

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VIZIO, INC.¹,
Petitioner,

v.

MULTIMEDIA TECHNOLOGIES PTE. LTD.,
Patent Owner.

IPR2024-00723
Patent 9,578,384 B2

Before ST. JOHN COURTENAY III, ROBERT L. KINDER and
SHARON FENICK, *Administrative Patent Judges*.

FENICK, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 318(a)

¹ LG Electronics, Inc. and LG Electronics U.S.A., Inc., which filed a petition in IPR2025-00300, have been joined as a petitioner in this proceeding.

I. INTRODUCTION

A. Background and Summary

Visio Inc. (“Petitioner”) filed a petition for inter partes review challenging claims 1–12 of U.S. Patent 9,578,384 B2 (Ex. 1001 (“the ’384 patent”). Paper 1 (“Pet.” or “Petition”). Multimedia Technologies Pte. Ltd. (“Patent Owner”) filed a preliminary response. Paper 11 (“Prelim. Resp.”).

We instituted inter partes review. Paper 12 (“Dec. on Inst.” or “Institution Decision”). Patent Owner filed a patent owner response (Paper 20, “PO Resp.”), Petitioner filed a reply (Paper 23, “Pet. Reply”), and Patent Owner filed a sur-reply (Paper 26, “PO Sur-reply”). On September 3, 2025, the parties presented oral arguments, and the Board entered a transcript into the record. Paper 38 (“Tr.”).

We have jurisdiction under 35 U.S.C. § 6(b)(4). For the reasons set forth in this Final Written Decision, we determine that Petitioner demonstrates by a preponderance of evidence that the challenged claims are unpatentable.

B. Real Parties in Interest

Petitioner names itself and Walmart Inc. as real parties in interest. Paper 37 (Petitioner’s Updated Mandatory Notices), 1. Patent Owner names only itself as a real party in interest. Paper 32 (Patent Owner’s Fourth Amended Mandatory Notices), 1.

We granted a request in IPR2025-00300 by LG Electronics, Inc. and LG Electronics U.S.A. Inc. to be joined as petitioner in this proceeding. Paper 25. Those parties did not identify any additional real parties in interest. *Id.* at 2.

C. Related Matters

Petitioner and Patent Owner inform us that the '384 patent is at issue in: Multimedia Technologies Pte. Ltd. v. Vizio, Inc., No. 2:25- cv-00577-WLH (C.D. Cal.) (transferred from the Eastern District of Texas) and Multimedia Technologies Pte. Ltd. v. LG Electronics Inc., No. 2:22-cv00494 (E.D. Tex.). Paper 37, 1; Paper 32, 1. The parties additionally inform us of other *inter partes* review proceedings that could affect or be affected by a decision in this proceeding: IPR2024-00351, IPR2024-00352, IPR2024-00353, IPR2024-00354, IPR2024-00694, IPR2024-00696, IPR2024-00699, and IPR2024-00722. Paper 32, 1–2; Paper 37, 2–3.

D. The '384 Patent

The '384 patent is titled “Systems and Methods for Providing Video On Demand in an Intelligent Television,” and concerns user interfaces for providing video on demand (“VOD”) on an intelligent television intended to “allow the user to utilize the intelligent television more easily and more effectively.” Ex. 1001, codes (54), (57); *see id.* at 19:11–16 (defining VOD).

Figure 16, reproduced immediately below, is “a flowchart view of an embodiment of a method for providing VOD in an [i]ntelligent TV” by “provid[ing] a series of contextual and easily understood panels to navigate through VOD content.” *Id.* at 22:64–65, 43:41–42.

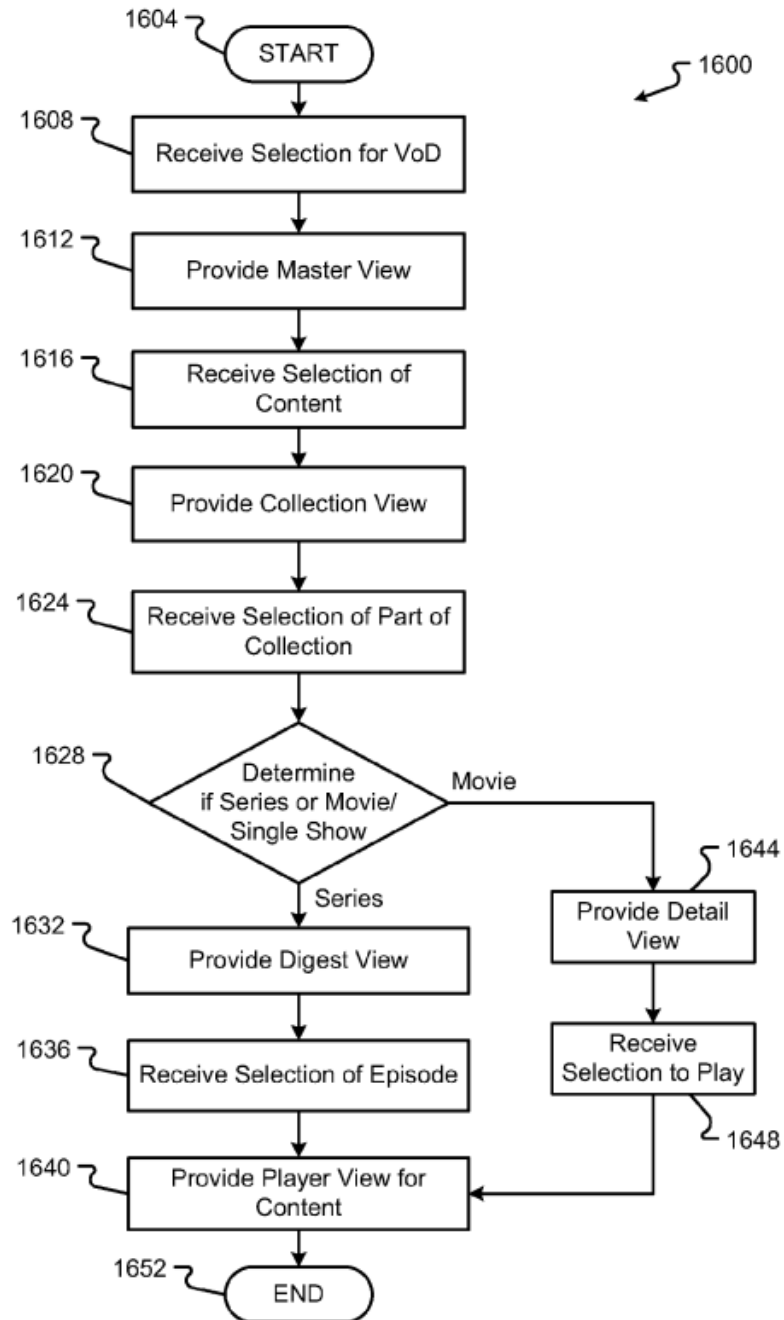


Fig. 16

Figure 16 depicts a flowchart that includes steps specifying the receipt of selections and the provision of views by an intelligent TV; in one portion, the flowchart includes a decision diamond that leads to the provision of either a digest view or a detail view. *Id.* at 43:59–44:3, 44:52–45:31.

The intelligent TV as described in the '384 patent receives selections for VOD content and displays user interfaces, which may include user interfaces (views) in a hierarchical order of four types. *Id.* at 44:4–25, 45:40–42, Fig. 16 (elements 1608, 1612, 1616, 1620, 1624, 1632, 1636, 1640, 1644, 1648), Fig. 18. First, a master view selection is a top tier user interface that allows the user to select a type of collection. *Id.* at 44:9–12. Second, a collection view displays a list of media based on a target or sort criteria. *Id.* at 44:12–13. Third, when a user makes a selection of content from the collection view, a digest view or detail view is provided, depending on whether the user selection was of a series (yielding a digest view) or of a single show, movie, or episode movie (yielding a detail view). *Id.* at 44:13–16, 44:52–45:31, Fig. 16 (elements 1628, 1632, 1644). A digest view shows a view of a television series or series of episodes, where a description or view of the series and a set of episodes is provided, with the ability to select one or more episodes in the series. *Id.* at 44:16–18, 45:6–8. A detail view provides information specific to a single show, movie, or episode. *Id.* at 44:19–21, 45:21–24. Lastly, from either of the digest or detail views, the user may select content to play or select a play icon, and the intelligent TV then provides a player view providing the selected content to the user. *Id.* at 44:21–25, Fig. 16 (elements 1636, 1648, 1640).

Figure 17, reproduced immediately below, is “a view of an embodiment of a user interface for an [i]ntelligent TV” depicting four tiers of views that a user might navigate to select and play VOD content. *Id.* at 22:66–67, 44:4–25.

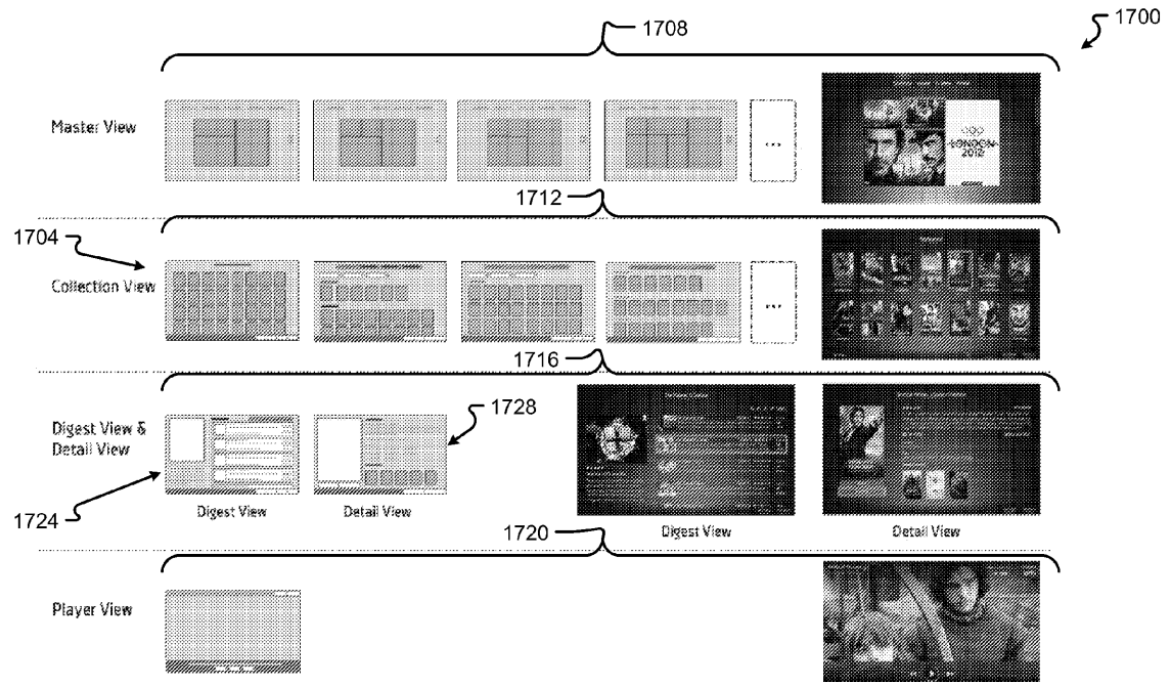


Fig. 17

Figure 17 includes four rows of labelled views: (1) master view, (2) collection view, (3) digest view and detail view, and (4) player view. *Id.* at 44:4–25, Fig. 17. Digest view is shown both as element 1724 and in a second view reproduced in the third row of views, and detail view is shown both as element 1728 and also in a second view reproduced in the third row of views. *Id.* at 44:13–21, 44:58–66, 45:5–31, Fig. 17.

E. Illustrative Claims

Claims 1, 2, and 11 are independent. Claims 1–5, reproduced below with limitation identifications in brackets corresponding to those used in the Petition, are illustrative.

1. [1.0] A method for providing video-on-demand (VOD) in an intelligent television, the method comprising:

[1.1] receiving, by a processor of the intelligent television, a first selection for a VOD content;

- [1.2] in response to the first selection, providing, by the processor, a master view of the VOD content, wherein the master view presents two or more collections of the VOD content organized by a characteristic of the VOD content;
 - [1.3] receiving, by the processor, a second selection for a VOD content;
 - [1.4] in response to the second selection, providing, by the processor, a collection view of VOD content, wherein the collection view presents two or more items of the VOD content having the characteristic;
 - [1.5] receiving, by the processor, a third selection for a VOD content;
 - [1.6] in response to the third selection, providing, by the processor, either a detail view or a digest view of VOD content, wherein the detail view presents information about a selected item of the VOD content, and wherein the digest view presents information about a set of the VOD content that are associated with a series, wherein providing either a detail view or a digest view of the VOD content comprises:
 - [1.7] determining, by the processor, if the selection in the collection view is for a series or one of a movie or single show;
 - if the selection in the collection view is for a series, providing, by the processor, the digest view; and
 - if the selection in the collection view is for one of a movie or single show, providing, by the processor, a detail view, [1.8] wherein a navigation to view VOD content is an ordered set of user interfaces, and wherein the order includes a master view at a top level, a collection view at a second level, either a digest view or detail view at a third level, and a player view at a fourth and bottom level.
2. [2.0] An intelligent television system comprising: [2.1] a memory operable to store video-on-demand (VOD) content;

a processor in communication with the memory, the processor operable to:

execute a user interface application operable to: [2.2] receive a first selection for a VOD content; in response to the first selection, provide a master view of the VOD content, wherein the master view presents two or more collections of the VOD content organized by a characteristic of the VOD content;

[2.3] receive a second selection for a VOD content;

in response to the second selection, provide a collection view of the VOD content, wherein the collection view presents two or more items of the VOD content having the characteristic;

[2.4] receive a third selection for a VOD content; in response to the third selection, provide either a detail view or a digest view of VOD content, wherein the detail view presents information about a selected item of the VOD content, and wherein the digest view presents information about a set of the VOD content that are associated with a series; wherein providing either a detail view or a digest view of the VOD content comprises determine if the selection in the collection view is for a series or one of a movie or single show;

[2.5] if the selection in the collection view is for a series, provide the digest view, wherein the digest view provides a listing of two or more episodes associated with the series;

[2.6] if the selection in the collection view is for one of a movie or single show, provide a detail view; [2.7] receiving a fourth selection of an episode in the digest view; and in response to the fourth selection, providing a player to present the episode to the user; receiving a fifth selection of a user interface device to play the movie or single show; and in response to the fifth selection, providing a player to present the movie or single show to the user; [2.8] wherein a navigation to view VOD content is an ordered set of user interfaces,

and wherein the order includes a master view at a top level, a collection view at a second level, either a digest view or detail view at a third level, and a player view at a fourth and bottom level

3. The method as defined in claim 1, wherein the digest view provides a listing of two or more episodes associated with the series.

