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Paper 10
Date: November 7, 2023

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

GOTV STREAMING, LLC,
Patent Owner.

IPR2023-00758
Patent 8,478,245 B2

Before RICHARD M. LEBOVITZ, BRIAN J. McNAMARA, and STEVEN M. AMUNDSON, *Administrative Patent Judges*.

AMUNDSON, *Administrative Patent Judge*.

DECISION
Granting Institution of *Inter Partes* Review
35 U.S.C. § 314

I. INTRODUCTION

Netflix, Inc. ("Petitioner") filed a Petition requesting an *inter partes* review of claims 1–33 in U.S. Patent No. 8,478,245 B2 (Exhibit 1001, "the '245 patent") under 35 U.S.C. §§ 311–319. Paper 2 ("Pet."). GoTV Streaming, LLC ("Patent Owner") filed a Preliminary Response. Paper 7 ("Prelim. Resp."). No further briefing was requested or authorized.

Under 37 C.F.R. § 42.4(a), we have authority to determine whether to institute an *inter partes* review. We may institute an *inter partes* review only if "the information presented in the petition filed under section 311 and any response filed under section 313 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) (2018). The "reasonable likelihood" standard is "a higher standard than mere notice pleading" but "lower than the 'preponderance' standard to prevail in a final written decision." *Hulu, LLC v. Sound View Innovations, LLC*, IPR2018-01039, Paper 29 at 13 (PTAB Dec. 20, 2019) (precedential).

Based on the current record and for the reasons explained below, Petitioner has shown that there is a reasonable likelihood that it would prevail with respect to at least one of the challenged claims. Thus, we institute an *inter partes* review of claims 1–33 in the '245 patent on all challenges included in the Petition.

II. BACKGROUND

A. Real Parties in Interest

Petitioner identifies the following real parties in interest: Netflix, Inc. and Netflix Streaming Services, Inc. Pet. 87. Patent Owner identifies itself as the real party in interest. Paper 4, 2. Additionally, "although Patent

Owner does not believe Phunware Inc. ('Phunware') is a real party-in-interest to this proceeding, out of an abundance of caution, Patent Owner discloses Phunware." *Id.* The parties do not raise any issue about real parties in interest.

B. Related Matters

Petitioner and Patent Owner identify the following civil action as a related matter involving the '245 patent: *GoTV Streaming, LLC. v. Netflix, Inc.*, No. 2:22-cv-07556 (C.D. Cal. filed Oct. 17, 2022) (the "California case"). Pet. 1, 84 n.18, 87; Paper 4, 2; Prelim. Resp. 53.

Patent Owner identifies the following Board proceedings as related matters:

- *Netflix, Inc. v. GoTV Streaming, LLC*, IPR2023-00757 (PTAB filed April 7, 2023) (Patent 8,989,715 B2); and
- *Netflix, Inc. v. GoTV Streaming, LLC*, IPR2023-00759 (PTAB filed April 20, 2023) (Patent 8,103,865 B2).

Paper 4, 2.

C. The '245 Patent (Exhibit 1001)

The '245 patent, titled "Method and System for Rendering Content on a Wireless Device," issued on July 2, 2013, from an application filed on August 1, 2007. Ex. 1001, codes (22), (45), (54). The patent states that the invention relates to "the field of wireless communication systems" and more particularly to "a method and system for rendering applications on a wireless device." *Id.* at 1:14–17; *see id.* at code (57).

The '245 patent explains that an "increase in the number of wireless devices has also increased the demand for various applications to run on various wireless devices." Ex. 1001, 1:27–29; *see id.* at 5:51–52. Because "each wireless device is unique," however, "each application must be

tailored in accordance with the wireless device attributes to fully utilize the capabilities of the wireless device." *Id.* at 1:40–43; *see id.* at 5:52–54. For instance, "to utilize the entire display of the wireless device, the application must be tailored to render the application in accordance with the display size and resolution of the wireless device." *Id.* at 1:43–46. But tailoring "each application to a given wireless device type has increased the cost of developing applications." *Id.* at 1:48–50.

The '245 patent identifies a need to "not only relieve software vendors from tailoring their applications for a given wireless device type but to provide an output that is device specific based on the wireless device attributes where the output is generated from a generic application." Ex. 1001, 2:25–29. According to the patent, embodiments of the invention "relieve software vendors from tailoring their applications based on each wireless device type because the server tailors the output of a generic application based on the wireless device capability." *Id.* at 2:36–39, 5:54–58; *see id.* at 4:19–23, 6:38–41, 20:12–22.

The '245 patent's Figure 1A (reproduced below) depicts an exemplary communication system according to an embodiment of the invention:

100A

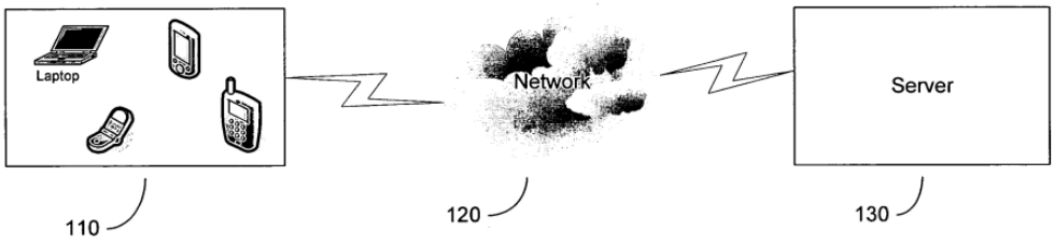

FIGURE 1A

Figure 1A illustrates "an exemplary communication system 100A" including wireless devices 110 coupled through network 120 to server 130. Ex. 1001, 5:65–6:3, Fig. 1A. A wireless device 110 includes a software program or "client" that, among other things, "sends user input and other data to" server 130 for processing. *Id.* at 6:15–17, 6:20–24; *see id.* at 7:41–42, 7:53–57.

Server 130 "executes a generic application" in that "it is not specific to any device or any set of device capabilities." Ex. 1001, 6:10–13. Server 130 "translate[s] the output of the application to a device specific set

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