

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

ROBOCAST, INC.,)	
)	
Plaintiff and Counterclaim Defendant,)	
)	
v.)	C.A. No. 22-305-JLH
)	
NETFLIX, INC.,)	JURY TRIAL DEMANDED
)	
Defendant and Counterclaim Plaintiff.)	
)	

**DEFENDANT’S REPLY BRIEF IN SUPPORT OF ITS MOTION FOR JUDGMENT ON
THE PLEADINGS OF INVALIDITY OF U.S. PATENT NO. 7,155,451 IN VIEW OF *IN
RE COLLECT***

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I. INTRODUCTION

Robocast's Answering Brief confirms that should the Court rule in favor of Google LLC and YouTube LLC's (collectively, "Google") renewed motion to dismiss based on the doctrine of obviousness-type double patenting ("ODP"), it should find that Robocast is precluded from asserting those same claims against Netflix. Robocast does not contest any of the relevant facts. Notably, Robocast does not and cannot deny that it will have had the opportunity to actually litigate the ODP issue in the companion Google case. While Robocast challenges whether there would be a final, sufficiently firm judgment under factor three of the four-part test for collateral estoppel, there is no credible dispute that a judgment of invalidity on Google's motion to dismiss would be final and should be accorded conclusive effect. And Robocast's assertion that the Court is unable to issue a reasoned opinion on ODP because there is a pending petition for re-hearing in *In re Collect*, 81 F.4th 1216 (Fed. Cir. 2023), ignores that *In re Collect* is a precedential and binding decision to be followed by this Court. Accordingly, should the Court hold the '451 patent as invalid under ODP in the companion Google case (and it should), the Court should preclude Robocast from re-litigating the same issue on the same claims of the same patent in this matter.

II. ARGUMENT

As Netflix set forth in its opening brief, and Robocast does not dispute, the first and fourth collateral estoppel factors—that the ODP issue sought to be precluded (invalidity of the '451 patent for ODP) is the same in both cases and that this Court's ruling on the ODP issue is essential to any judgment dismissing the '451 patent in the companion Google case—are met. *See* D.I. 158 at 8-10 (hereinafter "Br."). Nor does Robocast contest the relevant facts that each and every claim of the '451 patent asserted against Netflix has been challenged by Google in its renewed motion to dismiss based on ODP, namely claims 1-2, 22-29, 37-39, 41-42 of the '451 patent. *See* D.I. 168 at 2-3 (hereinafter "Opp."). Robocast thus concedes that there is complete overlap in the patent



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