4. The method as defined in claim 3, further comprising:
receiving a fourth selection of an episode in the digest view; and
in response to the fourth selection, providing a player to present the episode to the user.

5. The method as defined in claim 4, further comprising:
receiving a fifth selection of a user interface device to play the movie or single show; and
in response to the fifth selection, providing a player to present the movie or single show to the user.

Ex. 1001, 56:35–57:5, 57:49–61.

F. Evidence

Petitioner relies on the following patent evidence.

Name	Patent Document	Exhibit
Hunleth	US 7,634,793 B2	Ex. 1021
Hunt	US 8,365,235 B2	Ex. 1020
Ma	US 2012/0054679 A1	Ex. 1022
Kim	US 2012/0054794 A1	Ex. 1019

Petitioner relies on the following non-patent literature evidence.

Name	Non-Patent Literature Title	Author	Exhibit
TechnoBuffalo	“Connected TV:VIZIO LED HDTV with VIA Apps Part 1 of 2” and “Connected TV:VIZIO LED HDTV with VIA Apps Part 2 of 2”	Noah Kravitz ²	Exs. ³ 1005– 1017
MissingRemote	“Apple TV Netflix Walkthrough”	Andrew Van Til ⁴	Ex. 1018

Petitioner additionally relies on a declaration of Dr. Henry Houh, Ex. 1003. Patent Owner relies on a declaration of Dr. Rajeev Surati, Ex. 2002.

G. Prior Art and Asserted Grounds

Petitioner asserts that claims 1–12 would have been unpatentable on the following grounds:

Claim(s) Challenged	35 U.S.C. § ⁵	Reference(s)/Basis
1–12	103(a)	Kim, TechnoBuffalo, MissingRemote, Hunt, Hunleth
1–12	103(a)	Kim, Ma, Hunt, Hunleth

² On the present record, we understand Noah Kravitz to be an author of the TechnoBuffalo videos. *See* Ex. 1005, 0:00–0:05; Ex. 1011, 0:00–0:05; Ex. 1017, 0:33–0:35; Ex. 1025 (Declaration of Noah Kravitz) ¶ 4.

³ The two TechnoBuffalo videos were broken up into 13 exhibits by Petitioner due to upload size limitations. Pet. 5 n.4.

⁴ On the present record, we understand Andrew Van Til to be an author of the MissingRemote video. *See* Ex. 1018, 0:02–0:05; Ex. 1026 (Declaration of Andrew Van Til) ¶ 3.

⁵ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (2011), amended 35 U.S.C. § 103, effective March 16, 2013. Because the earliest claimed priority date of the ’384 patent is before March 16, 2013, we apply the pre-AIA version of § 103. *See* Ex. 1001, code (60) (claiming priority to numerous provisional applications, including six provisional applications filed before March 16, 2013). Our analysis in this Decision would be the same if we applied the AIA version of § 103.

II. ANALYSIS

A. Legal Standards

“In an [*inter partes* review], the petitioner has the burden from the onset to show with particularity why the patent it challenges is unpatentable.” *Harmonic Inc. v. Avid Tech., Inc.*, 815 F.3d 1356, 1363 (Fed. Cir. 2016) (citing 35 U.S.C. § 312(a)(3) (requiring *inter partes* review petitions to identify “with particularity ... the evidence that supports the grounds for the challenge to each claim”)). This burden of persuasion does not shift to Patent Owner. *See Dynamic Drinkware, LLC v. Nat’l Graphics, Inc.*, 800 F.3d 1375, 1378 (Fed. Cir. 2015) (citing *Tech. Licensing Corp. v. Videotek, Inc.*, 545 F.3d 1316, 1326–27 (Fed. Cir. 2008)) (discussing the burden of proof in *inter partes* review).

A patent claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are “such that the subject matter as a whole would have been obvious . . . to a person having ordinary skill in the art to which said subject matter pertains.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved based on underlying factual determinations, including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of skill in the art; and (4) objective evidence of nonobviousness, i.e., secondary considerations.⁶ *See Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

“To satisfy its burden of proving obviousness, a petitioner cannot employ mere conclusory statements. The petitioner must instead articulate

⁶ Neither party has raised evidence or arguments relating to objective evidence of nonobviousness.

specific reasoning, based on evidence of record, to support the legal conclusion of obviousness.” *In re Magnum Oil Tools Int’l, Ltd.*, 829 F.3d 1364, 1380 (Fed. Cir. 2016). We analyze the asserted grounds with the principles stated above in mind.

B. Weight Accorded to Dr. Houh’s Testimony

Patent Owner argues that we should consider “Dr. Houh’s lack of experience in the industry” when weighing his testimony, and cites his extensive work as a paid witness in *inter partes* proceedings and litigation. PO Resp. 18–19 (citing Ex. 2003, 6:12–17, 8:14–9:15, 13:2–14). Petitioner responds that Dr. Houh’s education and work experience, in addition to his history as an inventor, qualify him to testify. Pet. Reply 29–30 (citing Ex. 1003 ¶¶ 7, 10–13; Ex. 1004, 2–3, 5–11).

An expert witness must be qualified as an expert by knowledge, skill, experience, training, or education to testify in the form of an opinion. Fed. R. Evid. 702. We deem Dr. Houh to have the requisite qualifications to provide opinion testimony, including obtaining “a Ph.D. in Electrical Engineering and Computer Science from MIT, where his research focused on building high-speed networks and developing applications for remote video capture, processing, and display—technologies central to the ’384 Patent.” Pet. Reply 29 (citing Ex. 1003 ¶¶ 7, 10–13). The Board has broad discretion to assign weight to be accorded expert testimony. *Yorkey v. Diab*, 601 F.3d 1279, 1284 (Fed. Cir. 2010). Dr. Houh’s industry experience establishes that he at least possesses ordinary skill in the art, and we do not disqualify his testimony. *See* Ex. 1003 ¶¶ 7, 10–13. We consider the factors raised by the parties in weighing his testimony with other evidence provided, including the facts and data on which it is based, in reaching our determinations here.

C. Level of Ordinary Skill in the Art

Petitioner asserts, citing the testimony of its declarant Dr. Houh, that:

A person of ordinary skill in the art (“POSITA”) in August of 2012 would have been knowledgeable and familiar with [user interfaces] in consumer products that are pertinent to the ’384 Patent. A POSITA would have had a bachelor’s degree in Electrical, Software, or Computer Engineering, or equivalent training, and approximately two years of experience working in the field of television and/or digital video systems, human-computer interaction, or related technologies. Lack of professional experience can be remedied by additional education, and vice versa.

Pet. 15 (citing Ex. 1003 ¶ 21). Patent Owner agreed with and adopted this definition. PO Resp. 18; Ex. 2002 ¶ 40.

The definition proposed by Petitioner is consistent with the problems and solutions in the ’384 patent and prior art of record and is supported by expert testimony. We adopt this definition.

D. Claim Construction

We construe each claim “in accordance with the ordinary and customary meaning of such claim as understood by one of ordinary skill in the art and the prosecution history pertaining to the patent.” 37 C.F.R. § 42.100(b) (2020). Under this standard, claim terms are generally given their plain and ordinary meaning as would have been understood by one of ordinary skill in the art in the context of the entire patent disclosure. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1313 (Fed. Cir. 2005) (en banc).

Only those terms in controversy need to be construed, and only to the extent necessary to resolve the controversy. *See Nidec Motor Corp. v. Zhongshan Broad Ocean Motor Co.*, 868 F.3d 1013, 1017 (Fed. Cir. 2017) (quoting *Vivid Techs., Inc. v. Am. Sci. & Eng’g, Inc.*, 200 F.3d 795, 803 (Fed. Cir. 1999)).

In the Petition, Petitioner asserted that no claim required express construction. Pet. 16. Patent Owner, in its Response, asserted that two different issues would require claim construction: the order of steps in claims 2 and 5 and the proper construction of the term “[provide/providing] either a detail view or a digest view of [the] VOD content,” recited in claims 1, 2, and 11. PO Resp. 10–17. The parties addressed these issues in their further briefing. Pet. Reply 2–13; PO Sur-reply 1–4.

In light of the parties’ arguments and evidence, we address these claim construction issues.

1. Order of Steps (Claims 1–5)

Patent Owner argues that the steps of method claims 1, 3, 4, and 5 must be performed in the recited order, and that the operations that the processor must be operable to perform in claim 2 additionally must be performed in the recited order. PO Resp. 11–14. In part, this is based on Patent Owner’s argument that the “user interface device” recited in the “fifth selection” step/operation (step 9) “is a navigation control that permits the user to change between (or navigate) different VOD content” – i.e. to trigger the provision of a player for a movie or single show. *Id.* at 13–14.

a) Legal Standards

“Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require one. However, such a result can ensue when the method steps implicitly require that they be performed in the order written.” *Interactive Gift Express, Inc. v. Compuserve Inc.*, 256 F.3d 1323, 1342–43 (Fed. Cir. 2001). We follow a two-part test to determine if the steps of a method claim that do not otherwise recite an order must nonetheless be performed in the order in which they are written. *Id.* We start with the words of the claim, to determine whether they compel

performance in the order written as a matter of logic or grammar. *Id.* at 1343. For example, if a step recited later references something logically indicating that a step recited earlier had been performed, this will indicate that the steps must be performed in the recited order. *See Function Media, LLC v. Google, Inc.*, 708 F.3d 1310, 1320 (Fed. Cir. 2013) (determining that because a processing step was described as acting on an advertisement, that step must be performed after a step which created the advertisement); *Mantech Envtl. Corp. v. Hudson Envtl. Servs., Inc.*, 152 F.3d 1368, 1375–76 (Fed. Cir. 1998) (analyzing each of four steps of a method claim and finding that each relied on a previously recited step, thus determining that the steps must be performed in the recited order). If not, we examine the rest of the specification to determine if it “directly or implicitly requires such a narrow construction.” *Interactive Gift*, 256 F.3d 1343. If not, the correct construction does not require the steps to be performed in the order written. *Id.*; *Baldwin Graphic Sys., Inc. v. Siebert, Inc.*, 512 F.3d 1338, 1344–46 (Fed. Cir. 2008).

Additionally, we note that “[t]he use of the terms ‘first’ and ‘second’ is a common patent-law convention to distinguish between repeated instances of an element or limitation.” *3M Innovative Props. Co. v. Avery Dennison Corp.*, 350 F.3d 1365, 1371 (Fed. Cir. 2003).

b) The Parties’ Positions

Patent Owner asserts that “each claim step” of claim 2⁷ requires that the operations set forth (listed as actions “the processor [is] operable to:

⁷ We note that claim 2 is a system claim, rather than a method claim. The import of the distinction with respect to claim ordering is not addressed by the parties; the parties’ arguments treat each of claim 2 and claims 1, 3, 4, and 5 as requiring certain steps. *See* Tr. 24:12–27:2, 31:4–11, 37:26–38:11,

execute a user interface application operable to” perform) must be performed in the order recited. PO Resp. 11–14. However Patent Owner does not address the complete ordering. *Id.* Rather, Patent Owner parses the claim to include ten steps, and argues that step 1 must precede step 2, step 3 must precede step 4, step 5 must precede step 6, and step 7 must precede step 8. *Id.* Patent Owner additionally argues that step 2 must precede step 4, that step 4 must precede step 6, and that step 6 must precede step 8. *Id.* at 12–13. No dispute between the parties exists which implicates any of these orderings, and thus we do not address them. *See Nidec Motor Corp.*, 868 F.3d at 1017; Pet. Reply 7 (agreeing that the first selection of step 1, second selection of step 3, and third selection of step 5 occur in order in claim 1).

However, to resolve the dispute between the parties, we must and do address Patent Owner’s contention that the following steps must be performed in the recited order: step 7 (“receiving a fourth selection of an episode in the digest view”); step 8 (“in response to the fourth selection, providing a player to present the episode to the user”); step 9 (“receiving a fifth selection of a user interface device to play the movie or single show”); and step 10 (“in response to the fifth selection, providing a player to present

39:6–24. We are cognizant that “apparatus claims cover what a device *is*, not what a device *does*.” *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F.2d 1464, 1468 (Fed. Cir. 1990); *see Rothschild Connected Devices Innovations, LLC v. Coca-Cola Co.*, 688 F. Supp. 1281, 1296 (N.D. Ga. 2023) (reviewing Federal Circuit precedent regarding whether “order can be required by a system/apparatus claim”). Because no distinction is argued, we consider claim 2’s recited operations the same way we consider the steps of method claims 1 and 3–5, with respect to ordering and the possibility of additional unclaimed “steps.” *See In re Affinity Labs of Tex., LLC*, 856 F.3d 902, 907 (Fed. Cir. 2017) (use of the term “comprising” signals that the method claim “allows for additional steps interleaved between the recited steps.”).

the movie or single show to the user”). Ex. 1001, 2:36–43; PO Resp. 13–14; *see* PO Resp. 26–28; Pet. Reply 8–15, 28; PO Sur-reply 1–4. Additionally, we address the parties’ related contentions regarding whether step 9 must occur after step 8 without intervening steps and the related contentions that step 9 “always occurs.” PO Resp. 14, 27–28; Pet. Reply 13–15, 26–28; PO Sur-reply 1–3.

