

EXHIBIT B
(Part 3 of 3)

1 reference. Blockbuster specifically objects to this request to the extent it seeks
2 documents that are protected by the attorney-client privilege, the attorney work-
3 product doctrine, or any other applicable privilege or immunity and to the extent
4 that it seeks documents that are confidential or proprietary. Blockbuster further
5 specifically objects to this request on the grounds that it is vague, ambiguous,
6 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
7 calculated to lead to the discovery of admissible evidence in this case, and is
8 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
9 The bases for these objections include, without limitation, this request's use of the
10 term "RELATING TO."

11 Subject to and without waiving the foregoing objections, Blockbuster
12 will conduct a reasonable and diligent search for non-privileged, non-work-product
13 documents sufficient to reasonably describe and support the Netflix market power
14 referred to in this request and will produce such documents so located that have not
15 already been produced in this case.

16 **REQUEST FOR PRODUCTION NO. 72:**

17 All DOCUMENTS RELATING TO BLOCKBUSTER's allegation in
18 its ANSWER, ¶ 90, that "Netflix's share of the relevant product and geographical
19 markets exceed 65%," including without limitation all documents that tend to
20 support or contradict that allegation.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 72:**

22 Each of Blockbuster's General Objections is incorporated here by
23 reference. Blockbuster specifically objects to this request to the extent it seeks
24 documents that are protected by the attorney-client privilege, the attorney work-
25 product doctrine, or any other applicable privilege or immunity and to the extent
26 that it seeks documents that are confidential or proprietary. Blockbuster further
27 specifically objects to this request on the grounds that it is vague, ambiguous,
28 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor

1 calculated to lead to the discovery of admissible evidence in this case, and is
2 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
3 The bases for these objections include, without limitation, this request's use of the
4 term "RELATING TO."

5 Subject to and without waiving the foregoing objections, Blockbuster
6 will conduct a reasonable and diligent search for non-privileged, non-work-product
7 documents sufficient to reasonably describe and support Netflix's market share
8 referred to in this request and will produce such documents so located that have not
9 already been produced in this case.

10 **REQUEST FOR PRODUCTION NO. 73:**

11 All DOCUMENTS RELATING TO BLOCKBUSTER's allegation in
12 its ANSWER, ¶ 91, that "should Netflix succeed in inducing
13 BLOCKBUSTERONLINE to exit the relevant market, Netflix would again be
14 without significant competition in that market," including without limitation all
15 documents that tend to support or contradict that allegation.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 73:**

17 Each of Blockbuster's General Objections is incorporated here by
18 reference. Blockbuster specifically objects to this request to the extent it seeks
19 documents that are protected by the attorney-client privilege, the attorney work-
20 product doctrine, or any other applicable privilege or immunity and to the extent
21 that it seeks documents that are confidential or proprietary. Blockbuster further
22 specifically objects to this request on the grounds that it is vague, ambiguous,
23 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
24 calculated to lead to the discovery of admissible evidence in this case, and is
25 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
26 The bases for these objections include, without limitation, this request's use of the
27 term "RELATING TO."

28 Subject to and without waiving the foregoing objections, Blockbuster

1 will conduct a reasonable and diligent search for non-privileged, non-work-product
2 documents sufficient to reasonably support the allegation referred to in this request
3 and will produce such documents so located that have not already been produced in
4 this case.

5 **REQUEST FOR PRODUCTION NO. 74:**

6 All DOCUMENTS RELATING TO the identity of all companies
7 operating in the “relevant product market,” as alleged by BLOCKBUSTER in its
8 ANSWER, ¶ 88.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 74:**

10 Each of Blockbuster’s General Objections is incorporated here by
11 reference. Blockbuster specifically objects to this request to the extent it seeks
12 documents that are protected by the attorney-client privilege, the attorney work-
13 product doctrine, or any other applicable privilege or immunity and to the extent
14 that it seeks documents that are confidential or proprietary. Blockbuster further
15 specifically objects to this request on the grounds that it is vague, ambiguous,
16 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
17 calculated to lead to the discovery of admissible evidence in this case, and is
18 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
19 The bases for these objections include, without limitation, this request’s use of the
20 term “RELATING TO.”

21 Subject to and without waiving the foregoing objections, Blockbuster
22 will conduct a reasonable and diligent search for non-privileged, non-work-product
23 documents sufficient to reasonably identify competitors referred to in this request
24 and will produce such documents so located that have not already been produced in
25 this case.

