

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

REALTIME ADAPTIVE STREAMING LLC,
Patent Owner.

Case IPR2018-01630
Patent No. 9,769,477

PATENT OWNER'S PRELIMINARY RESPONSE

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EXHIBIT LIST

Exhibit No.	Description
2001	Declaration of Kayvan B. Noroozi in Support of Motion for Admission <i>Pro Hac Vice</i> .

I. Introduction

While Netflix may be the perfect venue for presenting strategically timed sequels, the Patent Trial and Appeal Board is not. Having filed one petition against the '477 patent only months ago based in part on the combination of Imai and Pauls, Netflix asks the Board to consider yet another petition against the *same patent* based on the *same prior art combination*. The Board's limited resources should not be allocated to permitting such abusive and serial gamesmanship. As the Board has recognized in *General Plastic* and its progeny, including with respect to prior abusive serial petitions brought against Realtime patents, the approach Netflix pursues here is intended to severely prejudice Patent Owner and to waste the Board's time and resources. The Board should not encourage petitioners to take multiple bites at the apple by filing a series of strategically timed petitions against the same patent based on the same prior art. The Board should instead deny institution based on *General Plastic*. Moreover, the Board can, and should, also deny institution based on § 325(d).

Yet if the Board were to look beyond the egregious procedural abuses this Petition presents, it would ultimately also find the Petition's substance to be devoid of merit, and undeserving of institution.

Limitation 1[B] requires that a specific "first" encoder be "*configured to*" compress at a higher rate than a specific "second" encoder. The Federal Circuit has

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