Patent Owner contends that its argued ordering is required because the “user interface device” of step 9 “is a navigation control that permits the user to change between (or navigate) different VOD content.” PO Resp. 13–14 (citing Ex. 1001, 46:15–23, 46:56–60, 47:27–35, 47:57–63, Figs. 21–25; Ex. 2002 ¶¶ 61–64). “In other words,” Patent Owner argues, “the final claim steps require, consistent with the specification, that the system receives a selection for an episode [step 7], provides a player for the episode [step 8], receives a selection to change the VOD content through the user interface device [step 9], and in response provides a player for the movie or single show [step 10].” *Id.* at 14 (citing Ex. 2002 ¶¶ 61–64). Patent Owner’s argument is not only that the receipt of a fourth selection of an episode in digest view and the provision of a player to present that episode (steps 7 and 8) is followed by the receipt of a fifth selection of a user interface device to play a movie or single show and the provision of a player to present the movie or single show (steps 9 and 10), but that there must be no intermediate steps (such as repetitions of other claim steps) between step 8 and steps 9/10, because Patent Owner reads the final claim steps as requiring “navigation steps directed to changing [a] presented player from one for an episode [step 8] to one for a movie or single show [step 10].” PO Resp. 14, 27–28.

Petitioner, for its part, argues that the claims describe a branching path which presents either a digest view or detail view to the user, and that the fourth selection of step 7 and fifth selection of step 9 relate to different “use case[s].” Pet. Reply 8–9. In one “use case,” a user’s selections trigger a path of presented screens: a master view, a collection view, a digest view, and a player presenting a selected episode; in the other, the master view and collection view are followed by a detail view and a player presenting a movie or single show. *Id.* (citing Ex. 1001, Fig. 18; Ex. 1053, 68:2–69:1; 70:4–6). Petitioner asserts that the specification supports this “branching path” which leads in some cases from the initial steps to the steps of “receiving a fourth selection . . .” and providing a player in response to that fourth selection, and in other cases to “receiving a fifth selection” and providing a player in response to that fifth selection. *Id.* Petitioner additionally asserts that Patent Owner’s contentions regarding the term “user interface device” in step 9 are incorrect and that use of the term does not support the conclusion regarding an ordering without intervening operations or steps between steps 7 and 8 and step 9. *Id.* at 10–15.

c) Analysis

We determine, for the following reasons, that the correct construction does not require, as Patent Owner urges, that the (step 9) receipt of “a fifth selection of a user interface device to play the movie or single show to the user” is immediately preceded by (step 8) “providing a player to present the episode to the user” or that the “user interface device” must be used to “chang[e] the presented player from one for an episode to one for a movie or single show” (PO Resp. 28) by allowing the fifth selection to be made from the digest view or the player presenting an episode.

We turn first to the language of the claim. Dr. Surati testified that his opinion regarding the exclusion from the claims of intermediate steps between the provision of a player to present an episode (step 8) and the receipt of a fifth selection of a user interface device (step 9) and the provision of a player (step 10) was based the language of the claims, which “[d]oesn’t talk about any intermediary steps” and which recites “numbering [that] suggests to me that there aren’t any intermediary steps with regard to these interface inputs and things like that.” Ex. 1053, 77:10–79:15 (“Q. Is it your understanding that the claims preclude any steps occurring between the fifth selection and the fourth selection?” “A. I think so.” “Q. And is that based on the claim language, or something else?” “A. The claim language.”), 81:5–17, 82:17–83:16 (“Q. Can you point me to where in the specification it supports your read [regarding the fifth selection occurring immediately following the fourth selection and provision of a player to present an episode]” “A. No, it’s the English language, and this claim says what it says.”). However, there is no argument presented in the briefs regarding the language of the claim, and we do not discern that the language requires, as a matter of logic or grammar, that additional steps may not be provided. Additionally, it appears that by relying on “numbering” within the claims, Dr. Surati incorrectly interprets the language as indicating an ordering of steps. *See 3M Innovative Props.*, 350 F.3d at 1371 (using ordinal numbers is “a common patent-law convention to distinguish between repeated instances of an element or limitation” and “should not in and of itself impose a serial or temporal limitation”).

Patent Owner’s citation of the “user interface device” term also does not indicate to us that no intervening steps may occur. Patent Owner’s citation from the specification of the ’384 patent regarding “user interface

device” includes many examples of user interface devices that are not presented in a digest view or player. For example, the specification describes user interface devices on a navigation bar in a master layout view or used to “sequence through a series of thumbnails representing different types of series.” Ex. 1001, 47:27–35, Figs. 21, 24; *see id.* at 46:4–18 (discussing Fig. 21); 47:9–18 (discussing Fig. 24). User interface devices are thus found on different interfaces corresponding to views recited in the claims, and no indication is found in the language of the claim that the recited user interface device must be present in a player or in the digest view recited.

Patent Owner additionally argues that because receipt of the fifth selection / step 9 is not a conditional step, the language of the claims does not teach a “branching path” in which either steps 7 and 8 or steps 9 and 10 follow steps 5 and 6, but rather that both a fourth and a fifth selection always occurs each time steps 1–6 occur. PO Sur-reply 1–3. However, this is contradicted by the language of the claims, where “a fifth selection . . . to play **the** movie or single show” is preceded by the recitation that “**if** the selection in the collection view is for one of **a** movie or a single show” a detail view is provided, indicating that the fifth selection is conditional on such a selection. Ex. 1001, 56:65–67, 57:58–59 (emphasis added); *see id.* at 57:35–36, 57:39–41. Thus, the claim language aligns with the branching path interpretation as described by Petitioner. Patent Owner’s other arguments confirm this. *See* PO Resp. 15–16 (“[I]n response to this binary choice, the user is provided the digest view if the selection is a series or provided the detail view if the selection is a movie or single show.”); PO Sur-reply 6 (“[P]roviding either a detail view or a digest view excludes providing a view that is both a detail view and a digest view.”). We do not

agree with Patent Owner that both steps 7/8 and steps 9/10 must be performed every time steps 1 through 6 are performed.⁸ The logic and grammar of the claim, with its reference to provision of either a digest view or a detail view and the antecedent basis for “the episode” in the fourth selection and “the movie or single show” in the fifth selection militates against that determination. Ex. 1001, 56:52–67, 57:52–61; *see id.* at 57:31–43.

Having found that neither logic nor grammar in the claim compels Patent Owner’s requested construction, we examine the rest of the specification to determine if it “directly or implicitly requires such a narrow construction.” *Interactive Gift*, 256 F.3d at 1343. We agree with Patent Owner that a claim need not cover every embodiment described in the specification. PO Sur-reply 2–3 (citing *SIMO Holdings Inc. v. Hong Kong uCloudlink Network Tech. Ltd.*, 983 F.3d 1367, 1378–79 (Fed. Cir. 2021)). But, as Petitioner argues, in this case the specification does not describe, let alone require, a user traversing views or the receipt of user selections in the way Patent Owner urges is required in the claim. *See* Pet. Reply 14; Ex. 1053, 81:5–17, 82:17–83:13. Patent Owner cites nothing from the specification of the ’384 patent, beyond the arguments relating to the “user interface device” addressed above, which would require its requested construction.

⁸ The question of whether method claim 5 “covers at least two methods” and that only one might need to be shown in the prior art to find the claim unpatentable, as per the precedential decision in *Ex parte Schulhauser*, was not addressed by the parties. *See Ex parte Schulhauser*, Appeal 2013-007847, 2016 WL 6277792 (PTAB Apr. 28, 2016) (precedential). As we find Petitioner to have addressed each condition, *infra* § II.E.5, we do not need to answer this question to reach our conclusion here.

For these reasons, we decline to make a construction that requires step 9 to follow steps 7 and 8 with no intervening steps. Having found no merit in Patent Owner’s arguments with respect to this ordering with no intervening steps, no additional argument is found, either from the language of the claims or the specification of the ’384 patent, that requires steps 7 and 8 to precede steps 9 and 10. Thus, we do not construe the claims to require that ordering.

On this record, we find that the correct construction of claim 5 encompasses the situation in which the step recited in claim 5 of “receiving a fifth selection of a user interface device to play the movie or single show” occurs before the steps recited in claim 4, or in which that step follows the steps recited in claim 4 with intervening steps. Similarly, we find that the correct construction of claim 2 encompasses the receipt of a fifth selection of a user interface device before the receipt of a fourth selection and the provision of a player to present the episode to the user, or after the receipt of a fourth selection with intervening operations.

2. *“[provide/providing] either a detail view or a digest view of [the] VOD content” in Claims 1, 2, and 11*

a) The Parties’ Positions

In the Institution Decision we noted that certain of Patent Owner’s arguments at that stage had implicated the proper construction of “digest view” and we provided a preliminary construction. Dec. on Inst. 11, 27–31. Patent Owner requests that we construe instead the phrase “providing either a detail view or a digest view of VOD content”⁹ and that the construction

⁹ This phrase appears in claim 1 in two places, with differences relating to the antecedent basis of “VOD content” and the inclusion of a prepositional

should be: “providing either [1] a view of information about a single episode without information that is associated with a series or [2] a view of information about a set of the VOD content that are associated with a series without information only about a single episode.”¹⁰ PO Resp. 14–17; PO Sur-reply 6–7. In support, Patent Owner cites the claim language, asserting that “[t]he word ‘either’ requires that the provided ‘detail view’ and ‘digest view’ are mutually exclusive, and precludes providing any view that can be both a detail view and a digest view.” PO Resp. 15. Patent Owner then contends that, because the view provided is the result of a binary choice, “[i]t makes no sense to be presented with the same results (a view that can be both a detail view and a digest view).” *Id.* at 16. In support, Patent Owner cites the specification and Dr. Surati’s declaration, asserting the construction is supported by the contrast between description of the digest view “[i]f the selection is associated with a series with two or more episodes” and a detail view “[i]f a single show, movie, or series with only a single episode is selected.” *Id.* at 16–17 (quoting Ex. 1001 44:58–66; citing Ex. 2002 ¶¶ 66–70). Patent Owner additionally argues that Petitioner has not presented an alternative claim construction, “so Patent Owner’s plausible

phrase (“by the processor”) and is recited similarly in claims 2 and 11. *See* Ex. 1001, 56:52–53, 56:57–59, 57:22–23, 57:27–28, 58:36–37, 58:41–43

¹⁰ It is somewhat unclear on its face what it means to lack (be “without”) information “only about a single episode” in Patent Owner’s requested construction. That is, it is unclear whether this part of the construction would admit in its part [2] a view with information about two or more episodes. Patent Owner makes clear through arguments in the Sur-reply that this is the meaning intended, when Patent Owner asserts that a view that “includes information about each of multiple different episodes” is a digest view, but a view which Patent Owner asserts contains the details of only one episode of series is not. PO Sur-reply 6. We use this understanding in our analysis of the proposed claim construction.

construction should be adopted.” PO Sur-reply 5 (citing *Ultramercial, Inc. v. Hulu LLC*, 722 F.3d 1335, 1349 (Fed. Cir. 2013) (vacated *sub nom. WildTangent, Inc. v. Ultramercial, LLC*, 573 U.S. 942 (2014))).

Petitioner’s position is that Patent Owner’s requested construction amounts to requests for construction of “detail view” and “digest view” and impermissibly imports negative limitations into the requested construction. Pet. Reply 2–4. Petitioner asserts that Patent Owner’s proposed construction incorrectly implicitly construes “digest view” as “a view of information about a set of the VOD content that are associated with a series without information only about a single episode,” and that this is inconsistent with arguments by Patent Owner and its expert regarding Petitioner’s unpatentability arguments. *Id.* at 4–5.

b) Analysis

Patent Owner’s citation of *Ultramercial* is inapposite. Even disregarding the vacatur for other reasons, *Ultramercial* does not stand for the proposition that if only one party presents a plausible claim construction, that construction should be adopted. In *Ultramercial*, a district court failed to construe claims. The Federal Circuit faulted the district court for determining patent claims to be directed to ineligible subject matter and finding “there was no ‘reasonable construction’ that would ‘bring the patent within patentable subject matter’” without a formal claim construction. *Ultramercial*, 722 F.3d at 1338, 1349. The court found that “[i]n this procedural posture, the district court should either have construed the claims in accordance with *Markman*,^[11] required the defendant to establish that the only plausible construction . . . rendered the subject matter ineligible . . . , or

¹¹ *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996).

adopted a construction most favorable to the patentee.” *Id.* at 1349. The Federal Circuit then found that “[f]or the purposes of this appeal” the latter approach (a construction most favorable to the patentee) would be adopted. *Id.* This does not instruct us that we should adopt Patent Owner’s requested construction in this case. We are not a district court analyzing a motion to dismiss, and we provide claim constructions according to the *Phillips* standard. *See* 37 C.F.R. § 42.100(b) (2020).