26 **REQUEST FOR PRODUCTION NO. 75:**

27 All DOCUMENTS RELATING TO the market share of each company
28 operating in the “relevant product market,” as alleged by BLOCKBUSTER in its

1 ANSWER ¶ 88, “throughout the relevant time period up to and including the
2 present,” as alleged by BLOCKBUSTER in its ANSWER, ¶ 89.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 75:**

4 Each of Blockbuster’s General Objections is incorporated here by
5 reference. Blockbuster specifically objects to this request to the extent it seeks
6 documents that are protected by the attorney-client privilege, the attorney work-
7 product doctrine, or any other applicable privilege or immunity and to the extent
8 that it seeks documents that are confidential or proprietary. Blockbuster further
9 specifically objects to this request on the grounds that it is vague, ambiguous,
10 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
11 calculated to lead to the discovery of admissible evidence in this case, and is
12 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
13 The bases for these objections include, without limitation, this request’s use of the
14 term “RELATING TO.”

15 Subject to and without waiving the foregoing objections, Blockbuster
16 will conduct a reasonable and diligent search for non-privileged, non-work-product
17 documents stating market shares referred to in this request and will produce such
18 documents so located that have not already been produced in this case.

19 **REQUEST FOR PRODUCTION NO. 76:**

20 All DOCUMENTS RELATING TO BLOCKBUSTER’s allegations in
21 its ANSWER, ¶¶ 111-12, that Netflix “acted with the specific intent to monopolize
22 the relevant market,” including without limitation all documents that tend to
23 support or contradict that allegation,

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 76:**

25 Each of Blockbuster’s General Objections is incorporated here by
26 reference. Blockbuster specifically objects to this request to the extent it seeks
27 documents that are protected by the attorney-client privilege, the attorney work-
28 product doctrine, or any other applicable privilege or immunity and to the extent

1 that it seeks documents that are confidential or proprietary. Blockbuster further
2 specifically objects to this request on the grounds that it is vague, ambiguous,
3 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
4 calculated to lead to the discovery of admissible evidence in this case, and is
5 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
6 The bases for these objections include, without limitation, this request's use of the
7 term "RELATING TO."

8 Subject to and without waiving the foregoing objections, Blockbuster
9 will conduct a reasonable and diligent search for non-privileged, non-work-product
10 documents sufficient to reasonably support the allegation referred to in this request
11 and any documents contradicting that allegation and will produce such documents
12 so located that have not already been produced in this case.

13 **REQUEST FOR PRODUCTION NO. 77:**

14 All DOCUMENTS RELATING TO BLOCKBUSTER's allegation in
15 its ANSWER, ¶¶ 113-14, that Netflix has a dangerous probability of success of
16 monopolizing the relevant market, including without limitation all documents that
17 tend to support or contradict that allegation.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 77:**

19 Each of Blockbuster's General Objections is incorporated here by
20 reference. Blockbuster specifically objects to this request to the extent it seeks
21 documents that are protected by the attorney-client privilege, the attorney work-
22 product doctrine, or any other applicable privilege or immunity and to the extent
23 that it seeks documents that are confidential or proprietary. Blockbuster further
24 specifically objects to this request on the grounds that it is vague, ambiguous,
25 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
26 calculated to lead to the discovery of admissible evidence in this case, and is
27 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
28 The bases for these objections include, without limitation, this request's use of the

1 term "RELATING TO."

2 Subject to and without waiving the foregoing objections, Blockbuster
3 will conduct a reasonable and diligent search for non-privileged, non-work-product
4 documents sufficient to reasonably support the allegation referred to in this request
5 and any documents contradicting that allegation and will produce such documents
6 so located that have not already been produced in this case.

7 **REQUEST FOR PRODUCTION NO. 78:**

8 All DOCUMENTS RELATING TO actual or potential substitutes for
9 ON-LINE DVD rentals, including without limitation any analyses, reports or
10 surveys.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 78:**

12 Each of Blockbuster's General Objections is incorporated here by
13 reference. Blockbuster specifically objects to this request to the extent it seeks
14 documents that are protected by the attorney-client privilege, the attorney work-
15 product doctrine, or any other applicable privilege or immunity and to the extent
16 that it seeks documents that are confidential or proprietary. Blockbuster further
17 specifically objects to this request on the grounds that it is vague, ambiguous,
18 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
19 calculated to lead to the discovery of admissible evidence in this case, and is
20 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
21 The bases for these objections include, without limitation, this request's use of the
22 terms "ON-LINE" and "RELATING TO."

