

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

ROBOCAST, INC.,

Plaintiff and Counterclaim-
Defendant,

v.

NETFLIX, INC.,

Defendant and Counterclaim-
Plaintiff.

C.A. No. 22-305-JLH

JURY TRIAL DEMANDED

**MOTION FOR TELECONFERENCE TO
RESOLVE DISCOVERY DISPUTES**

Pursuant to paragraph 2(a) of the Amended Scheduling Order (D.I. 266) and the Stipulation and Order Regarding Objections to Expert Reports (D.I. 313), Plaintiff and Counterclaim-Defendant Robocast, Inc. (“Robocast”) and Defendant and Counterclaim-Plaintiff Netflix, Inc. (“Netflix”) respectfully move under the Court’s Discovery Dispute Procedure to schedule a teleconference to address the following outstanding disputes:

- Whether portions of the follow expert reports served by Netflix should be stricken as not complying with the rules relating to timely disclosure and/or exceed the scope of what is permitted in those reports:
 - Expert Report of Dr. Aviel D. Rubin on Invalidity of U.S. Patent Nos. 7,155,451; 8,606,819; 8,965,932, served by Netflix on June 14, 2024;
 - Expert Report of Aviel D. Rubin, Ph.D. Non-Infringement of U.S. Patent Nos. 7,155,451, 8,606,819, 8,965,932, served by Netflix on July 11, 2024;

- Rebuttal Expert Report of Christopher A. Martinez with Respect to Damages, served by Netflix on July 11, 2024; and
- Reply Expert Report of Dr. Aviel D. Rubin on Invalidity of U.S. Patent Nos. 7,155,451; 8,606,819; 8,965,932, served by Netflix on August 6, 2024.
- Whether portions of the following expert reports served by Robocast should be stricken as not complying with the rules relating to timely disclosure and/or exceeding the scope of what is permitted in those reports:
 - Expert Reports of Dr. Kevin C. Almeroth Regarding Infringement of U.S. Patent Nos. 7,155,451, 8,606,819, & 8,965,932, served on June 14, 2024 and August 6, 2024;
 - Expert Reports of Stephen A. Holzen, served on June 14, 2024 and August 6, 2024;
 - Rebuttal Expert Report of Dr. Kevin C. Almeroth Regarding Validity of U.S. Patent Nos. 7,155,451, 8,606,819, & 8,965,932, served on July 11, 2024; and
 - Rebuttal Expert Report of Andrew Reisman, served on July 11, 2024.

These motions to strike are without prejudice to either party's right to move to exclude any portion of the experts' opinions under Daubert in accordance with the case management order.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in verbal meet-and-confers by telephone on the following dates: July 9, 2024 and August 19, 2024.

Delaware Counsel: Stephen B. Brauerman and Ronald P. Golden III (for Robocast); Kelly E. Farnan and Sara M. Metzler (for Netflix)

Lead Counsel: Steven J. Udick and Grant L. Johnson (for Robocast); Tara E. Elliott (#4483), Rachel Weiner Cohen, Ashley M. Fry, Kimberly Q. Li, and Alessandra M. Schaszberger (for Netflix)

Netflix respectfully requests that the Court hear the outstanding discovery disputes during the September 5, 2024 in-person claim construction hearing (D.I. 303). Case dispositive motions are due on September 26, 2024 (D.I. 266 ¶ 3), and the Court's rulings on the above outstanding discovery disputes could impact and/or narrow the issues addressed in the parties' dispositive motions.

Robocast respectfully requests that the Court hear the outstanding discovery disputes during the week of September 23, 2024. Robocast does not believe a hearing on these disputes, which are not related to the parties' claim construction arguments, at the claim construction hearing is warranted in light of expert depositions running until August 31, 2024 and the intervening Labor Day holiday, which would further interfere with what would already be an extremely compressed briefing timeline.

The parties anticipate following the briefing limits set forth in the parties' prior stipulation and Order (D.I. 313).

/s/ Ronald P. Golden III

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Dated: August 23, 2024

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