

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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COMCAST CABLE COMMUNICATIONS, LLC,  
Petitioner

v.

ROVI GUIDES, INC.,  
Patent Owner

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Case IPR2017-01049  
U.S. Patent No. 8,578,413

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**PATENT OWNER'S REQUEST FOR REHEARING  
BY THE DIRECTOR PURSUANT TO *UNITED STATES v. ARTHREX***

***Mail Stop "PATENT BOARD"***  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

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## I. INTRODUCTION

Patent Owner Rovi Guides, Inc. (PO) requests Director review of the PTAB's October 16, 2018 Final Written Decision (Pap. 36). This request is timely filed within 30 days of the Federal Circuit's September 2, 2021 remand order.

The Board's conclusion that an ordinary artisan would have been motivated to combine Sato and Humpleman was erroneous. At the outset of this proceeding, the Board misapplied the law by analyzing what a POSA *could* do rather than what a POSA *would have been able and motivated to do*. Then, in its final decision on obviousness, the Board—without justification—disregarded unambiguous language in Humpleman that criticizes systems like Sato's. This language would have discouraged a POSA from combining Sato and Humpleman in the manner claimed. Because controlling law dictates that obviousness cannot be based on a combination of references that teach away from one another, the Board's finding that the '413 patent is obvious over Sato and Humpleman should be set aside.

## II. BACKGROUND

**A. The patent.** The '413 patent claims a novel system and method for allowing a user to remotely control a program guide for her television. The invention improved upon prior art program guide systems, which “require[d] that the user be physically present in the home to access important program guide features such as program reminders, parental control, and program recording.” EX1101, 2:16–19.

The patent discloses a system in which two distinct “interactive program guides”—a “local IPG” and a “remote IPG” (or “remote access IPG”)—communicate with one another. The local IPG is implemented on “local interactive television program guide equipment,” while the remote IPG is implemented on a “mobile device.” *Id.*, 40:6–47. These guides offer robust, interactive features that allow users to control television activity remotely in ways previously unavailable. For example, the user can instruct the remote IPG to schedule future recordings, access information about program listings, schedule a program reminder, or display program listings in subsets according to user-selected criteria. The remote IPG then sends those instructions to the local IPG, which performs the necessary operations on the local IPG equipment. *Id.*, 15:9–32, 18:4–12, 25:45–59, 40:6–47.

**B. The prior art.** Sato discloses a system that allows users to access a schedule of programs on a browser rendered on a device in the home, such as a personal computer. Then, in response to the user’s instructions, the home device sends commands to an “interface box,” which generates an infrared signal that instructs a video tape recorder/player to record the program at the indicated time. EX1115, 1:7–12, 4:40–5:2, 5:18–25. Sato’s “interface box” must contain control and command logic for each device that it controls. *Id.*, 6:62–7:6 (“[C]odes and carriers for controlling electronic devices are different among different manufacturers and even among different devices from the same manufacturer....”).

Humpleman discloses a system that allows a user to control various “home devices” connected to a home network. EX1106, 1:21–36, 2:15–18. These “home devices” include “all electronic devices ... typically found in the home.” *Id.*, 1:21–25. “As long as each device on the network has HTML files to describe their [graphical user interface] and as long as they use HTTP protocol to transfer those files, then any ‘client’ device that understands how to ‘web-browse’ and render HTML will be able to use the device with the human-interface GUI.” EX1107, 3.

Humpleman also discloses an embodiment in which “a user can remotely control home devices connected to a home network” via an Internet connection. EX1106, 20:44–47. “For example, if a user is ... unable to watch the Monday night football game, the user can program a DVCR connected to their home network via the Internet, in order to record the particular event.” *Id.*, 20:47–51.

Humpleman disparages systems like Sato that use “static control and command logic.” *Id.*, 1:52–58. As the Humpleman provisional application says, under the static-control-and-command-logic approach, the user must “control everything,” which requires a “complex GUI” with a “detailed command set for every device.” EX1107, 18. The Humpleman system, according to its specification, “eliminates a requirement for a remote control device to include ... control codes specific to each of the devices on the network. EX1106, 23:46–49.

C. The Board found all claims obvious over Sato and Humpleman. The

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