Beginning with the language of the claim, as discussed in the Institution Decision, the claims recite that a detail view “presents information about a selected item of the VOD content” and a digest view “presents information about a set of the VOD content that are associated with a series.” Dec. on Inst. 27, 29; *see* Ex. 1001, 56:54–57, 57:23–27, 58:38–41. We find this to be consistent with the language of the specification, in which a detail view “provides information specific about a single, show, movie, or episode [through which t]he user may select to play the episode,” and in which a digest view is “provides a description or view of the series and then the ability to select one or more episodes in that series.” Ex. 1001, 45:6–8, 45:21–26; *see id.* at 44:16–21 (similar).

As neither the claim language nor the specification provides the necessary support for a construction requiring exclusion of specific information from either view, we decline to adopt such a construction. *Omega Eng’g, Inc. v. Raytek Corp.*, 334 F.3d 1314, 1323 (Fed. Cir. 2003) (claim constructions that exclude a particular element must find support either in the words of the claim or through “express disclaimer or independent lexicography in the written description that would justify adding that negative limitation.”). As reviewed above, the claim language and specification, while describing different things that would be present in

each of a detail view and a digest view, do not support a finding that certain elements could not be common to both views. To the extent Patent Owner's proposed construction specifies elements to be excluded, we find no support for these exclusions, and in fact, find opposite language in the specification of the '384 patent: while Patent Owner proposes that a detail view must not include "information that is associated with a series," the specification describes a detail view as provided in the case where "a series with only a single episode" has been selected. Ex. 1001, 44:64–65. This is consistent with the possibility in the claims that a detail view may relate to "a single show." Ex. 1001, 56:66, 57:36, 58:51.

As discussed, the claims recite that a detail view is provided "if [a] selection . . . is for one of a movie or single show" and that the detail view "presents information about a selected item of the VOD content" and that a digest view is provided "if the selection in the collection view is for a series" and that digest view "provides a listing of two or more episodes associated with a series." *See, e.g.*, Ex. 1001, 57:23–27, 57:31–37. Thus, by the language of the claims themselves, the provision of "either a detail view or a digest view" relates to the received third selection and is based on what that selection was. The "either . . . or" in the claim thus relates directly to the third selection and not to the resulting views. This is consistent with Dr. Surati's testimony. *See* Ex. 2002 ¶ 67 (The claims "present[] the third selection as a binary choice: either the third selection is a series (in which case the digest view is presented), or the third selection is a movie or single show (in which case the detail view is presented)." While Patent Owner insists that the language and logic of the claim "excludes providing a view that can be both a detail view and a digest view," (PO Resp. 21) we determine that this proposed negative limitation finds no support through the

words of the claim, express disclaimer, or independent lexicography. Therefore, we decline to adopt the proposed claim construction that further limits the plain language of the claims.

Having rejected the proposed limitations on the plain language of the claims, we find that no further construction of the claim language is required in order to address the dispute before us. *See Nidec Motor Corp.*, 868 F.3d at 1017.

E. Asserted Obviousness of Claims 1–12 over Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth

Petitioner argues that claims 1–12 are unpatentable as obvious over a combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth. Pet. 16–77. Patent Owner contends that the limitations in all claims reciting “[provide/providing] either a detail view or a digest view of VOD content” are not taught or suggested by the prior art. PO Resp. 19–26; PO Sur-reply 4–7. Additionally, Patent Owner argues that the prior art does not teach or suggest the order of steps, as Patent Owner argues is required by claims 2, 4, and 5. PO Resp. 26–28; PO Sur-reply 1–4.

We begin with a description of the prior art references, and then discuss the parties’ contentions and provide our analysis.

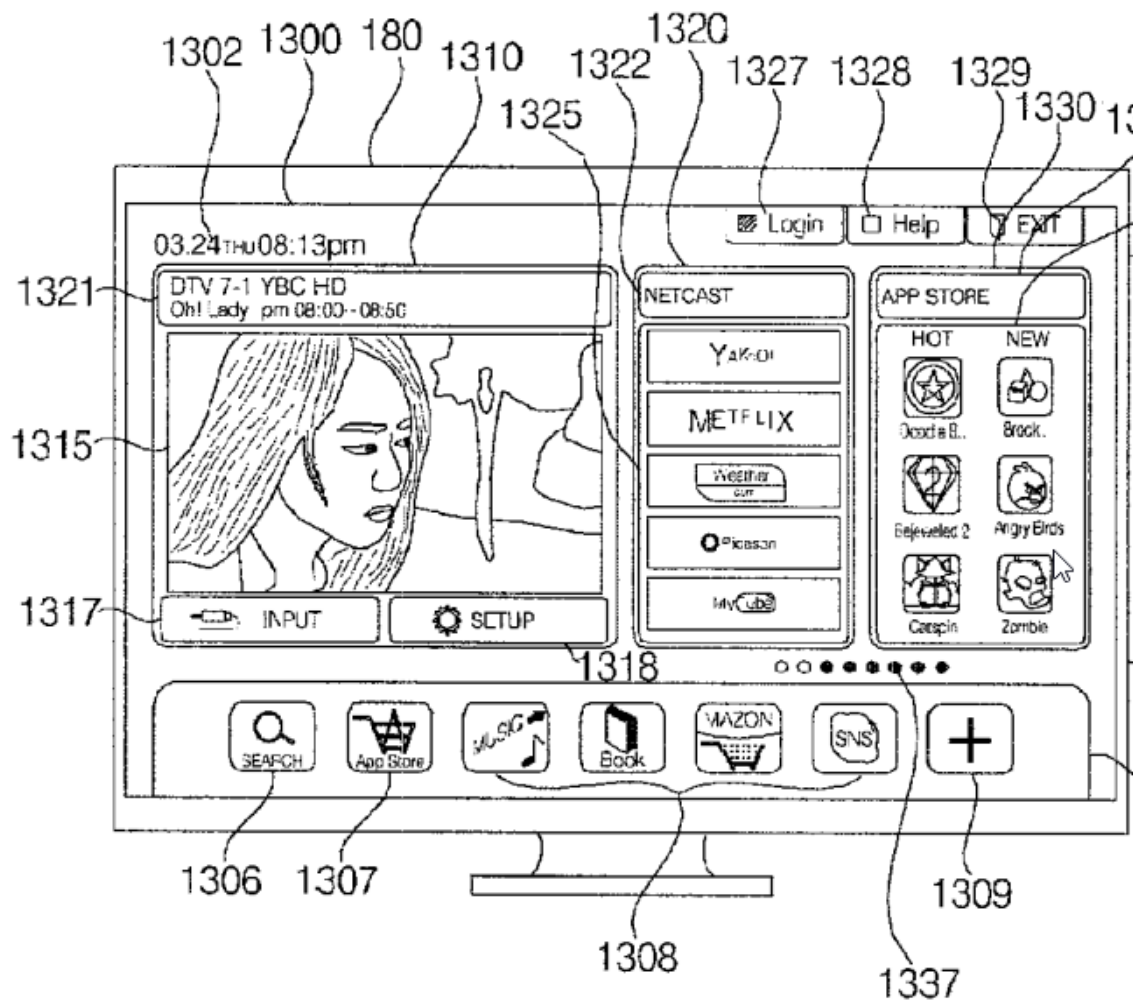
1. Prior Art References

a) Kim

Kim is a published application titled “Image Display Apparatus and Method for Operating the Same,” and discloses a multifunctional display including the display of card objects in different areas of a display, and the updating of the card objects displayed. Ex. 1019, codes (54), (57). Kim discloses that the card objects may be of various types, such as, e.g.: a display of a received broadcast image; a list of content providers (“CPs”); a

list of applications; a thumbnail list of broadcast channels; a broadcast program guide; a recorded program list; a list of multimedia files; a list of connected external devices; and a list of phone functionalities. *Id.* ¶¶ 94, 195, 196, 201, 205–211, 221, Fig. 19.

A portion of Figure 19 of Kim is reproduced immediately below, showing an exemplary home screen on a display:



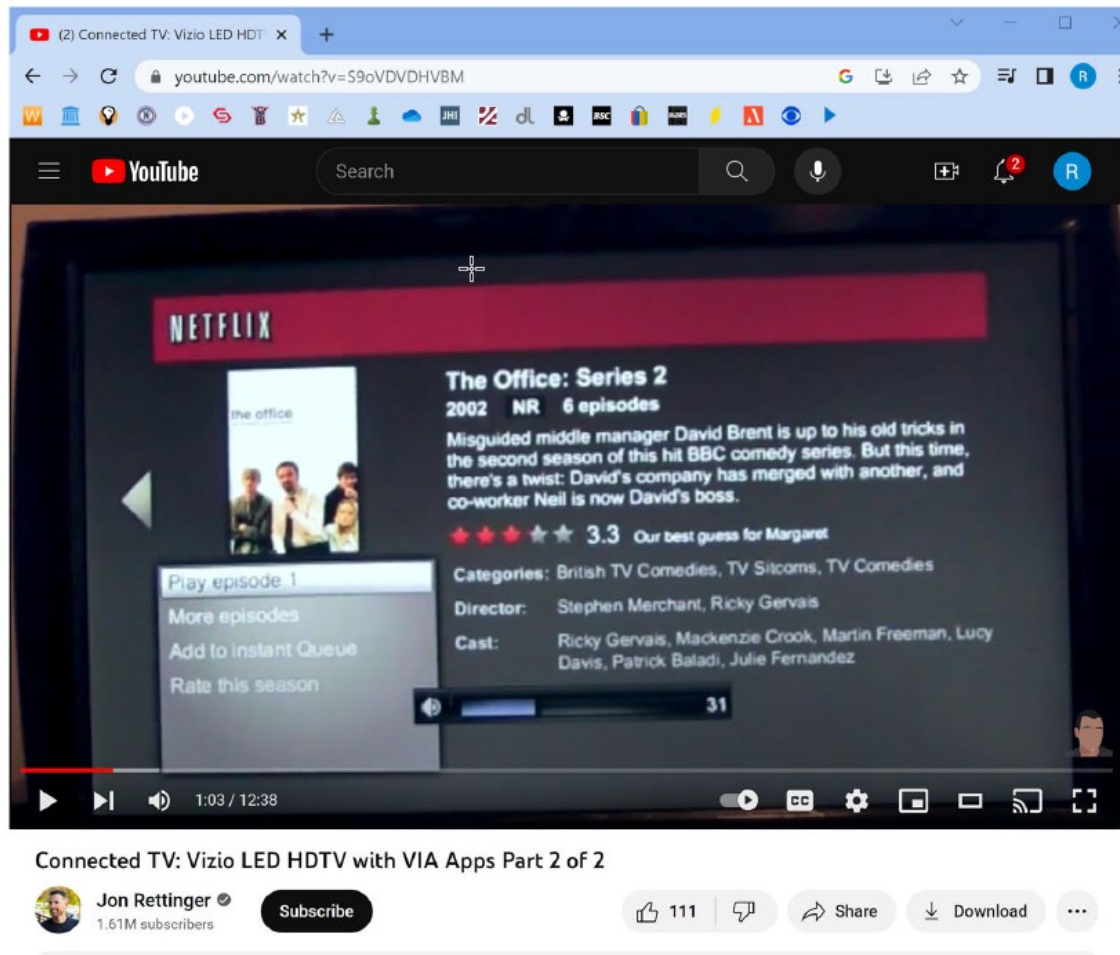
Id. ¶¶ 21, 192. The reproduced portion of Figure 19 shows home screen 1300, which may be a default home screen configuration displayed upon power on, displayed on display 180. *Id.* ¶¶ 21, 192, 193. Card object 1310 displays a broadcast image. *Id.* ¶¶ 193, 195, 197. Card object 1320 displays

a list of CPs available. *Id.* ¶¶ 193, 195, 201. “[I]f a specific CP is selected from the CP list 1325, a list of content available from the selected CP may be displayed on the display 180.” *Id.* ¶ 201. Card object 1330 provides a list of applications. *Id.* ¶¶ 193, 195. Other available card objects may be arranged in a hidden area (shown in the complete version of Figure 19) and may be shifted or scrolled on to the display to replace some or all displayed card objects. *Id.* ¶¶ 196, 197.