23 Subject to and without waiving the foregoing objections, Blockbuster
24 will conduct a reasonable and diligent search for non-privileged, non-work-product
25 documents sufficient to reasonably identify substitutes referred to in this request
26 and will produce such documents so located that have not already been produced in
27 this case.

28 ///

1 **REQUEST FOR PRODUCTION NO. 79:**

2 All DOCUMENTS RELATING TO BLOCKBUSTER's allegation in
3 its ANSWER, ¶ 93, that "Netflix has engaged in monopolization in the relevant
4 market during the relevant time period," including without limitation all documents
5 that tend to support or contradict that allegation.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 79:**

7 Each of Blockbuster's General Objections is incorporated here by
8 reference. Blockbuster specifically objects to this request to the extent it seeks
9 documents that are protected by the attorney-client privilege, the attorney work-
10 product doctrine, or any other applicable privilege or immunity and to the extent
11 that it seeks documents that are confidential or proprietary. Blockbuster further
12 specifically objects to this request on the grounds that it is vague, ambiguous,
13 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
14 calculated to lead to the discovery of admissible evidence in this case, and is
15 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
16 The bases for these objections include, without limitation, this request's use of the
17 term "RELATING TO."

18 Subject to and without waiving the foregoing objections, Blockbuster
19 will conduct a reasonable and diligent search for non-privileged, non-work-product
20 documents sufficient to reasonably support the allegation referred to in this request
21 and any documents contradicting that allegation and will produce such documents
22 so located that have not already been produced in this case.

23 **REQUEST FOR PRODUCTION NO. 80:**

24 All DOCUMENTS RELATING TO any alleged injury to competition
25 in any relevant market that BLOCKBUSTER alleges was caused by any alleged
26 antitrust violation committed by NETFLIX.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 80:**

28 Each of Blockbuster's General Objections is incorporated here by

1 reference. Blockbuster specifically objects to this request to the extent it seeks
2 documents that are protected by the attorney-client privilege, the attorney work-
3 product doctrine, or any other applicable privilege or immunity and to the extent
4 that it seeks documents that are confidential or proprietary. Blockbuster further
5 specifically objects to this request on the grounds that it is vague, ambiguous,
6 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
7 calculated to lead to the discovery of admissible evidence in this case, and is
8 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
9 The bases for these objections include, without limitation, this request's use of the
10 terms "BLOCKBUSTER," "NETFLIX," and "RELATING TO."

11 Subject to and without waiving the foregoing objections, Blockbuster
12 will conduct a reasonable and diligent search for non-privileged, non-work-product
13 documents showing the injury to competition referred to in this request and will
14 produce such documents so located that have not already been produced in this
15 case.

16 **REQUEST FOR PRODUCTION NO. 81:**

17 All DOCUMENTS RELATING TO BLOCKBUSTER's allegation in
18 its ANSWER, ¶ 107, that "Netflix has succeeded in restraining competition in the
19 relevant market during the relevant time period," including without limitation all
20 documents that tend to support or contradict that allegation.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 81:**

22 Each of Blockbuster's General Objections is incorporated here by
23 reference. Blockbuster specifically objects to this request to the extent it seeks
24 documents that are protected by the attorney-client privilege, the attorney work-
25 product doctrine, or any other applicable privilege or immunity and to the extent
26 that it seeks documents that are confidential or proprietary. Blockbuster further
27 specifically objects to this request on the grounds that it is vague, ambiguous,
28 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor

1 calculated to lead to the discovery of admissible evidence in this case, and is
2 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
3 The bases for these objections include, without limitation, this request's use of the
4 term "RELATING TO."

5 Subject to and without waiving the foregoing objections, Blockbuster
6 will conduct a reasonable and diligent search for non-privileged, non-work-product
7 documents sufficient to reasonably support the allegation referred to in this request
8 and will produce such documents so located that have not already been produced in
9 this case.

