)

The '169 patent relates to “a system and method for creating and controlling interactive television content.” Ex. 1001 at 1:12–13. Such

interactive content “may incorporate television audio and video, still images, text, interactive graphics and applications, and many other components.” *Id.* at 1:17–20.

To coordinate the presentation of interactive content from various resources, the ’169 patent describes “[a] method and mechanism . . . which enable content authors to use directives, such as HTML, scripting languages, or other languages, with television extensions to create and/or control interactive television content.” *Id.* at 2:33–36. These directives, which may be provided by the content author, can “indicate that a particular subset of resources required for a presentation are deemed prerequisites,” and if so, “the providing of the presentation is withheld until the prerequisite resources are obtained.” *Id.* at 2:39–47.

According to the Specification, the invention contemplates delivery of content resources in a number of ways from the content provider to a receiver device, including a direct point-to-point, such as a telephone line, a network such as the internet, or broadcasting over satellite, cable or terrestrial television. *See id.* at 4:13–27. Figure 3 of the ’169 patent shows an example receiving device:

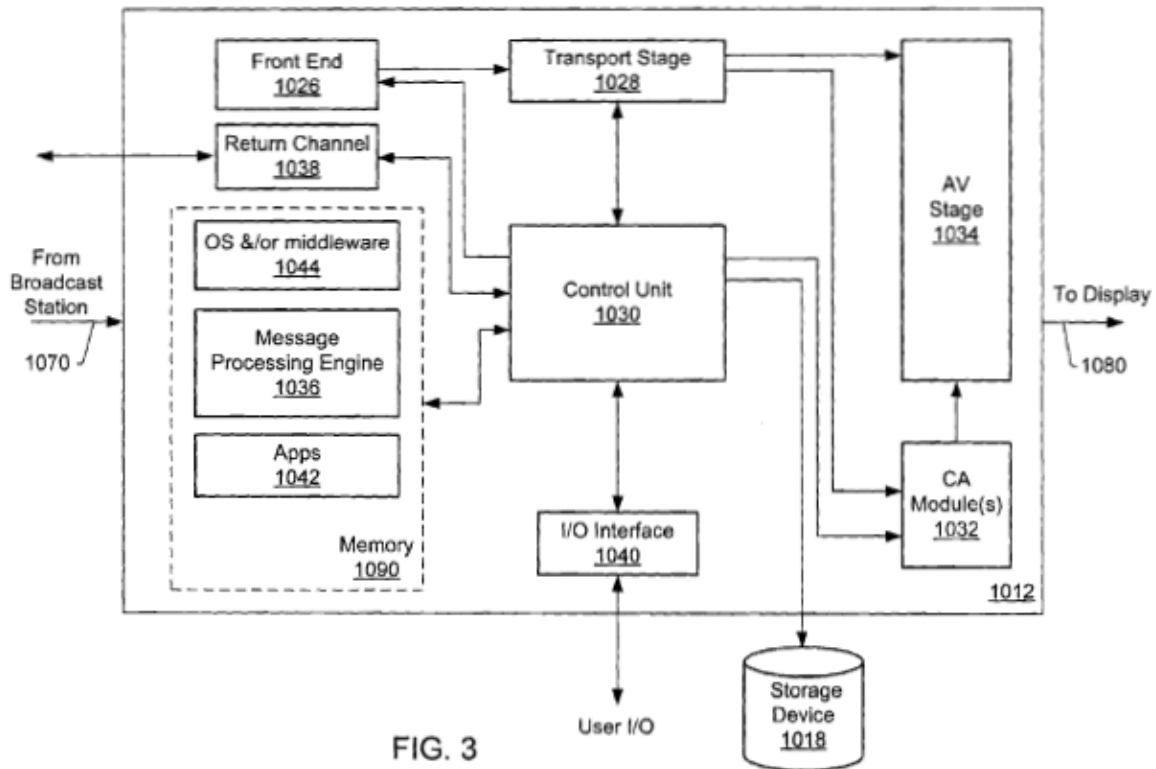


FIG. 3

Figure 3 is a block diagram depicting “one embodiment of a receiving/initiating device 1012.” *Id.* at 2:64–65, 5:15–16. An arrow (1070) pointing to receiver 1012 represents broadcast signals. *See id.* at 5:20. At the center of receiver 1012, box 1030 represents a control unit that “may comprise a microprocessor, memory (e.g., RAM) and other components which are necessary to perform ordinary general purpose computing.” *Id.* at 5:33–35. A box representing memory (1090) includes operating system and middleware 1044, messaging processing engine 1036, and applications 1042. *Id.* at 5:27–29; *see also id.* at 5:36–55.

C. CHALLENGED CLAIMS

Independent claim 1 of the '169 patent is as follows:

1. A method comprising:

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