IN THE 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.

REALTIME ADAPTIVE STREAMING, LLC,

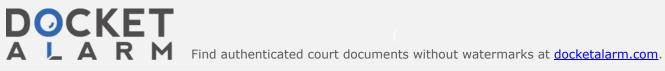Patent Owner.

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Case No. 2018-01630

U.S. Patent 9,769,477

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PETITIONER'S REPLY

TABLE OF CONTENTS

I.   Introduction

Realtime's POR in this proceeding and the related IPR2018-01187 proceeding raise substantially the same arguments. Realtime's expert admitted that Imai teaches switching compression encoders based on the throughput of a communications channel, that it teaches including multiple encoders in a system, and that each encoder should use a different coding method. Ex. 1029 129:11-19, 130:22-131:3, 131:4-17. In addition, Realtime does not dispute the correctness of any of Netflix's claim constructions.

Realtime primarily disputes whether a POSITA would have found it obvious to include in a video/image compression system two different compression encoders that have different data compression rates (for independent claim 1), or two different compression encoders that have different data compression ratios (for independent claim 20). But as Realtime's own expert conceded, encoders (even those implementing the same algorithm) inevitably have different compression rates and ratios. *Id.* at 68:24-70:21, 71:23-72:24. The Board should also reject this argument because at least paragraphs 67-68 of Imai teach arranging five different encoders in a system where two of the encoders vary in their data compression rates and another two encoders vary in their data compression ratios.

Realtime also argues that the Petition does not adequately describe how to combine the references, and does not adequately account for alleged disadvantages

of making the combinations. But, Realtime cannot seriously contend that a POSITA would not know how to select or implement video or image compressor encoders that vary in their data compression rates or compression ratios because the '477 Patent is devoid of any explanation of how to implement any video or image compression encoder, let alone how to vary their data compression rates or compression ratios. *See* Ex. 1003 ¶¶75-78. Finally, there is no merit to Realtime's argument that a POSITA would not have been motivated to make the combinations suggested in the Petition due to the existence of alleged disadvantages because such an analysis is inconsistent with *KSR* and none of the cases cited by Realtime undermine the Petition's showing of motivations.

II. Limitation 1[b] is rendered obvious by Imai and Pauls.

Realtime reprises its argument from the POPR that the Petition does not sufficiently demonstrate that a first asymmetric data compression encoder "is configured to compress data…at a higher data compression rate" than a second asymmetric data compression encoder because "configured to" requires showing that the difference between the encoders' data compression rates must arise by "an intentional design choice" as opposed to arising by "a side effect of *some other design choice*, or by chance." *Compare* POR 8-10 with POPR 20-24 (emphasis added). The Board should again reject Realtime's arguments because (1) Imai and Pauls teach systems designed to include multiple encoders having different data

compression rates; (2) the cases cited by Realtime do not support its proposed "intentional design choice" requirement; and, in any event, (3) it would have been obvious to a POSITA to intentionally choose a specific first encoder and a specific second encoder that have different data compression rates.

A. Imai and Pauls teach systems designed to include multiple encoders having different data compression rates.

Realtime cannot demand that the data compression rate limitations (1[b]) be shown *in haec verba* because its expert admits that "data compression rate" is not a commonly-used term (Ex. 1029 at 51:4-52:8), and he was unaware of any commonly-used term that captures the '477 Patent's manner of measuring data compression rate (*id.* at 62:6-63:25). Nevertheless, it would have been obvious to a POSITA to build a system having at least two encoders where one encoder has a faster data compression rate than the other.

Imai indisputably teaches a system having a plurality of asymmetric data compression encoders. Pet. 22, 29-31; Ex. 1005 at [0067]-[0068]. Imai expressly teaches that the encoders included in a system should vary in a number of ways, such as compression ratio, execution speed, and suitability for compressing particular data-types. Ex. 1005 at [0067]. With respect to execution speed, Imai teaches that the plurality should include a computationally slower encoder and a computationally faster encoder:

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