10 **REQUEST FOR PRODUCTION NO. 82:**

11 All DOCUMENTS RELATING TO BLOCKBUSTER's allegation in
12 its ANSWER, ¶ 107, that NETFLIX's alleged conduct will "deter other potential
13 competitors from entering the relevant market," including without limitation all
14 documents that tend to support or contradict that allegation.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 82:**

16 Each of Blockbuster's General Objections is incorporated here by
17 reference. Blockbuster specifically objects to this request to the extent it seeks
18 documents that are protected by the attorney-client privilege, the attorney work-
19 product doctrine, or any other applicable privilege or immunity and to the extent
20 that it seeks documents that are confidential or proprietary. Blockbuster further
21 specifically objects to this request on the grounds that it is vague, ambiguous,
22 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
23 calculated to lead to the discovery of admissible evidence in this case, and is
24 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
25 The bases for these objections include, without limitation, this request's use of the
26 terms "NETFLIX" and "RELATING TO."

27 Subject to and without waiving the foregoing objections, Blockbuster
28 will conduct a reasonable and diligent search for non-privileged, non-work-product

1 documents sufficient to reasonably support the allegation referred to in this request
2 and any documents contradicting that allegation and will produce such documents
3 so located that have not already been produced in this case.

4 **REQUEST FOR PRODUCTION NO. 83:**

5 All DOCUMENTS RELATING TO any damages BLOCKBUSTER
6 alleges it has suffered or will suffer as a result of any alleged antitrust violation
7 committed by NETFLIX.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 83:**

9 Each of Blockbuster's General Objections is incorporated here by
10 reference. Blockbuster specifically objects to this request to the extent it seeks
11 documents that are protected by the attorney-client privilege, the attorney work-
12 product doctrine, or any other applicable privilege or immunity and to the extent
13 that it seeks documents that are confidential or proprietary. Blockbuster further
14 specifically objects to this request on the grounds that it is vague, ambiguous,
15 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
16 calculated to lead to the discovery of admissible evidence in this case, and is
17 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
18 The bases for these objections include, without limitation, this request's use of the
19 terms "BLOCKBUSTER," "NETFLIX," and "RELATING TO."

20 Subject to and without waiving the foregoing objections, Blockbuster
21 will conduct a reasonable and diligent search for non-privileged, non-work-product
22 documents showing the damages referred to in this request and will produce such
23 documents so located that have not already been produced in this case.

24 **REQUEST FOR PRODUCTION NO. 84:**

25 All DOCUMENTS RELATING TO BLOCKBUSTER'S actual or
26 potential use of any method used by NETFLIX to rent DVDs to customers

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 84:**

28 Each of Blockbuster's General Objections is incorporated here by

1 reference. Blockbuster specifically objects to this request to the extent it seeks
2 documents that are protected by the attorney-client privilege, the attorney work-
3 product doctrine, or any other applicable privilege or immunity and to the extent
4 that it seeks documents that are confidential or proprietary. Blockbuster further
5 specifically objects to this request on the grounds that it is vague, ambiguous,
6 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
7 calculated to lead to the discovery of admissible evidence in this case, and is
8 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
9 The bases for these objections include, without limitation, this request's use of the
10 terms "BLOCKBUSTER," "NETFLIX," and "RELATING TO."

11 Subject to and without waiving the foregoing objections, Blockbuster
12 will conduct a reasonable and diligent search for non-privileged, non-work-product
13 documents discussing use by Blockbuster Inc. of a rental method used by Netflix
14 and will produce such documents so located that have not already been produced in
15 this case.

16 **REQUEST FOR PRODUCTION NO. 85:**

17 All DOCUMENTS RELATING TO the actual or potential effect of
18 competition from NETFLIX on BLOCKBUSTER's profits or revenues from in-
19 store rentals.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 85:**

21 Each of Blockbuster's General Objections is incorporated here by
22 reference. Blockbuster specifically objects to this request to the extent it seeks
23 documents that are protected by the attorney-client privilege, the attorney work-
24 product doctrine, or any other applicable privilege or immunity and to the extent
25 that it seeks documents that are confidential or proprietary. Blockbuster further
26 specifically objects to this request on the grounds that it is vague, ambiguous,
27 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
28 calculated to lead to the discovery of admissible evidence in this case, and is

1 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
2 The bases for these objections include, without limitation, this request's use of the
3 terms "BLOCKBUSTER," "NETFLIX," and "RELATING TO."

4 Subject to and without waiving the foregoing objections, Blockbuster
5 will conduct a reasonable and diligent search for non-privileged, non-work-product
6 documents discussing Netflix's effect on Blockbuster's in-store-rental profits or
7 revenues and will produce such documents so located that have not already been
8 produced in this case.

