UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NETFLIX, INC.,

Petitioners,

v.

UNILOC 2017, LLC,

Patent Owner.

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Case No. IPR2020-00041
Patent No. 8,407,609

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SUPPLEMENTAL DECLARATION OF MICHAEL FRANZ IN SUPPORT OF PETITIONER'S REPLY FOR INTER PARTES REVIEW OF U.S. PATENT NO. 8,407,609

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I. INTRODUCTION

1.   I, Michael Franz, have been retained by Petitioners Netflix, Inc. ("Netflix") ("Petitioner") to investigate and opine on certain issues relating to United States Patent No. 8,407,609 ("the '609 patent") in ITS Petition for Inter Partes Review of that patent.   The Petition requests that the Patent Trial and Appeal Board ("PTAB" or "Board") review and cancel claims 1-3 of the '609 patent.

2.   Last year, I provided a declaration in support of Netflix's IPR Petition. My 2019 Declaration is Exhibit 1002 to the Petition.   My 2019 Declaration provides an explanation of my qualifications, a discussion of the technology relevant to the '609 patent, and my opinions with respect to the '609 patent.

3.   I have prepared this declaration to address arguments made in Uniloc's Patent Owner Response ("POR").

4.   In addition to the materials referenced and cited in my 2019 Declaration, I have now reviewed and considered the Board's Institution Decision (Paper 10) and Uniloc's POR (Paper 15).

5.   The opinions set forth in this declaration are based on my personal knowledge, my professional judgment, and my analysis of the materials and information referenced in this declaration and its exhibits.

II. RESPONSES TO UNILOC'S PATENT OWNER RESPONSE

6.   In the Patent Owner Response, Uniloc argues that Choi suggests that identifier information would not be sent by the client to the server with each periodic reporting message.   POR, pp. 16-18.   Uniloc's argument is based on paragraph 0097 of Choi, which is reproduced below.

> [0097]   The various statistical parameters that remain constant throughout the session are sent only once at the beginning of the session. The other dynamically changing parameters are sent regularly, the frequency of reporting set by the statistics reporting interval parameter sent in the initial request.

7.   This passage does not indicate what Uniloc suggests.   What this passage indicates is that "statistical parameters" that do not change may not need to be transmitted from the client to the server more than once.   For instance, one statistical parameter that is likely to be constant would be the "c-cpu" parameter, which indicates the "client computer's CPU." Choi, Table C1. It is unlikely that a client's CPU would change during a single streaming session. The same is true for "c-playerversion" for "The player version number" and "c-os" for the "Client computer's operating system." Choi, Table C1.

8.   But this does not mean that identifier information would not be sent from the client to the server in each reporting message. In paragraph 0047, Choi

suggests that identifier data like the session identifier and the stream identifier would be sent in every periodic reporting message.

> [0047] The client 110 periodically transmits state data (e.g., logging statistics) to the server 108 for storage. In addition, the server 108 tracks the status of each client viewer state and allows an administrator of server 108 to determine the state of any client 110. The state data includes a session identifier and a stream identifier corresponding to the current client-server session and the streams being delivered, respectively.

And identifier information would naturally be required in each reporting message so that the server is able to determine which client it is communicating with. One of the main purposes of Choi is to track media streams provided to clients. Choi, paragraph 0006. That would be impossible if the clients anonymously sent reporting messages to the server, i.e., without identifier data. There would be no ability, or reason, to perform the stream tracking information described in Choi if the server cannot determine which client provides each reporting message.

9. The same is also true for Davis. Davis discloses one of its purposes as tracking "individual user interaction with and use of network resource, including, for example, Network IDs (known as 'IP address') and client IDs (known as 'cookies') that have accessed particular resources, the amount of time spent by

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