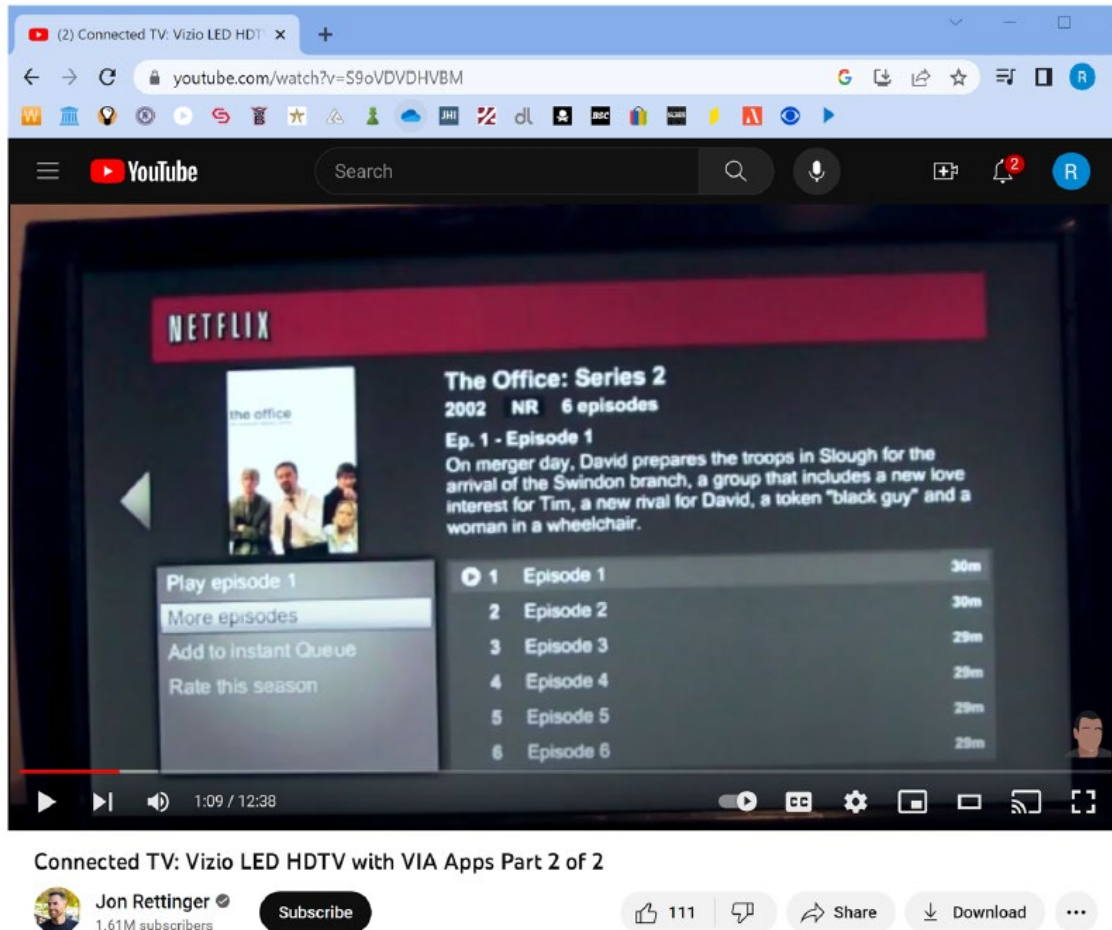
b) TechnoBuffalo

TechnoBuffalo is a two-part review of a VIZIO product, asserted to have been posted to YouTube in January, 2011. Ex. 1011–Ex. 1017; Ex. 1025 ¶¶ 4–6. TechnoBuffalo demonstrates the user interface of Netflix, a CP, on a VIZIO television. *Id.*

In the TechnoBuffalo videos, a user launches the Netflix app from a list of possible selections. Ex. 1010, 0:21–1:00. The user then navigates to a “Genres” selection from a menu that includes “New Arrivals” and “Genres.” Ex. 1011, 0:29–0:45. As this occurs, the presentation on the screen of the television changes from a display with 10 images listed under two headings (“New Arrivals: Movies” and “New Arrivals: TV”) to one with different images under headings including “Television” and “Action & Adventure.” *Id.* at 0:33–0:45. The user selects an image for “The Office” *Id.* at 0:45–0:49. The resulting display, relating to the second series of The Office, is reproduced below:



Id. at 1:03 (as reproduced at Pet. 41) (“the TechnoBuffalo 1:03 view”). The display includes an image, a title (“The Office: Series 2”), a description of the season, and menu items. When “More episodes” is selected, another display, reproduced immediately below, is displayed. *Id.* at 1:06–1:09.



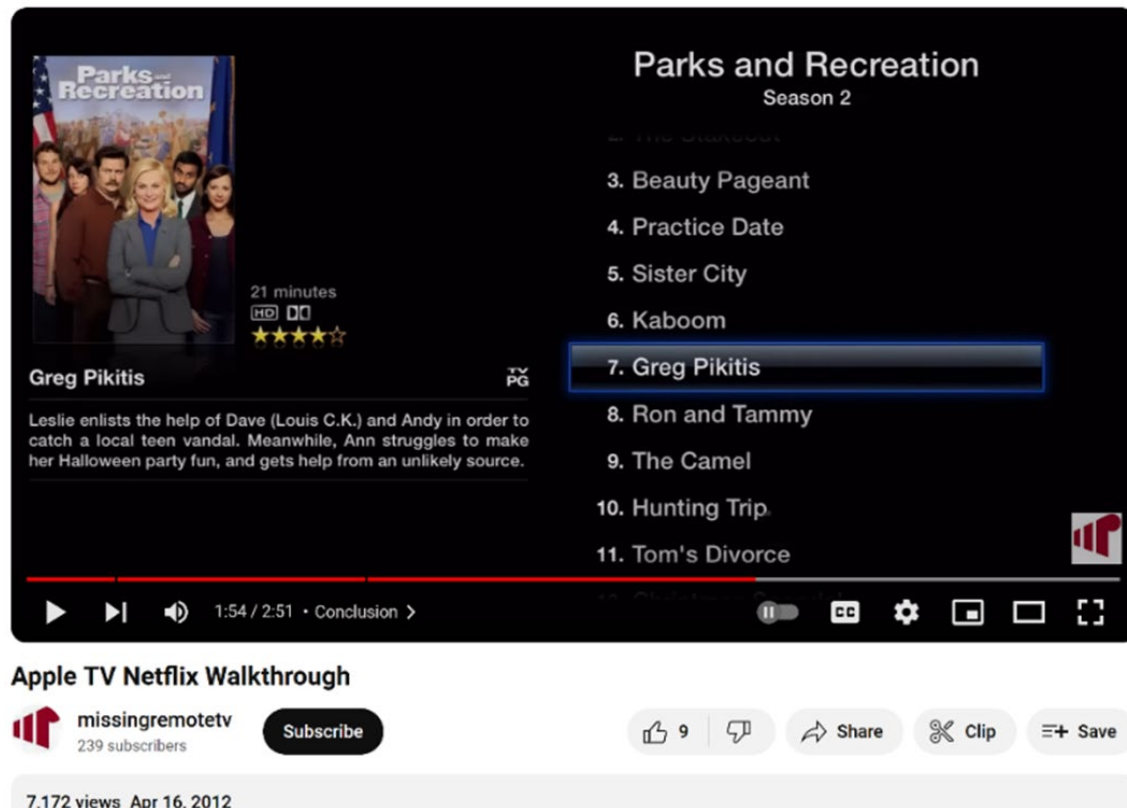
Id. at 1:09 (as reproduced at Pet. 42) (“the TechnoBuffalo 1:09 view”). In this resulting display, a description of the first episode is presented, along with a listing of additional episodes in the season and associated time periods. *Id.*

c) MissingRemote

MissingRemote is a video titled “Apple TV Netflix Walkthrough,” asserted to have been posted to YouTube in April, 2012. Ex. 1018; Ex. 1026 ¶¶ 3–5. MissingRemote provides a walkthrough of Netflix’s user interface on an Apple TV device. Ex. 1018, 0:00–0:18.

During the walkthrough, a selection of “Recently Watched” is made from a screen offering “Suggestions for You,” “Just for Kids,” and

“Recently Watched,” among others. *Id.* at 0:18. The screen changes to display different images, each associated with a show. *Id.* at 1:42–1:51. When a show is selected, an additional interface, reproduced immediately below, is displayed listing episode titles for a season of a show. *Id.* at 1:52–1:56.



Ex. 1018, 1:54 (reproduced from Pet. 10) (“the MissingRemote 1:54 view”). This screen includes an image, the title of a show, a listing of episode names, and a description of one episode. *Id.*

Selecting a title from this interface yields a screen that describes the episode and provides an icon labelled “play.” *Id.* at 2:05–2:12.

d) *Hunt*

Hunt is titled “Trick Play of Streaming Media” and describes a user interface for the playing of streaming media such as streaming video.

Ex. 1020, codes (54), (57), 1:15–16, 5:47–61, Figs. 5–8, 11, 12. As part of

the disclosure, Hunt presents examples of what it terms “poster screen[s]” and “springboard screen[s].” *Id.* at 5:3–12, 5:20–24, Figs. 5–8, 11, 12.

A poster screen may include a large image (a “poster image”) and optionally additional images, each representing an available audiovisual program. *Id.* at 16:14–16, 16:23–30, 16:42–57. When a poster screen is being displayed, a user selection may change which program is displayed with the large image. *Id.* at 16:51–17:32, Figs. 5–7.

A springboard screen may be displayed when a user selects a poster image on a poster screen. *Id.* at 17:33–38, Fig. 8. The springboard screen may include a poster image for the selected program, metadata such as plot summary, and functional options for the program to allow a user to watch the program or a preview of the program. *Id.* at 17:44–61.

Hunt additionally describes springboard screens for selecting an episode from among a plurality of episodes associated with a series. *Id.* at 18:33–36, Figs. 11, 12. Figure 11, which is reproduced below, shows a springboard screen for a series television program. *Id.* at 18:36–38.

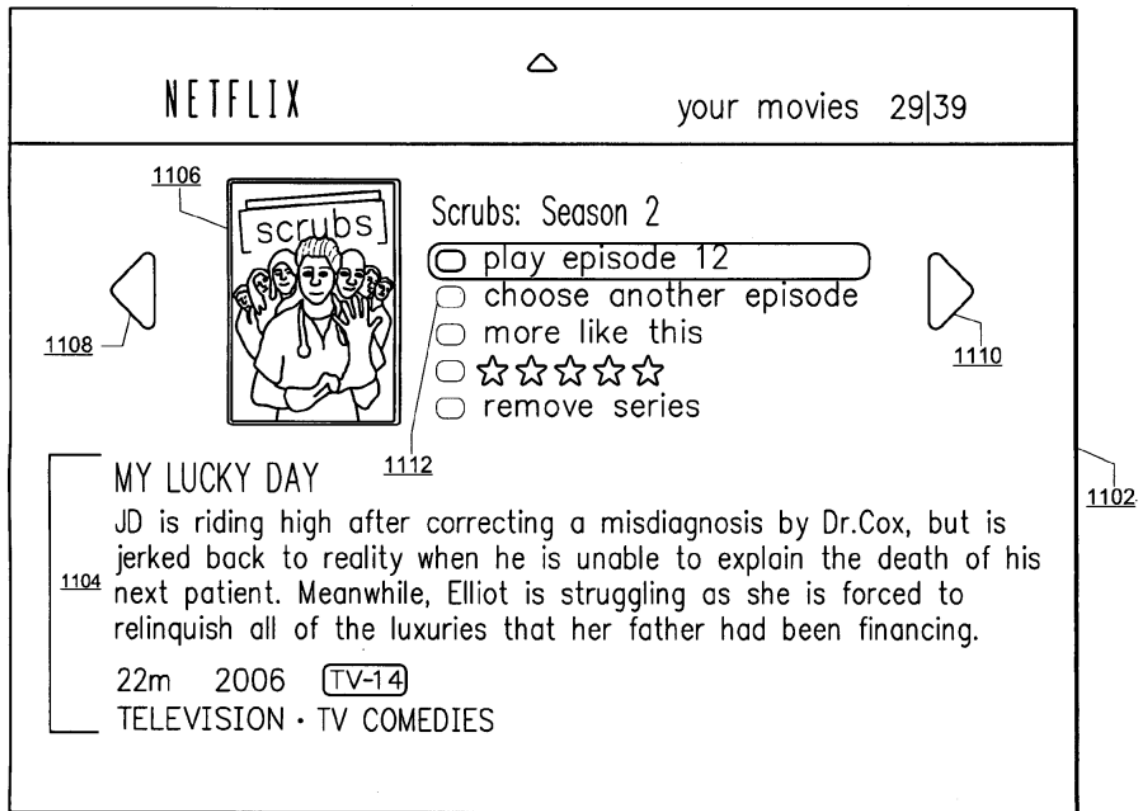


FIG. 11

Figure 11 depicts springboard screen 1102 including metadata 1104 describing a specific episode, a poster image of that episode, and movement icons 1108 and 1110, which can be used to select alternative episodes. *Id.* at 18:36–45. Functional options allowing a user to play the displayed episode or “[c]hoose another episode” 1112 are provided. *Id.* at 18:52–55, 18:64–65. If the user selects the “[c]hoose another episode” option, the display of Figure 12, reproduced below, is generated and displayed. *Id.* at 18:64–66.

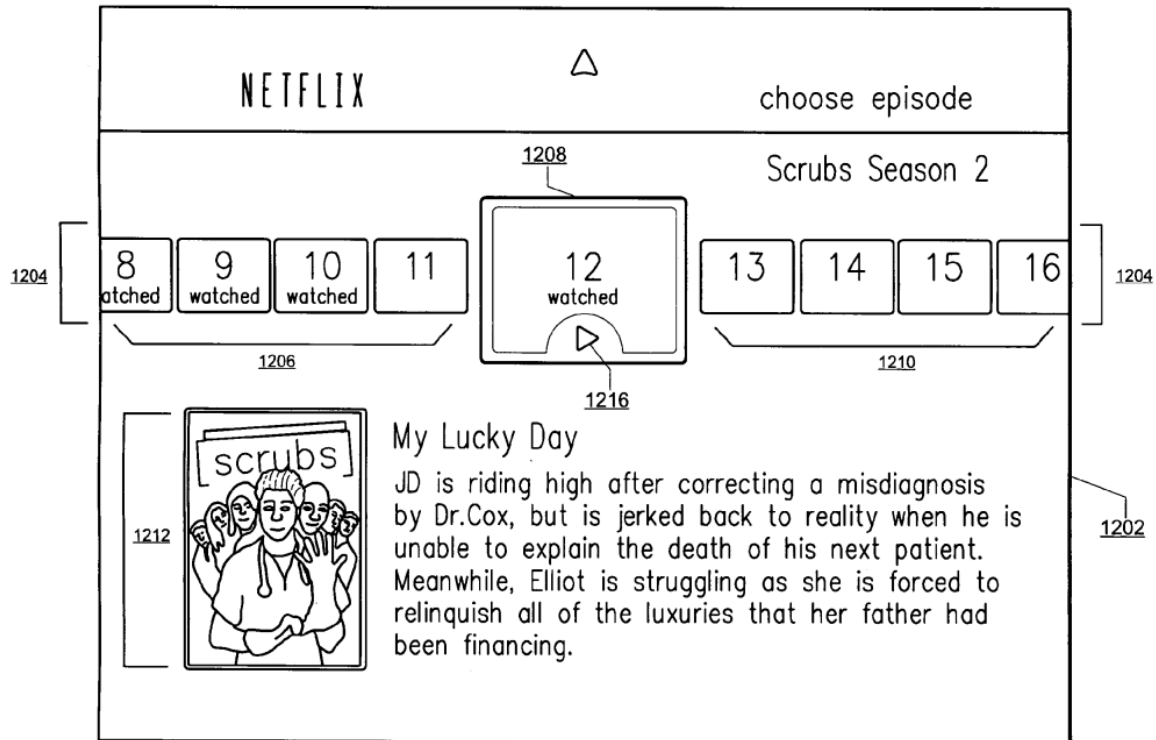


FIG. 12

Figure 12 depicts screen display 1202 with ordered list of icons 1204 representing episodes in the series, with one icon 1208 representing a currently selected episode displayed with more prominence than the other icons. *Id.* at 18:67–19:11. Metadata 1212 in screen display 1202 corresponds to the currently selected episode. *Id.* at 19:53–56.

e) Hunleth

Hunleth concerns communicating and processing data in interactive television networks. Ex. 1021, 3:7–10. Hunleth describes exemplary user interface screens that can be generated for a user. *Id.* at 3:45–50, 4:19–23. In one such screen, a plurality of media objects, such as DVD cover art, are displayed as available for user selection. *Id.* at 4:35–37. When a user preliminarily selects an object, it is magnified as shown in Figure 1B of Hunleth, reproduced immediately below. *Id.* at 4:37–40.



