

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.

Petitioners

v.

UNILOC 2017 LLC

Patent Owner

IPR2020-00041

PATENT 8,407,609

**PATENT OWNER RESPONSE TO PETITION
PURSUANT TO 37 C.F.R. § 42.120**

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UNILOC'S EXHIBITS

File History of '609 PatentExhibit 2001

Claim Construction Memorandum and Order, Case 2:18-
CV-00502-JRG-RSP (E.D. Tex.), Dkt. 149 (Jan. 20, 2020)Exhibit 2002

Claim Construction Ruling, Uniloc 2017 LLC v. Netflix,
Inc., SACV 18-2055-GW-DFMx, Dkt. 138 (C.D. Cal. Mar.
9, 2020).....Exhibit 2003

I. INTRODUCTION

Uniloc 2017 LLC (the “Uniloc” or “Patent Owner”) submits this Response to Petition IPR2020-00041 for *Inter Partes* Review (“Pet.” or “Petition”) of United States Patent No. 8,407,609 (“the ’609 patent” or “EX1001”) filed by Netflix, Inc. and Roku, Inc. (“Petitioners”).¹

In view of the reasons presented herein, the Petition should be denied in its entirety, as Petitioner has failed to meet its burden of showing that any challenged claim is unpatentable. 35 U.S.C. § 316(e). While the Board instituted trial here, as the Court of Appeals has stated:

[T]here is a significant difference between a petitioner’s burden to establish a “reasonable likelihood of success” at institution, and actually proving invalidity by a preponderance of the evidence at trial. *Compare* 35 U.S.C. § 314(a) (standard for institution of *inter partes* review), *with* 35 U.S.C. § 316(e) (burden of proving invalidity during *inter partes* review).

Trivascular, Inc. v. Samuels, 812 F.3d 1056, 1068 (Fed. Cir. 2016). Petitioner has failed to meet its burden of proving any proposition of invalidity, as to any claim, by a preponderance of the evidence. 35 U.S.C. § 316(e).

II. OVERVIEW OF THE ’609 PATENT

The ’609 patent is titled “System and method for providing and tracking the provision of audio and visual presentations via a computer network.” The ’609 patent

¹ Roku, Inc. was also an original Petitioner, but it has since moved to withdraw from the Petition, due to settlement between the parties.

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