

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ROBOCAST, INC.,

Plaintiff,

v.

YOUTUBE, LLC and GOOGLE, LLC,

Defendants.

**Civil Action No. 1:22-cv-00304-
RGA-JLH**

JURY TRIAL DEMANDED

ROBOCAST, INC.,

**Plaintiff and
Counterclaim
Defendant,**

v.

NETFLIX, INC.,

**Defendant and
Counterclaim
Plaintiff.**

**Civil Action No. 1:22-cv-00305-
RGA-JLH**

JURY TRIAL DEMANDED

STIPULATED PROTECTIVE ORDER

Plaintiff Robocast, Inc. (“Robocast” or “Plaintiff”) and Defendants YouTube, LLC (“YouTube”), Google, LLC (“Google”) and Netflix, Inc. (“Netflix”) (collectively, “Defendants”), each being referred to herein as a “party”, and recognizing that each may have confidential, proprietary, and/or trade secret information relevant to the subject matter of this lawsuit that would otherwise be subject to discovery, have agreed to hereby petition the Court for entry of the following Stipulated Protective Order governing the disclosure and discovery of such confidential information.

Upon review of this petition for entry of the following Stipulated Protective Order, the Court has determined that the petition is well taken and should be **GRANTED**.

Accordingly, to expedite the flow of discovery material, to facilitate the prompt resolution of disputes over confidentiality of discovery materials, to adequately protect information the parties are entitled to keep confidential, to ensure that only materials the parties are entitled to keep confidential are subject to such treatment, and to ensure that the parties are permitted reasonably necessary uses of such materials in preparation for and in the conduct of trial, pursuant to Fed. R. Civ. P. 26(c), it is hereby **ORDERED THAT:**

INFORMATION SUBJECT TO THIS ORDER

1. For purposes of this Protective Order (“Order”), “CONFIDENTIAL” information or items shall mean all information, tangible things, material, documents, or electronically stored information that is produced or disclosed, either through the formal discovery process or informally, to a receiving party; which a producing party, including any party to either of these actions and any non-party producing information or material voluntarily or pursuant to a subpoena or a court order, considers to constitute or to contain sensitive financial, patent, trademark, copyright, trade secret, marketing, customer, research, manufacture, regulatory, commercial, business, product development information, or any other confidential technical or non-technical information or know-how that qualifies for protection under Federal Rule Of Civil Procedure 26(c), whether embodied in physical objects, documents, or the factual knowledge of persons, the disclosure of which is likely to harm that party’s competitive position, or the disclosure of which would contravene an obligation of confidentiality to a third party or to a Court; and which has been so designated by the producing party.

2. For purposes of this Order, “HIGHLY CONFIDENTIAL - ATTORNEYS’ EYES ONLY” information or items shall be limited to that subset of CONFIDENTIAL information or items constituting or containing: (1) highly sensitive information, including, but not limited to,

information pertaining to scientific and technical data, product research, product development, licensing, projected future sales, pricing, business strategies, business arrangements, volumes, revenues, costs, or profits for accused technology, intellectual property and their components and operations, the disclosure of which to another party or third-party would create a substantial risk of serious harm that could not be avoided by less restrictive means; or (2) sensitive information of third parties, the disclosure of which is likely to significantly harm that third party's competitive position, or the disclosure of which would contravene an obligation of confidentiality to a third party or to a Court, and which has been so designated by the producing party.

3. For purposes of this Order, "HIGHLY CONFIDENTIAL - SOURCE CODE" refers to computer code, as discussed in Paragraph 28 below.

4. The following information does not qualify as CONFIDENTIAL, HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL - SOURCE CODE information (collectively, "Protected Material") within the meaning of this Order:

- a) any information that at the time of disclosure in these lawsuits to the receiving party is in the public domain;
- b) any information that, after its disclosure in these lawsuits to the receiving party, becomes part of the public domain as a result of publication not involving a violation of this Order or breach of an obligation of confidentiality to the producing or receiving party;
- c) any information known to the receiving party prior to disclosure during these lawsuits which had been previously obtained independently from any party or from a third party under no obligation of confidentiality; and

d) any information obtained by the receiving party after the disclosure from a source who obtained the information lawfully and under no obligation of confidentiality to the producing party.

5. All information produced in these litigations designated CONFIDENTIAL, HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL - SOURCE CODE (pursuant to Paragraphs 6-16 below) shall be used solely in connection with and for purposes of these lawsuits and shall not be used for any business purpose, in connection with any other legal proceeding, or directly or indirectly for any other purpose whatsoever. When the litigation has been terminated, a receiving party must comply with the provisions of Paragraph 52 below. Any use of such information that is outside of this strict scope of use shall be a violation of this Order. This Order specifically contemplates and acknowledges the potential for the existence of information understood to be confidential and exchanged between the parties prior to this lawsuit. Such information may be properly designated confidential information as to all parties.

DESIGNATION OF INFORMATION AS CONFIDENTIAL, HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY, OR HIGHLY CONFIDENTIAL - SOURCE CODE

6. The producing party's designation of information as CONFIDENTIAL, HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL - SOURCE CODE means that such party believes in good faith, upon reasonable inquiry, that the information qualifies as such. Each party or third party that designates information or items for protection under this Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (e.g., to unnecessarily encumber or retard the case development process or to impose unnecessary expenses and burdens on other Parties) expose the designating party to sanctions. If

it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection at all or do not qualify for the level of protection initially asserted, that designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

7. Except as otherwise provided in this Order, or as otherwise stipulated or ordered, material that qualifies for protection under this Order must be clearly so designated before the material is disclosed or produced.

8. Any document or electronically stored information (excluding transcripts of depositions or other pretrial or trial proceedings) containing or including any CONFIDENTIAL, HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL - SOURCE CODE information may be designated as such by the producing party by marking it, or a coversheet corresponding thereto if a document or electronically stored information is produced in native electronic format, CONFIDENTIAL, HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY, or HIGHLY CONFIDENTIAL - SOURCE CODE prior to or at the time production is made to the receiving party.

9. A party or third-party that makes original documents or materials available for inspection need not designate them for protection until after the inspecting party has indicated which material it would like copied and produced. During the inspection and before the designation, all of the material made available for inspection shall be deemed HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY. After the inspecting party has identified the documents it wants copied and produced, the producing party must determine which documents qualify for protection under this Order. Then, before producing the specified documents, the producing party must affix the appropriate legend (CONFIDENTIAL, HIGHLY

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