

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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NETFLIX, INC.,  
Petitioner,

v.

CONVERGENT MEDIA SOLUTIONS, LLC,  
Patent Owner.

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Case IPR2016-01813  
Patent 8,689,273 B2

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

BARRETT, *Administrative Patent Judge*.

DECISION  
Institution of *Inter Partes* Review  
37 C.F.R. § 42.108

## I. INTRODUCTION

### A. *Background and Summary*

Netflix, Inc. (“Petitioner”) filed a Petition requesting *inter partes* review of U.S. Patent No. 8,689,273 B2 (“the ’273 patent,” Ex. 1030). Paper 2 (“Pet.”). The Petition challenges the patentability of claims 1–22 of the ’273 patent on the grounds of obviousness under 35 U.S.C. § 103. Convergent Media Solutions, LLC (Patent Owner) did not file a Preliminary Response to the Petition.

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 1–22 of the ’273 patent.

### B. *Related Proceedings*

One or both parties identify, as matters involving or related to the ’273 patent, *Convergent Media Solutions, LLC v. Netflix, Inc.*, No. 3:15-cv-02160-M (N.D. Tex), *Convergent Media Solutions, LLC v. AT&T, Inc.*, 3:15-cv-2156-M (N.D. Tex.), and Patent Trial and Appeal Board cases IPR2016-01761 (U.S. Patent No. 8,850,507), IPR2016-01811 (U.S. Patent No. 8,527,640), IPR2016-01812 (U.S. Patent No. 8,640,183<sup>1</sup>), and IPR2016-01814 (U.S. Patent No. 8,914,840). Pet. 2; Paper 4.

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<sup>1</sup> U.S. Patent No. 8,640,183 also is the subject of PTAB case *Unified Patents Inc. v. Convergent Media Solutions, LLC*, IPR2016-00047.

*C. The '273 Patent*

The '273 patent states, in a section titled 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. 1030, 3:10–23 (emphasis added). The device sets may include a television (TV) or interactive television (ITV) system which commonly includes a set-top box (STB), a personal computer (PC) including a desktop or laptop/notebook, a personal digital assistant (PDA), a phone, video cassette recorders (VCRs), and digital video recorders (DVRs). *Id.* at 18:55–57, 19:31–35, 24:54–61. The '273 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,” and includes “both ‘stored formats’ and ‘streams’ or streaming transmission formats.” *Id.* at 20:5–11.

The multiple input/output device sets described in the '273 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. 1030, 37:35–39. 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 37:45–49. 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 37:49–54.

*D. Illustrative Claim*

Claim 1 is the sole independent claim of the ’273 patent. The remaining challenged claims, claims 2–22 directly or indirectly depend from Claim 1. Claim 1, reproduced below with bracketed annotations<sup>2</sup> inserted for identifying specific limitations, is illustrative:

1. A method for use in a second computerized device set which is configured for wireless communication using a wireless communications protocol that enables 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:

[A] receiving discovery information 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 the second computerized device set to determine that the first computerized device set is capable of supporting selected functions;

[B] making available to a user a first user interface that allows the user to enable communications with the first computerized device set;

[C] making available to the user a second user interface that allows the user to add a particular content item to a list of user-selected content items;

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<sup>2</sup> We utilize Petitioner’s annotations for claim 1 but have retained the paragraphing from the issued patent.

[D] wirelessly transmitting, in accordance with a wireless local area network protocol, an identification of the particular content item from the second computerized device set for subsequent use by the first computerized device set to facilitate presenting the particular content item on the first computerized device set;

[E] wherein the supported selected functions include at least receiving of the identification of the particular content item and the presenting of the particular content item; and

[F] wherein the particular content item is not presented on the second computerized device set during presentation on the first computerized device set, and [G] the first user interface and the second user interface together comprise a unified user interface, wherein the unified user interface presents a second set of user input controls that allow the user to add the particular content item to the list of user-selected content items, and a first set of user input controls that allow the user to enable communications with the first computerized device set,

[H] wherein the particular content item comprises a continuous media content item,

[I] wherein the list comprises at least one of a list of bookmarked content items, a list of favorite content items, and a list of saved content items,

[J] wherein the first computerized device set and the second computerized device set are independently usable.

Ex. 1030, 164:26–165:5.

*E. Applied References*

| Reference |                 | Dates  | Exhibit No. |
|-----------|-----------------|--|-------------|
| Zintel    | US 6,910,068 B2 | Filed Mar. 16, 2001;<br>Issued June 21, 2005   | Ex. 1003    |
| Palm      | US 2001/0042107 | Filed Jan. 8, 2001;<br>Published Nov. 15, 2001 | Ex. 1006    |
| Janik     | US 7,130,616 B2 | Filed Aug. 7, 2001;<br>Issued Oct. 31, 2006    | Ex. 1007    |

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