

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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AT&T Services, Inc.,  
Petitioner,

v.

CONVERGENT MEDIA SOLUTIONS, LLC,  
Patent Owner.

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Case IPR2017-01235  
Patent 8,850,507 B2

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Before JAMESON LEE, KEN B. BARRETT, and JOHN F. HORVATH,  
*Administrative Patent Judges.*

LEE, *Administrative Patent Judge.*

DECISION

Institution of *Inter Partes* Review  
Grant of Motion for Joinder  
*37 C.F.R. §§ 42.108, 42.122(b)*

I. INTRODUCTION

A. Background and Summary

On April 3, 2017, AT&T Services, Inc. (“Petitioner”) filed a Petition (Paper 1, “Pet.”) to institute *inter partes* review of claims 1–17 of U.S.

IPR2017-01235  
Patent 8,850,507 B2

Patent No. 8,850,507 B2 (Ex. 1001, “the ’507 patent”). Convergent Media Solutions, LLC (“Patent Owner”) waived the filing of a preliminary response. Paper 8. Also on April 3, 2017, Petitioner filed a Motion for Joinder seeking to join this proceeding with Case IPR2016-01761. Paper 3. Absent a joinder with IPR2016-01761, institution of review is barred under 35 U.S.C. § 315(b) because the Petition was filed more than one year after the date on which the Petitioner, real party in interest of Petitioner, or privy of Petitioner was served with a complaint alleging infringement of the ’507 patent. *See* Pet. 2. Patent Owner filed an Opposition to the Motion for Joinder. Paper 9. Petitioner filed a Reply to that Opposition. Paper 10.

The ’507 patent is the involved patent in Case IPR2016-01761, and we instituted trial there, on March 3, 2017, with respect to claims 1–17 of the ’507 patent. The grounds of unpatentability Petitioner asserts against claims 1–17 of the ’507 patent are the same as the grounds of unpatentability which were instituted for trial in Case IPR2017-01761 for claims 1–17 of the ’507 patent. Petitioner is not the petitioner in Case IPR2016-01761.

To institute an *inter partes* review, we must determine that the information presented in the Petition 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). Having considered the arguments and evidence presented by Petitioner, and in the absence of a preliminary response from Patent Owner, we determine that Petitioner has demonstrated a reasonable likelihood that it would prevail in establishing the unpatentability of each of claims 1–17 of the ’507 patent.

B. Related Matters

Petitioner indicates that the '507 patent was asserted by Patent Owner against Petitioner in *Convergent Media Solutions, LLC v. AT&T Services, Inc.*, No. 3:15-cv-2156-M (N.D. Tex.). Petitioner further identifies the following as related cases filed by Patent Owner: *Convergent Media Solutions, LLC v. Netflix, Inc.*, No. 3:15-cv-02160 (N.D. Tex.), and *Convergent Media Solutions, LLC v. Roku, Inc.*, No. 3:15-cv-02163 (N.D. Tex.). Pet. 2. Petitioner indicates that Patent Owner has asserted related U.S. Patent No. 8,914,840 against AT&T. *Id.* Patent Owner identifies Case IPR2016-01761 and Case IPR2017-01237 as related *inter partes* review proceedings. Paper 5, 3. We note that Case IPR2016-01814 involves related U.S. Patent No. 8,914,840 B2.

C. The '507 Patent

The '507 patent states, in a section captioned as "SUMMARY OF VARIOUS EMBODIMENTS [OF] THE INVENTION":

According to embodiments of the present invention there are provided systems and methods for navigating hypermedia using multiple coordinated input/output device sets. Embodiments of the invention *allow a user and/or an author to control what resources are presented on which device sets* (whether they are integrated or not), and provide for coordinating browsing activities to enable such a user interface to be employed across multiple independent systems. Embodiments of the invention support new and enriched aspects and applications of hypermedia browsing and related business activities.

Ex. 1001, 3:4–14 (emphasis added). 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 7:4–15. The ’507 patent characterizes audio and video as examples of “continuous media” which refers to any “representation of ‘content’ elements that have an intrinsic duration, that continue (or extend) and may change over time.” *Id.* at 19:65–20:6.

The multiple input/output device sets described in the ’507 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 that may be used in coordination with any given system.” Ex. 1001, 37:28–35. 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 37:38–42. 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 37:42–47.

Claim 1 is the only independent claim of all challenged claims, and is reproduced below (bracketed lettering inserted for identification purposes):

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 computerized device set includes a continuous media player, the method comprising:
  - [a] receiving discovery information that is obtained in accordance with a device management discovery protocol that is implemented at a communication layer above an internet protocol layer, wherein the discovery information

allows a determination to be made at the second computerized device set that the first computerized device set is capable of receiving an indication of a particular control function related to a parameter of a presentation of a continuous media content on the first computerized device set, wherein the continuous media content includes video data;

- [b] making available to a user a first user interface that allows the user to select to direct communications to the first computerized device set;
- [c] making available to the user a second user interface that allows the user to select the particular control function related to a parameter of a presentation of the continuous media content; and,
- [d] causing to be wirelessly transmitted, in accordance with a wireless local area network protocol, the indication of the particular control function selected by the user via the second user interface to the first computerized device set for subsequent use by the continuous media player to control the presentation of the continuous media content on the first computerized device set.

Ex. 1001, 165:2–33.

D. Evidence Relied Upon

Petitioner relies on the following references:<sup>1</sup>

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<sup>1</sup> The earliest possible effective filing date of the '507 patent, potentially establishable by Patent Owner, is May 10, 2002. Ex. 1001, (60) (63).

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