

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

VL COLLECTIVE IP LLC,
Patent Owner.

Case IPR2023-00891
Patent No. 8,605,794

**PETITIONER'S OBJECTIONS TO PATENT OWNER'S EXHIBITS
PURSUANT TO 37 C.F.R. § 42.64(b)(1)**

I. INTRODUCTION

Pursuant to 37 C.F.R. § 42.64(b)(1), Netflix, Inc. (“Petitioner”), hereby submits the following objections to Exhibits 2040-2042 filed with Patent Owner VL Collective IP LLC’s Patent Owner Sur-Reply. Pursuant to 37 C.F.R. § 42.62, Petitioner’s objections below apply the Federal Rules of Evidence (“F.R.E.”).

Petitioner timely objects under 37 C.F.R. § 42.64(b)(1) within the allowed five business days of service of the evidence. Petitioner files and serves its objections to provide notice that they may move to exclude Exhibits 2040–2042 under 37 C.F.R. § 42.64(c).

II. OBJECTIONS TO EVIDENCE

A. Exhibits 2040–2042

Petitioner hereby objects to Exhibits 2040-2042 under F.R.E. 901, 1002, and 37 C.F.R. § 42.61 because Patent Owner fails to provide the authentication required for these documents, and the Exhibits are not self-authenticating under F.R.E. 902.

Petitioner further objects to Exhibits 2040-2042 as impermissible hearsay under F.R.E. 801 and 802 because they contain out of court statements that are offered for the truth of the matters asserted, and thus constitute impermissible hearsay for which Patent Owner has not demonstrated any exception or exclusion to the rule against hearsay. Accordingly, permitting reliance on these documents in

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the Patent Owner Response or other submissions by Patent Owner would be misleading and unfairly prejudicial to Petitioner (F.R.E. 403).

Petitioner further objects to Exhibits 2040-2042 under F.R.E. 401, 402, and 403. Patent Owner cites Exhibit 2040 as alleged evidence of the plain and ordinary meaning of the term “based.” Paper 44, 21. Patent Owner similarly cites Exhibits 2041 and 2042 as alleged evidence of the plain and ordinary meaning of the term “segment.” *Id.*, 16. But those dictionary definitions are not contemporary with the ’794 patent, which claims priority to a 2006 application and issued in 2013. EX1001, (22), (45). On the contrary, Exhibits 2040 and 2041 each list copyright dates of 2024. EX2040, 5; EX2041, 6. And Exhibit 2042 states on its face that it was “Last Updated” on August 25, 2024. EX2042, 8. Thus, contrary to Patent Owner’s assertion, Exhibits 2040-2042 are not relevant to any claim term meaning.

Dated: September 12, 2024

By: /s/ Aliza George Carrano
Aliza George Carrano
PTO Reg. No. 70,637
Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on September 12, 2024, a copy of the foregoing document was served by email directed to the following counsel of record and distribution list:

Christine E. Lehman
clehman@reichmanjorgensen.com

Michael Matulewicz-Crowley
mmatulewicz-crowley@reichmanjorgensen.com

Jaime F. Cardenas-Navia
jcardenas-navia@reichmanjorgensen.com

Naveed S. Hasan
nhasan@reichmanjorgensen.com

RJ_VideoLabs-Netflix@reichmanjorgensen.com

/s/ Aliza George Carrano
Aliza George Carrano