9 **REQUEST FOR PRODUCTION NO. 86:**

10 All DOCUMENTS RELATING TO the actual or potential effect of
11 competition from NETFLIX on BLOCKBUSTER's profit or revenues from sales of
12 DVDs.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 86:**

14 Each of Blockbuster's General Objections is incorporated here by
15 reference. Blockbuster specifically objects to this request to the extent it seeks
16 documents that are protected by the attorney-client privilege, the attorney work-
17 product doctrine, or any other applicable privilege or immunity and to the extent
18 that it seeks documents that are confidential or proprietary. Blockbuster further
19 specifically objects to this request on the grounds that it is vague, ambiguous,
20 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
21 calculated to lead to the discovery of admissible evidence in this case, and is
22 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
23 The bases for these objections include, without limitation, this request's use of the
24 terms "BLOCKBUSTER," "NETFLIX," and "RELATING TO."

25 Subject to and without waiving the foregoing objections, Blockbuster
26 will conduct a reasonable and diligent search for non-privileged, non-work-product
27 documents discussing an effect of Netflix on Blockbuster's profit or revenues from
28 sale of DVDs and will produce such documents so located that have not already

1 been produced in this case.

2 **REQUEST FOR PRODUCTION NO. 87:**

3 AU DOCUMENTS RELATING TO the actual or potential effect of
4 the launch of BLOCKBUSTERONLINE on BLOCKBUSTER's profits or revenues
5 from IN-STORE rentals.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 87:**

7 Each of Blockbuster's General Objections is incorporated here by
8 reference. Blockbuster specifically objects to this request to the extent it seeks
9 documents that are protected by the attorney-client privilege, the attorney work-
10 product doctrine, or any other applicable privilege or immunity and to the extent
11 that it seeks documents that are confidential or proprietary. Blockbuster further
12 specifically objects to this request on the grounds that it is vague, ambiguous,
13 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
14 calculated to lead to the discovery of admissible evidence in this case, and is
15 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
16 The bases for these objections include, without limitation, this request's use of the
17 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," and "RELATING TO."

18 Subject to and without waiving the foregoing objections, Blockbuster
19 will conduct a reasonable and diligent search for non-privileged, non-work-product
20 documents discussing an effect of the launch of Blockbuster Online on
21 Blockbuster's profit or revenues from in-store rentals and will produce such
22 documents so located that have not already been produced in this case.

23 **REQUEST FOR PRODUCTION NO. 88:**

24 ALL DOCUMENTS RELATING TO the actual or potential effect of
25 raising or lowering the sale price of new or used DVDs on BLOCKBUSTER's
26 profits or revenues from IN-STORE DVD rentals.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 88:**

28 Each of Blockbuster's General Objections is incorporated here by

1 reference. Blockbuster specifically objects to this request to the extent it seeks
2 documents that are protected by the attorney-client privilege, the attorney work-
3 product doctrine, or any other applicable privilege or immunity and to the extent
4 that it seeks documents that are confidential or proprietary. Blockbuster further
5 specifically objects to this request on the grounds that it is vague, ambiguous,
6 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
7 calculated to lead to the discovery of admissible evidence in this case, and is
8 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
9 The bases for these objections include, without limitation, this request's use of the
10 terms "BLOCKBUSTER" and "RELATING TO."

11 Subject to and without waiving the foregoing objections, Blockbuster
12 will conduct a reasonable and diligent search for non-privileged, non-work-product
13 documents an effect of varied DVD sale prices on Blockbuster's profit or revenues
14 from in-store DVD rentals and will produce such documents so located that have
15 not already been produced in this case.

16 **REQUEST FOR PRODUCTION NO. 89:**

17 All DOCUMENTS RELATING TO BLOCKBUSTER's promotion in
18 its IN-STORE locations of BLOCKBUSTERONLINE.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 89:**

20 Each of Blockbuster's General Objections is incorporated here by
21 reference. Blockbuster specifically objects to this request to the extent it seeks
22 documents that are protected by the attorney-client privilege, the attorney work-
23 product doctrine, or any other applicable privilege or immunity and to the extent
24 that it seeks documents that are confidential or proprietary. Blockbuster further
25 specifically objects to this request on the grounds that it is vague, ambiguous,
26 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
27 calculated to lead to the discovery of admissible evidence in this case, and is
28 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.

1 The bases for these objections include, without limitation, this request's use of the
2 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," and "RELATING TO."

3 Subject to and without waiving the foregoing objections, Blockbuster
4 will conduct a reasonable and diligent search for non-privileged, non-work-product
5 documents sufficient to show such promotions and will produce such documents so
6 located that have not already been produced in this case.