FIG. 1B

Figure 1B depicts a screen of a user interface in which different movie icons appear, with one icon magnified. *Id.* After a further user selection of the magnified image, Figure 2, reproduced immediately below, is displayed. *Id.* at 4:48–55.

DRAMA

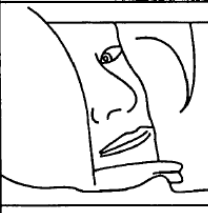
	APOLLO 13 (1995) Length: 120 Minutes Price: \$3.99 Massively popular, fast-paced retelling of near-disaster space mission. Much to enjoy for fans of suspense and special effects. Well-developed characters appeal even to those who don't like typical Hollywood epics. Actors: Tom Hanks, Bill Paxton, Kevin Bacon, Gary Sinise, Ed Harris	BUY / WATCH TRAILER / BACK
	Tom Hanks American leading actor Tom Hanks has become one of the most popular stars in contemporary American cinema. Born July 9, 1956, in Concord, CA. Rated by Empire Magazine as 17th out of The Top 100 Movie Stars of All Time in October 1997, Hanks is married to actress Rita Wilson, with whom he appeared in <i>Volunteers</i> (1985).	Filmography - Saving Private Ryan - The Green Mile - Forrest Gump - Road to Perdition - Apollo 13 - Philadelphia - Toy Story - Cast Away

FIG. 2

Figure 2 is a user interface screen including the image from Figure 1B, and including additional metadata about the selection, such as runtime, price, and actor information. *Id.* at 4:45–55. Hyperlinks in this interface can allow the user to jump to interface screens associated with related movies or with actors identified. *Id.* at 4:60–5:2.

2. Claim 1

a) *Combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth*

Petitioner contends that Hunt, TechnoBuffalo, and MissingRemote each provide details of the operation of the Netflix platform, and that any differences between the user interfaces presented would have been understood by one of ordinary skill as design alternatives in implementing such a platform. Pet. 16–18 (citing Ex. 1010; Ex. 1011, 0:43, 1:10; Ex. 1018, 0:09, 2:10; Ex. 1003 ¶¶ 103–105, 107, 108). Petitioner argues one of ordinary skill in the art would have combined these details with Kim's

intelligent TV home screen including CP applications because Kim’s recited CP applications include Netflix, under the name “Metflix.” *Id.* at 18–19 (citing Ex. 1019 ¶¶ 63, 159, 201, Fig. 19; Ex. 1003 ¶ 109). Lastly, Petitioner argues Hunleth’s disclosure of displays following a user selection of a movie in a collection view would have supplemented the disclosures in Hunt, TechnoBuffalo, MissingRemote, and Kim to provide details regarding the use of metadata to generate user interfaces. *Id.* at 19 (citing Ex. 1021, 2:63–3:3, 4:45–51, 5:2–17, Figs. 1B, 2; Ex. 1003 ¶¶ 110–111).

Petitioner contends that Hunt, TechnoBuffalo, MissingRemote, and Hunleth are natural extensions of Kim that provide additional details about user interface design and generation, and that it would have been obvious for one of ordinary skill in the art to use the teachings of the other references on Kim’s apparatus for details regarding the selection of a CP provider, with predictable results and a reasonable expectation of success. *Id.* at 19–21 (citing Ex. 1003 ¶¶ 112–119). Additionally, Petitioner argues that the combination uses metadata to provide a user interface appropriate to the type of content selected by a user that would have been made by one of skill in the art, and that the user would have had a reasonable expectation of success in this combination. *Id.* at 55 (citing Ex. 1003 ¶¶ 185–186, 197–200).

Patent Owner does not dispute Petitioner’s assertions regarding the combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth, including Petitioner’s assertion that one of ordinary skill in the art would have been motivated to make this combination and would have had a reasonable expectation of success in doing so.

We determine that Petitioner has sufficiently shown one of ordinary skill in the art would have combined and used the details regarding a content provider user interface provided in TechnoBuffalo, MissingRemote, Hunt,

and Hunleth, and would have used the relevant teachings of these references to provide details relating to the user interfaces provided by a CP provider on an intelligent television, such as that of Kim. *See* Ex. 1003 ¶¶ 104–106, 109–110, 112. We additionally determine that Petitioner has shown a reasonable likelihood that it will prevail in showing that one of ordinary skill in the art would have been motivated to make this combination, and would have had a reasonable expectation of success in doing so. *See id.* ¶¶ 113–119.

b) Claim 1 – Limitations 1.0 through 1.5

For the preamble¹² of claim 1 (denoted limitation 1.0 by Petitioner), reciting “providing VOD in an intelligent television,” Petitioner argues that Kim’s smart TV teaches an intelligent television. Pet. 22 (citing Ex. 1019 ¶¶ 40, 63, 282–289, Fig. 19; Ex. 1003 ¶¶ 120–121). Petitioner further argues that Kim’s disclosure of “Content on Demand” applications providing audio/visual content to Kim’s television, along with its disclosure of “Metflix” as a content provider, teaches Netflix as a content provider of VOD. *Id.* at 23 (citing Ex. 1019 ¶¶ 40, 63, 201, Fig. 19; Ex. 1003 ¶¶ 86, 122). Petitioner additionally argues that TechnoBuffalo teaches the features of the preamble via the smart VIZIO HDTV with apps including Netflix. *Id.* at 23–24 (citing Ex. 1010, 0:29, 0:32; Ex. 1003 ¶ 123).

For the first portion of limitation 1.1 of claim 1, “receiving, by a processor of the intelligent television, a first selection . . . ” Petitioner cites Kim’s controller 170, which is or includes a processor, and which controls

¹² The parties do not address whether the preamble is limiting. Because we determine that Petitioner has sufficiently shown the subject matter of the preamble to be taught by the asserted combination of art, we do not address this issue. *See Nidec Motor Corp.*, 868 F.3d at 1017.

Kim’s image display and receives user input signals from a remote or from local input keys. Pet. 24–27 (citing Ex. 1019 ¶¶ 86–87, 89, 145, 166, Fig. 6; Ex. 1003 ¶¶ 124–128). Petitioner argues that Kim’s controller would receive selections, including a first selection for content from the menus on the display. *Id.* at 27 (citing Ex. 1003 ¶ 129). Petitioner additionally argues that it would have been obvious to one of ordinary skill that the television in TechnoBuffalo would have incorporated a processor that would receive user selections. *Id.* at 27–28 (citing Ex. 1003 ¶¶ 130–132). Petitioner also argues, regarding other references to the processor, that Hunt and Hunleth teach or suggest that the views recited in other limitations are provided by the processor. *Id.* at 37–38 (citing Ex. 1020, 9:32–33, 16:16–22; Ex. 1021, 11:23–34, 29:12–22; Ex. 1003 ¶¶ 157–158).

With respect to the balance of limitation 1.1, that the first selection is “for a VOD content,” Petitioner contends that each of Kim and TechnoBuffalo teach the selection of a CP providing video content. Pet. 28–29 (citing Ex. 1019 ¶ 201 (selection of a CP from a CP list), Fig. 19; Ex. 1010 (displaying Netflix app at 0:29, followed by selection of Netflix app); Ex. 1003 ¶¶ 133–135).

For the master view provided “in response to the first selection,” Petitioner argues that Kim teaches that the selection of a CP would result in displaying “a list of content available from the selected CP.” Pet. 30 (citing Ex. 1019 ¶ 201; Ex. 1003 ¶ 137). Petitioner additionally cites TechnoBuffalo’s display of a view including a display of images titled “New Arrivals: Movies” and a second titled “New Arrivals: TV.” *Id.* at 30–31 (citing Ex. 1011, 0:32; Ex. 1003 ¶¶ 138–139). Petitioner cites this display and the first display presented in MissingRemote, which similarly includes a

list of collections of content organized by characteristic. *Id.* at 32–33 (citing Ex. 1011, 0:32; Ex. 1018, 0:21; Ex. 1003 ¶¶ 144–145).

Limitations 1.3 and 1.4 of claim 1 recite “receiving . . . a second selection for VOD content” and, in response, providing a collection view that presents two or more items of content having the selected characteristic. Ex. 1001, 56:44–49. Petitioner argues that a selection of a category is shown in each of TechnoBuffalo and MissingRemote, each of which results in the display by the television of a menu displaying multiple items of content corresponding to the selected category. Pet. 34–36 (citing Ex. 1011, 0:32, 0:47; Ex. 1018, 0:21, 1:51; Ex. 1003 ¶¶ 148, 150–153).

For “the third selection” of limitation 1.5 of claim 1, Petitioner argues that the selection of a piece of content corresponding to a third selection is taught by TechnoBuffalo or MissingRemote. *Id.* at 38–40 (citing Ex. 1011, 0:47; Ex. 1018, 1:51; Ex. 1003 ¶¶ 159–161).

Patent Owner does not present any argument regarding Petitioner’s assertions as to limitations 1.0 through 1.5 of claim 1.

We determine that Petitioner has sufficiently shown limitations 1.0 through 1.5 of claim 1 would have been obvious over the prior art combination in its arguments regarding its combination of Kim’s processor and other structure and Kim’s exemplary home screen (as seen in Ex. 1019, Fig. 19), along with TechnoBuffalo and MissingRemote’s walk through of the menu screens, the corresponding views of collections of content organized by a characteristic of the content, and then of specific collections and the content included (as seen in Ex. 1010, 0:29, 0:32; Ex. 1011, 0:32, 0:47; Ex. 1018, 0:21, 1:51), all of which is supported by Dr. Houh’s declaration (Ex. 1003 ¶¶ 120–135, 137–139, 144–145, 148, 150–153, 157–161).

c) Limitations 1.6 and 1.7

Limitations 1.6 and 1.7 describe providing a detail view (which “presents information about a selected item of the VOD content”) or a digest view (which “presents information about a set of the VOD content that are associated with a series”) based on a determination regarding “the third selection” (in the collection view). Ex. 1001, 56:52–67. If the third selection is for a series, the digest view is provided, and if it is for a movie or single show, the detail view is provided. *Id.*

Petitioner argues TechnoBuffalo teaches that, if the user selects a TV series, then a digest view is provided, as in the TechnoBuffalo 1:03 view. Pet. 40–41; *see also id.* at 44 (citing MissingRemote as disclosing that a TV series selection would yield a digest view). Petitioner contends that the TechnoBuffalo 1:03 view is a digest view, because “it presents information (*e.g.*, number of episodes, synopsis of entire season, ratings for season, menu items for ‘More episodes’) about a set of VOD content” that is associated with a series. *Id.* at 41.

Petitioner alternatively argues that the TechnoBuffalo 1:09 view, which is displayed after a further selection is made from the TechnoBuffalo 1:03 view, is itself a digest view, because “it presents information (*e.g.*, year, rating, number of episodes (6), episode lengths) about a set of VOD content” associated with a series. *Id.* at 42. Petitioner argues that the presentation of either of these views would have been a design choice, and that presenting only the second view would have been a substitution of one known element for another to obtain a predictable result. *Id.* at 42–43 (citing Ex. 1003 ¶ 167). Additionally, Petitioner cites Hunt’s Figures 11 and 12 as digest views, and asserts that one of ordinary skill would have found it obvious to display one of Hunt’s views in response to a third selection being for series

content. *Id.* at 43–44 (citing Ex. 1020, 18:33–51, Fig. 11, Fig. 12; Ex. 1003 ¶¶ 168–169).

Petitioner cites the MissingRemote 1:54 view and argues that this view is a digest view presented upon the selection of a series “because it presents information (*e.g.*, episode titles) about a set of VOD content (*e.g.*, episodes in Season 2) that are associated with a series (*e.g.*, ‘Parks and Recreation’).” *Id.* at 44.

Petitioner also asserts that each of Hunt and Hunleth teaches a detail view in response to the selection of a movie, and that one of ordinary skill would have found it obvious to include this in the asserted combination as a feature of a content provider, such as Netflix. Pet. 44–46 (citing Ex. 1021, 5:46–51, Figs. 1B, 2; Ex. 1011, 0:47; Ex. 1020, 17:17–18, 17:33–38, Figs. 7, 8; Ex. 1003 ¶¶ 172, 174–176). Petitioner additionally contends that Hunt discloses different views in response to the selection of a series and the selection of a movie, and that one of ordinary skill in the art would have used the different user interface designs to respond to the needs of the user in selecting different types of media. *Id.* at 49–52 (citing Ex. 1020, 18:33–51, Figs. 7, 8, 11, 12; Ex. 1003 ¶¶ 181–190).

