

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

UNIFIED PATENTS INC.,
Petitioner,

v.

CONVERGENT MEDIA SOLUTIONS, LLC,
Patent Owner.

Case IPR2016-00047
Patent 8,640,183 B2

Before JAMESON LEE, LYNNE E. PETTIGREW, and
JOHN F. HORVATH, *Administrative Patent Judges*.

HORVATH, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. Background

Unified Patents Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute *inter partes* review of claims 1–5, 16, 18, 24–26, 32–38, 40–42, 49, 51–53, 55, and 58–61 (“the challenged claims”) of U.S. Patent No. 8,640,183 B2 (Ex. 1001, “the ’183 patent”). Convergent Media Solutions, LLC, (“Patent Owner”) filed a Preliminary Response (Paper 9, “Prelim. Resp.”). Upon consideration of the Petition and Preliminary Response, we instituted an *inter partes* review to determine the patentability of the challenged claims. Paper 13 (“Dec. Inst.”).

Subsequent to institution, Patent Owner filed a Response (Paper 16, “PO Resp.”), and Petitioner filed a Reply (Paper 20, “Pet. Reply”). Neither Petitioner nor Patent Owner requested oral argument, and we determined oral argument was not necessary to resolve this proceeding. Paper 22.

We have jurisdiction under 35 U.S.C. § 6(b). This is a Final Written Decision under 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons set forth below, we enter adverse judgment against claims 60 and 61, and find Petitioner has shown by a preponderance of the evidence that claims 1–5, 16, 18, 24–26, 32–38, 40–42, 49, 51–53, 55, 58, and 59 of the ’183 patent are unpatentable.

B. Related Matters

Petitioner identifies the following as matters that could affect, or be affected by, a decision in this proceeding: *Convergent Media Solutions LLC v. AT&T Inc.*, Case No. 3-15-cv-02156 (N.D. Tex.); *Convergent Media Solutions LLC v. Hulu, Inc.*, Case No. 3-15-cv-02158 (N.D. Tex.); *Convergent Media Solutions LLC v. Netflix Inc.*, Case No. 3-15-cv-02160

(N.D. Tex.). Pet. 2. Patent Owner identifies each of the preceding matters as well as the following as a matter that could affect, or be affected by, a decision in this proceeding: *Convergent Media Solutions LLC v. Roku, Inc.*, Case No. 3-15-cv-02163 (N.D. Tex.). Paper 4, 2.

C. Evidence Relied Upon

Reference		Effective Date	Exhibit
Chen	US 8,479,238 B2	May 14, 2001 ¹	Ex. 1003
Elabbady	US 7,483,958 B1	Mar. 26, 2002 ²	Ex. 1004

Petitioner also relies upon the Declaration of Jon Weissman. Ex. 1002.

D. The Instituted Ground of Unpatentability

We instituted *inter partes* review of the '183 patent on the following ground of unpatentability (Dec. Inst. 27):

References	Basis	Claims Challenged
Chen and Elabbady	§ 103(a)	1–5, 16, 18, 24–26, 32–38, 40–42, 49, 51–53, 55, and 58–61

II. ANALYSIS

A. The '183 Patent

The '183 patent relates to systems and methods for navigating hypermedia using multiple coordinated input/output device sets. Ex. 1001, 3:13–15. The method allows “a user and/or an author to control what

¹ Chen was filed on May 14, 2002, but is entitled to claim priority to a provisional application filed on May 14, 2001. *See* § II.C *infra*.

² Elabbady was filed on March 26, 2002 and issued on January 27, 2009. It is prior art under 35 U.S.C. § 102(e) based on its March 26, 2002 filing date.

resources are presented on which device sets.” *Id.* at 3:15–17. The device sets may include laptops, desktops, tablets, personal digital assistants (PDAs), televisions (TVs), set-top boxes, video cassette recorders (VCRs) and digital video recorders (DVRs). *Id.* at 16:28–43, 18:32–59, 19:32–47. The term hypermedia refers to “any kind of media that may have the effect of a non-linear structure of associated elements,” and includes “graphics, video, and sound.” *Id.* at 7:13–22. The ’183 patent characterizes video and sound as examples of “continuous media,” or a “representation of ‘content’ elements that have an intrinsic duration, that continue (or extend) and may change over time.” *Id.* at 20:5–9.

The multiple input/output device sets described in the ’183 patent may be coordinated using “a device set management process that performs basic setup and update functions . . . to pre-identify and dynamically discover device sets.” Ex. 1001 37:36–43. This management process can “be based on and compatible with related lower-level processes and standards defined for linking such existing devices and systems . . . based on UPnP, HAVi, OSGi, Rendezvous and/or the like.” *Id.* at 37:46–50. The process enables basic communications among the devices in the device set, and “provide[s] discovery, presence, registration, and naming services to recognize and identify devices as they become available to participate in a network, and to characterize their capabilities.” *Id.* at 37:50–55.

Claims 1 and 58–60 of the ’183 patent are independent. Claim 1, reproduced below, is illustrative of the claims of the ’183 patent. Each of the other challenged claims depends from claim 1 or claim 60.

1. A method for use in a second computerized device set which is configured for wireless communication using a wireless communications protocol that enables wireless communication with a first computerized device set, wherein the first and second computerized device sets include respective first and second continuous media players, the method comprising:

making available to a user a first user interface that allows the user to select a continuous media content to be presented to the user, wherein the continuous media content includes a set of encoded video data;

making available to the user a second user interface that allows the user to select to have the continuous media content presented on either one of the first computerized device set and the second computerized device set;

receiving discovery information at the second computerized device set in accordance with a device management discovery protocol that is implemented at a communication layer above an internet protocol layer, and

wherein the discovery information allows the second computerized device set to determine that the first computerized device set is capable of receiving the continuous media content and playing the continuous media content;

wherein, in the event the user selects, via the second user interface, to have the continuous media content presented on the second computerized device set, the second media player decoding the continuous media content for presentation on the second computerized device set;

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