7 **REQUEST FOR PRODUCTION NO. 90:**

8 All DOCUMENTS RELATING TO price competition with
9 NETFLIX.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 90:**

11 Each of Blockbuster's General Objections is incorporated here by
12 reference. Blockbuster specifically objects to this request to the extent it seeks
13 documents that are protected by the attorney-client privilege, the attorney work-
14 product doctrine, or any other applicable privilege or immunity and to the extent
15 that it seeks documents that are confidential or proprietary. Blockbuster further
16 specifically objects to this request on the grounds that it is vague, ambiguous,
17 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
18 calculated to lead to the discovery of admissible evidence in this case, and is
19 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
20 The bases for these objections include, without limitation, this request's use of the
21 term "RELATING TO."

22 Subject to and without waiving the foregoing objections, Blockbuster
23 will conduct a reasonable and diligent search for non-privileged, non-work-product
24 documents reasonably sufficient to show price competition with Netflix and will
25 produce such documents so located that have not already been produced in this
26 case.

27 **REQUEST FOR PRODUCTION NO. 91:**

28 All DOCUMENTS RELATING TO the actual or potential effect of

1 subscription plan prices offered, or to be offered, by BLOCKBUSTERONLINE,
2 NETFLIX, or any other ON-LINE DVD rental company, on BLOCKBUSTER's
3 profits or revenues derived from the IN-STORE DVD rentals.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 91:**

5 Each of Blockbuster's General Objections is incorporated here by
6 reference. Blockbuster specifically objects to this request to the extent it seeks
7 documents that are protected by the attorney-client privilege, the attorney work-
8 product doctrine, or any other applicable privilege or immunity and to the extent
9 that it seeks documents that are confidential or proprietary. Blockbuster further
10 specifically objects to this request on the grounds that it is vague, ambiguous,
11 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
12 calculated to lead to the discovery of admissible evidence in this case, and is
13 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
14 The bases for these objections include, without limitation, this request's use of the
15 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," "NETFLIX," "ON-
16 LINE," and "RELATING TO."

17 Subject to and without waiving the foregoing objections, Blockbuster
18 will conduct a reasonable and diligent search for non-privileged, non-work-product
19 documents discussing effects of the pricing of subscription plans offered by
20 Blockbuster or online competitors on Blockbuster's in-store-rental profits or
21 revenues and will produce such documents so located that have not already been
22 produced in this case.

23 **REQUEST FOR PRODUCTION NO. 92:**

24 All DOCUMENTS RELATING TO the actual or potential effect of
25 subscription plan prices offered, or to be offered by BLOCKBUSTERONLINE,
26 NETFLIX, or any other ON-LINE DVD rental company, on BLOCKBUSTER's
27 profits or revenues derived from the IN-STORE DVD sales.

28 **RESPONSE TO REQUEST FOR PRODUCTION NO. 92:**

1 Each of Blockbuster's General Objections is incorporated here by
2 reference. Blockbuster specifically objects to this request to the extent it seeks
3 documents that are protected by the attorney-client privilege, the attorney work-
4 product doctrine, or any other applicable privilege or immunity and to the extent
5 that it seeks documents that are confidential or proprietary. Blockbuster further
6 specifically objects to this request on the grounds that it is vague, ambiguous,
7 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
8 calculated to lead to the discovery of admissible evidence in this case, and is
9 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
10 The bases for these objections include, without limitation, this request's use of the
11 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," "NETFLIX," "ON-
12 LINE." and "RELATING TO."

13 Subject to and without waiving the foregoing objections, Blockbuster
14 will conduct a reasonable and diligent search for non-privileged, non-work-product
15 documents discussing effects of the pricing of subscription plans offered by
16 Blockbuster or online competitors on Blockbuster's profits or revenues from in-
17 store DVD sales and will produce such documents so located that have not already
18 been produced in this case.

19 **REQUEST FOR PRODUCTION NO. 93:**

20 All DOCUMENTS RELATING TO the effect of raising or lowering
21 the sale price of new or used DVDs on BLOCKBUSTER's profits or revenues
22 derived from BLOCKBUSTERONLINE.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 93:**

24 Each of Blockbuster's General Objections is incorporated here by
25 reference. Blockbuster specifically objects to this request to the extent it seeks
26 documents that are protected by the attorney-client privilege, the attorney work-
27 product doctrine, or any other applicable privilege or immunity and to the extent
28 that it seeks documents that are confidential or proprietary. Blockbuster further

1 specifically objects to this request on the grounds that it is vague, ambiguous,
2 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
3 calculated to lead to the discovery of admissible evidence in this case, and is
4 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
5 The bases for these objections include, without limitation, this request's use of the
6 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," and "RELATING TO."