Patent Owner discusses Petitioner’s contention that a digest view is taught in the TechnoBuffalo 1:03 view, the TechnoBuffalo 1:09 view, the asserted digest views from Hunt, and the Missing Remote 1:54 view, asserting that each is a detail view and a digest view. PO Resp. 20–24. Patent Owner asserts that the TechnoBuffalo 1:03 view includes “Play episode 1,” which Patent Owner asserts is information about a selected item of VOD content, and thus Patent Owner asserts that this is a detail view as well as a digest view, because it “presents information about a selected item of the VOD content.” PO Resp. 20–21. Patent Owner makes similar

arguments with respect to the other screens identified as digest views by Petitioner. *Id.* at 22–24. These arguments are premised on a portion of Patent Owner’s claim construction that we do not adopt (*see* Section II.D.2 above).¹³

We find that Petitioner has sufficiently shown that each of the TechnoBuffalo 1:09 view and the MissingRemote 1:54 view teaches or suggests the presentation of “information about a set of the VOD content that are associated with a series,” as recited. Petitioner sufficiently shows the TechnoBuffalo 1:09 view is a digest view as it presents the “year, rating, number of episodes . . . , [and] episode lengths” for the displayed series. *See* Pet. 42 (citing Ex. 1003 ¶ 165). Similarly, Petitioner sufficiently shows that MissingRemote 1:54 view presents episode titles about episodes in the displayed season. *See id.* at 44 (citing Ex. 1003 ¶ 171). Petitioner argues alternatively that each of these would have been presented upon selection of a series in its proposed combination. Pet. 42–43, 44. We determine, in both cases, that presenting information regarding multiple individual episodes to be a sufficient showing that each presents “information about a set of the

¹³ We note that, applying Patent Owner’s requested claim construction for “providing either a detail view . . . or a digest view . . .” in full would lead to the same result with respect to, for example, the TechnoBuffalo 1:09 view and the Missing Remote 1:54 view. Each of these teach “a view of information about a set of the VOD content that are associated with a series without information only about a single episode” (as they contain information regarding multiple episodes, *see supra* footnote 10 and PO Sur-reply 6) but not “a view of information about a single episode without information that is associated with a series.” Additionally, Petitioner persuasively argues that the prior art demonstrates that “a POSITA would have avoided using UI designs for a TV series to display a single movie, and vice versa. Pet. 49–50 (citing Ex. 1003 ¶¶ 183–184)

VOD content that are associated with a series,” as required by claim 1 for a digest view.

Additionally, Petitioner sufficiently shows the presentation of a screen including information about a movie if a movie has been selected from a collection view, and information about a set of content associated with a series if a series was selected, as per the recitations of limitations 1.6 and 1.7 of claim 1. TechnoBuffalo and MissingRemote teach digest view screens relating to a series selection, Hunt and Hunleth teach information screens responsive to a movie or single show selection, and the combination and cited testimony support the provision of the appropriate screen in response to the user’s selection from a collection view, as detailed above with respect to Petitioner’s allegations.

d) Limitation 1.8

Limitation 1.8 recites that “a navigation to view VOD content is an ordered set of user interfaces,” including a master view, a collection view, a digest or detail view, and a player view. Ex. 1001, 56:67–57:5. Petitioner relies on previously cited views to teach a master view, a collection view, and a digest or detail view. Pet. 57 (citing Ex. 1003 ¶ 202). For the “player view,” Petitioner asserts that TechnoBuffalo teaches such a view. Pet. 57 (citing Ex. 1011, 1:51; Ex. 1003 ¶ 201).

We determine that Petitioner has shown limitation 1.8 of claim 1 to be taught or suggested in the asserted combination, for the reasons discussed above with reference to the master view, collection view, digest or detail view, and relating to the TechnoBuffalo teaching of a player view screen. Ex. 1011, 1:51; Ex. 1003 ¶ 201.

e) Conclusion – Claim 1 over Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth

Weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, that claim 1 would have been obvious over the asserted combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth.

3. Claim 3¹⁴

Claim 3 depends from claim 1, and further specifies that “the digest view provides a listing of two or more episodes associated with the series.” Ex. 1001, 57:49–51.

Petitioner asserts that this is shown in the TechnoBuffalo 1:09 view and in the MissingRemote 1:54 view. Pet. 60–61 (citing Ex. 1011, 1:09; Ex. 1018, 1:54; Ex. 1003 ¶¶ 211–213), 64.

Patent Owner does not present any additional arguments regarding Petitioner’s assertions as to claim 3.

The TechnoBuffalo 1:09 view and the MissingRemote 1:54 view each includes a listing of episodes. Ex. 1011, 1:09; Ex. 1018, 1:54; Ex. 1003 ¶¶ 211–213. Weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, that claim 3 would have been obvious over the asserted combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth.

¹⁴ Claim 2 is independent, and we address claims 3–9, which depend from claim 1, before proceeding to address claim 2.

4. *Claim 4*

Claim 4 depends from claim 3, and further recites providing a player that presents an episode to a user in response to the user selection of the episode. Ex. 1001, 57:52–56.

With respect to claim 4, Petitioner argues that the TechnoBuffalo 1:03 view includes a “Play episode 1” menu item, and that the TechnoBuffalo 1:09 view includes a play button, and that one of ordinary skill in the art would have understood that, in response to the selection, a player would present the episode to the user. Pet. 65–67 (citing Ex. 1011, 1:03, 1:09, 1:51; Ex. 1003 ¶¶ 222–223). Similarly, Petitioner argues that user selection of an episode title from the MissingRemote 1:54 view would have resulted in a player presenting that episode to the user. *Id.* at 67–68 (citing Ex. 1018, 1:54; Ex. 1003 ¶ 225).

Patent Owner does not present any additional arguments regarding Petitioner’s assertions as to claim 4.

The TechnoBuffalo and MissingRemote references teach a player presenting an episode to a user in response to a user selection. Ex. 1011, 1:09; Ex. 1018, 1:54; Ex. 1003 ¶¶ 211–213. Weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, that claim 4 would have been obvious over the asserted combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth.

5. *Claim 5*

Claim 5 depends from claim 4, and further recites a user selection of a movie or single show and a player presenting the movie or single show to the user. *Id.* at 57:57–61.

Petitioner argues that, after presenting Hunt’s detail view (as described with reference to limitations 1.6 and 1.7), it would have been understood by one of ordinary skill in the art that the selection of play in the detail view would have caused the movie to play in a player. *Id.* at 63–64 (citing Ex. 1011, 1:09; Ex. 1020, Figs. 7, 8; Ex. 1003 ¶ 219), 68 (citing Ex. 1003 ¶ 226).

Patent Owner contends that Petitioner’s showing with respect to these claims “misses the navigation steps directed to changing the presented player from one for an episode to one for a movie or single show.” PO Resp. 26–28. This is based on Patent Owner’s contentions that the claims require “selecting (from the digest view) the user interface to present a player for a movie or single show.” *Id.* at 28. However, as discussed above, Section II.D.1, we do not adopt Patent Owner’s construction requiring the ordering.

Patent Owner additionally argues that “[t]he Petition never addressed how the prior art suggests performing the ‘fifth selection’ after the ‘fourth selection.’” PO Sur-reply 4.

Petitioner responds that MissingRemote teaches users navigating among views, including “mov[ing] forward from a ‘collection view’ to a ‘player view’ to begin watching an episode and then return to earlier views to make additional selections.” Pet. Reply 27–28 (citing Ex. 1018, 1:40–2:14, 2:30–2:46; Ex. 1053, 42:3–6, 43:16–44:16, 45:5–24, 50:4–51, 51:16–52:3). Petitioner admits that the Petition does not “specifically have a line about how a user must first view a TV show before he or she watches a movie.” *See* Tr. 23:9–24:5, 25:9–26:5.

We find that the evidence and argument before us establishes that the prior art teaches receipt of a user selection of a movie or single show and

provision of a player presenting the movie or single show to the user, as recited. Ex. 1011, 1:09; Ex. 1020, Figs. 7, 8; Ex. 1003 ¶¶ 219, 226. As we have found that the correct construction of this claim encompasses any ordering of the “receiving a fifth selection . . .” limitation of this claim and the steps recited in claim 4, and that the claim does not require a transition from the provision of a player to present an episode to the receipt of a fifth selection without intervening steps. *See supra* § II.D.1.

The only remaining issue, then, is whether the Petition describes performing both the steps of claim 4 and the steps of claim 5 or whether, as Patent Owner argues, Petitioner relies on “a new and different argument” in its Reply. PO Sur-reply 4; Tr. 41:4–20.

Our rules provide that a petitioner must include “[a] full statement of the reasons for the relief requested, including a detailed explanation of the significance of the evidence including material facts, and the governing laws, rules, and precedent.” 37 C.F.R. § 42.22(a). Our rules also state that “[a] reply may only respond to arguments raised in the corresponding . . . patent owner response.” *Id.* § 42.23(b). “‘Respond,’ in the context of 37 C.F.R. § 42.23(b), does not mean proceed in a new direction with a new approach as compared to the positions taken in a prior filing.” PTAB Consolidated Trial Practice Guide (Nov. 2019)¹⁵ (“CTPG”), 74. A petitioner “may not submit new evidence or argument in reply that it could have presented earlier, e.g., to make out a *prima facie* case of unpatentability.” *Id.* at 73. “Examples of indications that a new issue has been raised in a reply include new evidence necessary to make out a *prima facie* case for the patentability or unpatentability of an original or proposed

¹⁵ Available at <https://www.uspto.gov/TrialPracticeGuideConsolidated>.

substitute claim, such as newly raised rationale to combine the prior art references that was not expressed in the petition.” *Id.* at 74.

The question before us is whether the Petition adequately presents evidence and argument that the prior art combination would have provided a method that performs both the recited additional steps of claim 4 *and* the recited additional steps of claim 5. In its Reply, Petitioner argues that “Claim 5 is satisfied when a user watches a movie (*e.g.*, Bad Company) and then later watches an episode of a television show (*e.g.*, The Office).” Pet. Reply 9. The examples in this statement clearly relate to the Petition’s discussion of TechnoBuffalo. Pet. 35 (describing “The Office” and “Bad Company” as presented in a collection view); 38 (describing the selection of one of these in a collection view); 40–43, 47–48 (describing the selection of “The Office” as the recited “third selection” and a resulting digest view); 44–45 (describing the selection of “Bad Company” as the recited “third selection”). The Reply then expands on this contention, including by citing additional evidence, from MissingRemote and Dr. Surati’s deposition. Pet. Reply 9–10 (citing Ex. 1018, 1:40–2:14, 2:30–2:46; Ex. 1053, 43:16–44:16, 45:5–24, 50:4–14, 51:16–52:3).

We find that the Reply has not introduced a new theory or impermissibly “shifting” argument with the assertion that a user could watch a movie and then a television show. *Corephotonics, Ltd. v. Apple Inc.*, 84 F.4th 990, 1002 (Fed. Cir. 2023) (“the Board is not permitted to entertain ‘[s]hifting arguments’ but must, instead, reject any ‘entirely new theory of *prima facie* obviousness absent from the petition,’ if the petitioner attempts to inject such a theory into the proceeding post-petition.”). Rather, we find that the Reply argument only makes explicit what was implicit in the Petition, that a user could make different selections at different times to

watch different content. *See* Pet. 20 (“providing users with an ordered UI to select and watch movies and TV shows”). Both Petitioner and Patent Owner agree that the claims describe a branching, “binary” third selection and the Reply does not shift theories regarding how and when the prior art teaches this branching third selection results in the performance of recited steps of claim 5.

We additionally find the explicit statement that a user might watch a movie before watching a television show (in that order), and the additional discussion and evidence in the Reply, relates to and is properly responsive to Patent Owner’s arguments in its Response that the steps must be performed in order, and thus to be proper in reply. *Axonics, Inc. v. Medtronic, Inc.*, 75 F.4th 1374, 1383 (Fed. Cir. 2023) (where a patent owner offers a new claim construction for the first time in a response after an institution decision, a petitioner may introduce new arguments and evidence in reply under the newly proposed claim construction); *Corephotonics, Ltd.*, 84 F.4th at 1008–09 (Fed. Cir. 2023) (“[A] a reply argument is proper when it responds to the patent owner’s arguments or the Board’s observations without ‘point[ing] to any new embodiments’ of a prior art reference not previously identified in the petition.”) (quoting *Rembrandt Diagnostics, LP v. Alere, Inc.*, 76 F.4th 1376, 1384 (Fed. Cir. 2023)).

However, even excluding the Reply statements and the additional evidence referred to in the Reply, we determine that Petitioner’s arguments and evidence show how the prior art teaches the selection of play in the detail view would have caused the movie to play in a player, satisfying the second “binary choice” (PO Resp. 15) set forth in claim 5. Thus, we determine that the method of claim 5 is taught or suggested by the art. Ex. 1011, 1:09; Ex. 1020, Figs. 7, 8; Ex. 1003 ¶¶ 219, 226.

Thus, weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, that claim 5 would have been obvious over the asserted combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth.

6. *Claims 6–9*

Claim 6 is dependent on claim 1 and further requires that “a master view includes at least two user-selectable devices to view a collection view based on one of two or more criteria.” Ex. 1001, 57:62–64. Claim 7 is dependent on claim 6 and further requires that “the master view includes a navigation bar to select between types of content.” *Id.* at 57:65–67. Claim 8 is dependent on claim 7 and further requires that “the types of content include showcase content, movies content, television series content, or variety content.” *Id.* at 58:1–3. Claim 9 is dependent on claim 8 and further requires that “the master layout includes user-selectable devices for viewing a collection of content based on special topics, newest content, top watched content, recommended content, or favorites content.” *Id.* at 58:4–8.

