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 CELLECT*

Kelly E. Farnan (#4395)
Sara M. Metzler (#6509)
RICHARDS, LAYTON & FINGER P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
(302) 651-7700
farnan@rlf.com
metzler@rlf.com

Attorneys for Defendant Netflix, Inc.

OF COUNSEL:

Tara D. Elliott (#4483)
Rachel Weiner Cohen
Ashley M. Fry
Diane E. Ghrist
Alessandra M. Schaszberger
LATHAM & WATKINS LLP
555 Eleventh Street, NW
Suite 1000
Washington, DC 20004-1304
(202) 637-2200

Kimberly Q. Li
LATHAM & WATKINS LLP
200 Clarendon Street
Boston, MA 02116
(617) 880-4500

Dated: January 11, 2024

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF CONTENTS

DOCKET ALARM

Find authenticated court documents without watermarks at docketalarm.com.

TABLE OF AUTHORITIES

Page(s)

CASES

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

STATUTES & RULES

OTHER AUTHORITIES

…

DOCKET ALARM
Find authenticated court documents without watermarks at docketalarm.com.

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 Cellect*, 81 F.4th 1216 (Fed. Cir. 2023), ignores that *In re Cellect* 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

DOCKET ALARM Find authenticated court documents without watermarks at docketalarm.com.

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.