7 Subject to and without waiving the foregoing objections, Blockbuster
8 will conduct a reasonable and diligent search for non-privileged, non-work-product
9 documents discussing effects of changes in DVD sale prices on Blockbuster
10 Online's profits or revenues and will produce such documents so located that have
11 not already been produced in this case.

12 **REQUEST FOR PRODUCTION NO. 94:**

13 All DOCUMENTS RELATING TO the actual or potential effect of
14 subscription plan prices offered by NETFLIX, or by any other ON-LINE DVD
15 rental company, on BLOCKBUSTER's profits or revenues derived from
16 BLOCKBUSTERONLINE.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 94:**

18 Each of Blockbuster's General Objections is incorporated here by
19 reference. Blockbuster specifically objects to this request to the extent it seeks
20 documents that are protected by the attorney-client privilege, the attorney work-
21 product doctrine, or any other applicable privilege or immunity and to the extent
22 that it seeks documents that are confidential or proprietary. Blockbuster further
23 specifically objects to this request on the grounds that it is vague, ambiguous,
24 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
25 calculated to lead to the discovery of admissible evidence in this case, and is
26 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
27 The bases for these objections include, without limitation, this request's use of the
28 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," "NETFLIX," "ON-

1 LINE,” and “RELATING TO.”

2 Subject to and without waiving the foregoing objections, Blockbuster
3 will conduct a reasonable and diligent search for non-privileged, non-work-product
4 documents discussing effects of changes in competitors’ online subscription prices
5 on Blockbuster Online’s profits or revenues and will produce such documents so
6 located that have not already been produced in this case.

7 **REQUEST FOR PRODUCTION NO. 95:**

8 All DOCUMENTS RELATING TO the actual or potential effect of
9 on-demand distribution of movies by cable television providers on
10 BLOCKBUSTER’S profits or revenues derived from IN-STORE DVD rentals.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 95:**

12 Each of Blockbuster’s General Objections is incorporated here by
13 reference. Blockbuster specifically objects to this request to the extent it seeks
14 documents that are protected by the attorney-client privilege, the attorney work-
15 product doctrine, or any other applicable privilege or immunity and to the extent
16 that it seeks documents that are confidential or proprietary. Blockbuster further
17 specifically objects to this request on the grounds that it is vague, ambiguous,
18 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
19 calculated to lead to the discovery of admissible evidence in this case, and is
20 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
21 The bases for these objections include, without limitation, this request’s use of the
22 terms “BLOCKBUSTER” and “RELATING TO.”

23 Subject to and without waiving the foregoing objections, Blockbuster
24 will conduct a reasonable and diligent search for non-privileged, non-work-product
25 documents discussing effects of cable TV video-on-demand on Blockbuster’s
26 profits or revenues from in-store DVD rentals and will produce such documents so
27 located that have not already been produced in this case.

28 ///

1 **REQUEST FOR PRODUCTION NO. 96:**

2 All DOCUMENTS RELATING TO the effect of distribution of
3 movies over the internet on BLOCKBUSTER's profits or revenues derived from
4 IN-STORE DVD rentals.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 96:**

6 Each of Blockbuster's General Objections is incorporated here by
7 reference. Blockbuster specifically objects to this request to the extent it seeks
8 documents that are protected by the attorney-client privilege, the attorney work-
9 product doctrine, or any other applicable privilege or immunity and to the extent
10 that it seeks documents that are confidential or proprietary. Blockbuster further
11 specifically objects to this request on the grounds that it is vague, ambiguous,
12 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
13 calculated to lead to the discovery of admissible evidence in this case, and is
14 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
15 The bases for these objections include, without limitation, this request's use of the
16 terms "BLOCKBUSTER," "RELATING TO," and "distribution of movies over the
17 internet."

18 Subject to and without waiving the foregoing objections, Blockbuster
19 will conduct a reasonable and diligent search for non-privileged, non-work-product
20 documents discussing effects of Internet downloading or streaming of movies on
21 Blockbuster's profits or revenues from in-store DVD rentals and will produce such
22 documents so located that have not already been produced in this case.