For these claims, Petitioner cites TechnoBuffalo’s selectable areas that allow collections to be viewed, such as collections based on “suggested content, new content, content organized by genre.” Pet. 69–70 (citing Ex. 1011, 0:32; Ex. 1003 ¶ 228). Petitioner notes (with reference to claim 7) that this includes a navigation bar. *Id.* at 71 (citing Ex. 1003 ¶ 230). Petitioner notes (with reference to claim 8) that this includes movie and television content. *Id.* at 73 (citing Ex. 1003 ¶ 234). Petitioner further asserts that this display includes options for selecting newest content (“New Arrivals”) and recommended content (“Suggestions for You”). *Id.* at 74–75 (citing Ex. 1003 ¶ 237).

Petitioner additionally argues that MissingRemote includes selectable areas that allow a collection to be viewed based on criteria such as “suggested, recently watched, and new content.” *Id.* at 70 (citing Ex. 1018, 0:21; Ex. 1003 ¶ 229). Petitioner cites MissingRemote as including a navigation bar as well. *Id.* at 71–72. Additionally, Petitioner argues that MissingRemote allows selections based on television content. *Id.* at 73–74 (citing Ex. 1003 ¶ 236).

Patent Owner does not present any additional arguments regarding Petitioner’s assertions as to claims 6–9.

Weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, that claims 6–9 are taught or suggested by the asserted combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth, based on TechnoBuffalo’s screen (Ex. 1011, 0:32) for claims 6–9 and MissingRemote’s screen (Ex. 1018, 0:21) for claims 6–8, as supported by the cited testimony of Dr. Houh.

7. Claims 2 and 10–12

Claims 2 and 10–12 are argued by Petitioner on substantially the same basis as the claims addressed above. Pet. 58–64, 75–77. Patent Owner presents no arguments with respect to these claims other than those discussed above.

Weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, claims 2 and 10–12 to be taught or suggested by the asserted combination of Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth.

F. Asserted Obviousness of Claims 1–12 over Kim, Ma, Hunt, and Hunleth

Petitioner additionally argues that claims 1–12 are unpatentable as obvious over a combination of Kim, Ma, Hunt, and Hunleth. Pet. 78–107.

1. Ma

Ma is titled “Menuing Structure for Favorite Media Content,” and describes user interfaces for presenting, on a monitor such as a TV set, information regarding media content to users of a media device. Ex. 1022, codes (54), (57), ¶¶ 2–4, 21. Users can interact with Ma’s user interfaces through a remote control device. *Id.* ¶ 84. Ma’s Figure 2, reproduced immediately below, is an example screen shot of a top level-media menu that a user can interact with. *Id.* ¶¶ 14, 23.

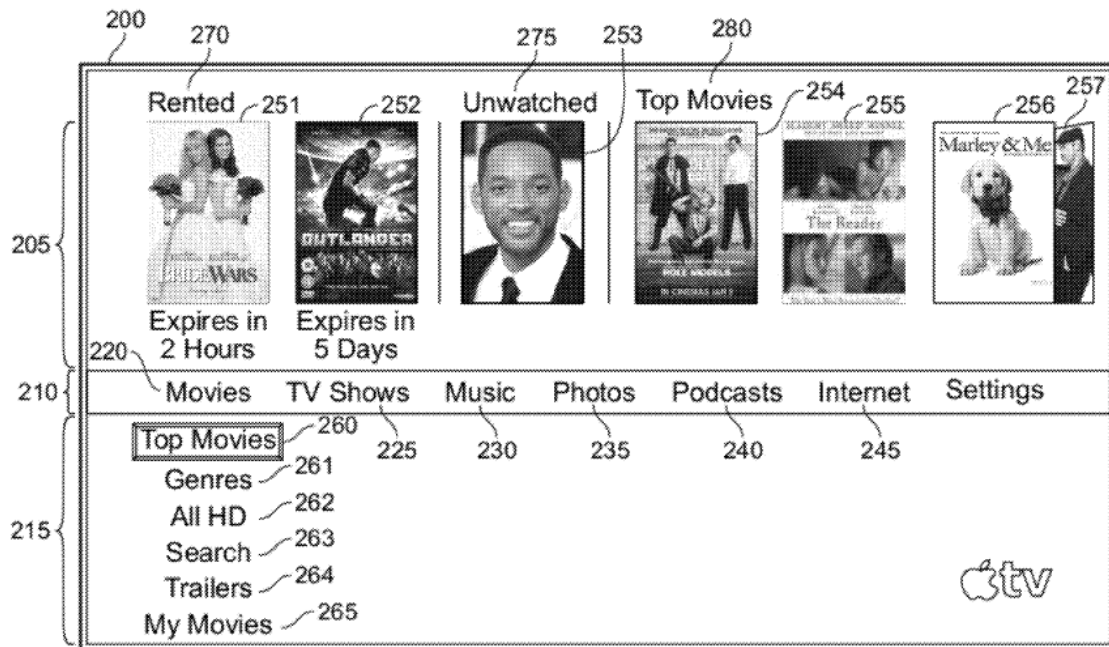


FIG. 2

Menu 200 includes shelf region 205 displaying individual items of media content, media type category region 210, and sub category region 215, in which sub-category menu options are displayed for a selected media type category. *Id.* ¶ 23. A user, using a remote, can select an element of the user

interface, such as “Top Movies” subcategory choice 260, or can change the category, for example by switching to “TV Shows” category 225. *Id.* ¶¶ 24–26. A user can also select one of the individual items of media content displayed in shelf region 205; these media content items change in response to a change of the media type category. *Id.* ¶¶ 26, 28, 29. Items in shelf region 205 may also be grouped into different groups, e.g., the groups shown in shelf region 205 in Figure 2 have group headings “Rented,” “Unwatched,” and “Top Movies.” *Id.* ¶ 29, Figs. 2–5.

Ma additionally describes a favorites menu that provides a user with shortcuts for favorite media items or series, with each displayed in an image representing the item or series. *Id.* ¶¶ 54, 62, Fig. 5B. Selecting an image representing a TV series can cause a “season screen” to be displayed, which displays shortcuts pointing to episodes for a season of the series. *Id.* ¶¶ 62–63, Fig. 5C. Figure 5C, reproduced below, is an example of a season screen. *Id.* ¶ 63.

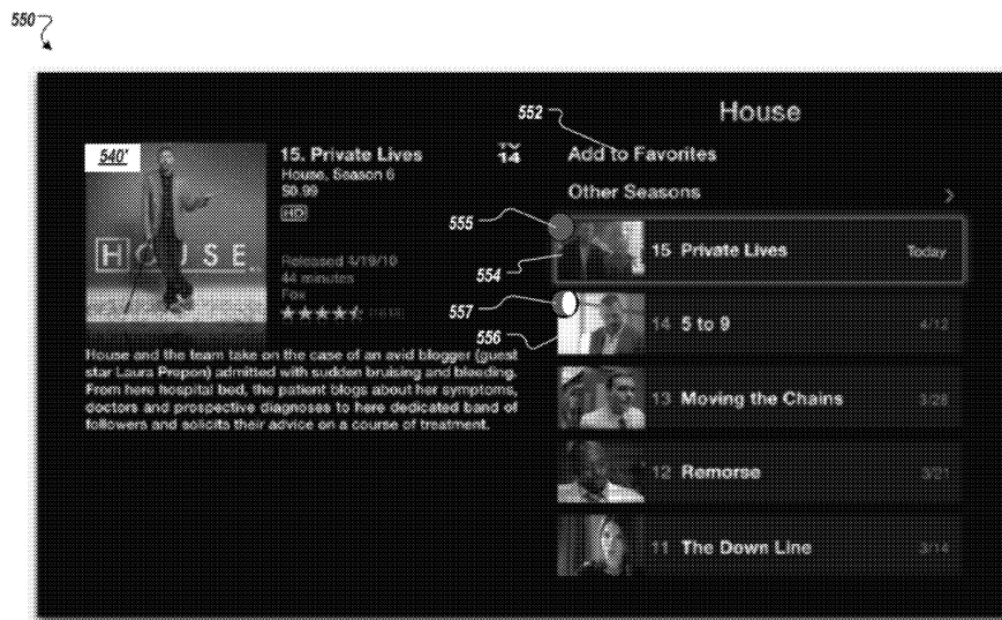


FIG. 5C

Figure 5C shows season screen 550 that includes shortcuts 554 and 556 to episodes. *Id.* ¶ 63, Fig. 5C. A description of a specific episode appears on the left side of season screen 550. *Id.*, Fig. 5C.

2. Claim 1–12

Petitioner argues that one of ordinary skill would have combined Kim’s teachings regarding a home screen for intelligent TVs, including a list of CPs, with Ma’s exemplar CP providing VOD. Pet. 78 (citing Ex. 1019 ¶ 201, Fig. 19; Ex. 1003 ¶ 251), 81–82. Petitioner argues that Kim in combination with Hunt and Hunleth provides additional details about presenting menus to a user and (in the case of Hunleth) to provide details about the use of metadata to generate user interfaces. *Id.* (citing Ex. 1021, 4:45–51, 5:2–17, Figs. 1B, 2; Ex. 1003 ¶¶ 252–253). Petitioner argues that this combination would allow accurate, rich, fast, and advanced user interfaces, that one of ordinary skill in the art would be motivated to make the combination, and would have had a reasonable expectation of success in doing so. *Id.* at 79–81 (citing Ex. 1003 ¶¶ 254–260).

Petitioner argues that Ma, in this combination, teaches or suggests aspects of limitations 1.1–1.4, in its menu structure including the top-level media menu of Ma and the menu described after selection of a sub-category for top movies or favorites, as implemented by one of ordinary skill in the art. *Id.* at 81–90 (citing Ex. 1022 ¶¶ 23, 24, 30, 53, Figs. 2, 3, 5B; Ex. 1003 ¶¶ 263, 264, 266–279, 281). Petitioner further argues that a third selection for VOD content (as per limitation 1.5); a digest view (as per limitation 1.6); the provision of a digest or a detail view; and the ordered set of user interfaces are further taught or suggested, in the combination, by Ma’s selection of a TV series and display of a series screen for the selected TV series or by Ma’s selection of a movie. *Id.* at 91–93, 97–99 (citing Ex. 1022

¶¶ 54, 63, Figs. 5, 5B, 5C; Ex. 1003 ¶¶ 285–290, 297, 299). Petitioner additionally presents similar arguments to those addressed above with respect to these limitations and the teachings of Kim, Hunt, and Hunleth. Pet. 81–99.

Specifically with respect to a “digest view,” Petitioner argues that “Ma’s ‘series screen’ represents a ‘digest view’ as it presents information about a set of VOD content (e.g., TV episodes) that are associated with a series (e.g., ‘House’).” Pet. 92–93 (emphasis omitted) (citing Ex. 1022 ¶ 63, Fig. 5C; Ex. 1003 ¶¶ 288–289). Petitioner further argues that, in its proposed combination, Hunt’s Figure 11 or Figure 12 would have been obvious to present in response to the selection of a TV series in Figure 5B of Ma. *Id.* at 93 (citing Ex. 1020, Figs. 11, 12; Ex. 1003 ¶¶ 290–292).

Patent Owner asserts that Ma’s Figure 5C is not a digest view, for reasons similar to those addressed above with respect to the TechnoBuffalo/MissingRemote combination. PO Resp. 25. Petitioner additionally refers to Ma with respect to the order of steps arguments addressed above. *Id.* at 27.

Petitioner’s showings for claims 2–12 substantially relate to the showings for these claims with respect to the prior grounds or with respect to the teachings of Ma and Hunt described above. Pet. 99–107.

Weighing the record as a whole in view of the findings and analysis above, we conclude that Petitioner has met its burden to show, by a preponderance of the evidence, claims 1–12 to be taught or suggested by the asserted combination of Kim, Ma, Hunt, and Hunleth.

III. CONCLUSION¹⁶

For the reasons discussed above, Petitioner has proven, by a preponderance of the evidence, that the challenged claims are unpatentable, as summarized in the following table:

Claim(s)	35 U.S.C. §	Reference(s)/Basis	Claim(s) Shown Unpatentable	Claim(s) Not shown Unpatentable
1–12	103(a)	Kim, TechnoBuffalo, MissingRemote, Hunt, and Hunleth.	1–12	
1–12	103(a)	Kim, Ma, Hunt, Hunleth	1–12	
Overall Outcome			1–12	

IV. ORDER

In consideration of the foregoing, it is hereby:

ORDERED that claims 1–12 of Patent 9,578,384 B2 have been proven by a preponderance of the evidence to be unpatentable; and

FURTHER ORDERED that, because this is a Final Written Decision, parties to the proceeding seeking judicial review of the Decision must comply with the notice and service requirements of 37 C.F.R. § 90.2.

¹⁶ Should Patent Owner wish to pursue amendment of the challenged claims in a reissue or reexamination proceeding subsequent to the issuance of this decision, we draw Patent Owner's attention to the April 2019 *Notice Regarding Options for Amendments by Patent Owner Through Reissue or Reexamination During a Pending AIA Trial Proceeding*. See 84 Fed. Reg. 16,654 (Apr. 22, 2019). If Patent Owner chooses to file a reissue application or a request for reexamination of the challenged patent, we remind Patent Owner of its continuing obligation to notify the Board of any such related matters in updated mandatory notices. See 37 C.F.R. § 42.8(a)(3), (b)(2).

IPR2024-00723
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