23 **REQUEST FOR PRODUCTION NO. 97:**

24 All DOCUMENTS RELATING TO the effect of on-demand
25 distribution of movies by cable television providers on BLOCKBUSTER's profits
26 or revenues derived from BLOCKBUSTERONLINE.

27 **RESPONSE TO REQUEST FOR PRODUCTION NO. 97:**

28 Each of Blockbuster's General Objections is incorporated here by

1 reference. Blockbuster specifically objects to this request to the extent it seeks
2 documents that are protected by the attorney-client privilege, the attorney work-
3 product doctrine, or any other applicable privilege or immunity and to the extent
4 that it seeks documents that are confidential or proprietary. Blockbuster further
5 specifically objects to this request on the grounds that it is vague, ambiguous,
6 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
7 calculated to lead to the discovery of admissible evidence in this case, and is
8 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
9 The bases for these objections include, without limitation, this request's use of the
10 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," "RELATING TO," and
11 "distribution of movies over the internet."

12 Subject to and without waiving the foregoing objections, Blockbuster
13 will conduct a reasonable and diligent search for non-privileged, non-work-product
14 documents discussing effects of cable TV video-on-demand on Blockbuster
15 Online's profits and revenues and will produce such documents so located that have
16 not already been produced in this case.

17 **REQUEST FOR PRODUCTION NO. 98:**

18 All DOCUMENTS RELATING TO the effect of distribution of
19 movies over the internet on BLOCKBUSTER's profits or revenues derived from
20 BLOCKBUSTERONELINE.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 98:**

22 Each of Blockbuster's General Objections is incorporated here by
23 reference. Blockbuster specifically objects to this request to the extent it seeks
24 documents that are protected by the attorney-client privilege, the attorney work-
25 product doctrine, or any other applicable privilege or immunity and to the extent
26 that it seeks documents that are confidential or proprietary. Blockbuster further
27 specifically objects to this request on the grounds that it is vague, ambiguous,
28 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor

1 calculated to lead to the discovery of admissible evidence in this case, and is
2 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
3 The bases for these objections include, without limitation, this request's use of the
4 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," "RELATING TO," and
5 "distribution of movies over the internet."

6 Subject to and without waiving the foregoing objections, Blockbuster
7 will conduct a reasonable and diligent search for non-privileged, non-work-product
8 documents discussing effects of Internet downloading or streaming of movies on
9 Blockbuster Online's profits or revenues and will produce such documents so
10 located that have not already been produced in this case.

11 **REQUEST FOR PRODUCTION NO. 99:**

12 All DOCUMENTS RELATING TO BLOCKBUSTER's consideration
13 of competitive threats to BLOCKBUSTER's profits or revenues derived from IN-
14 STORE rentals of DVDs.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 99:**

16 Each of Blockbuster's General Objections is incorporated here by
17 reference. Blockbuster specifically objects to this request to the extent it seeks
18 documents that are protected by the attorney-client privilege, the attorney work-
19 product doctrine, or any other applicable privilege or immunity and to the extent
20 that it seeks documents that are confidential or proprietary. Blockbuster further
21 specifically objects to this request on the grounds that it is vague, ambiguous,
22 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
23 calculated to lead to the discovery of admissible evidence in this case, and is
24 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
25 The bases for these objections include, without limitation, this request's use of the
26 terms "BLOCKBUSTER" and "RELATING TO."

27 Subject to and without waiving the foregoing objections, Blockbuster
28 will conduct a reasonable and diligent search for non-privileged, non-work-product

1 documents discussing competitive threats to Blockbuster's profits or revenues from
2 in-store DVD rentals and will produce such documents so located that have not
3 already been produced in this case.

4 **REQUEST FOR PRODUCTION NO. 100:**

5 All DOCUMENTS RELATING TO BLOCKBUSTER's consideration
6 of competitive threats to BLOCKBUSTER's profits or revenues derived from
7 BLOCKBUSTERONLINE.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 100:**

9 Each of Blockbuster's General Objections is incorporated here by
10 reference. Blockbuster specifically objects to this request to the extent it seeks
11 documents that are protected by the attorney-client privilege, the attorney work-
12 product doctrine, or any other applicable privilege or immunity and to the extent
13 that it seeks documents that are confidential or proprietary. Blockbuster further
14 specifically objects to this request on the grounds that it is vague, ambiguous,
15 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
16 calculated to lead to the discovery of admissible evidence in this case, and is
17 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
18 The bases for these objections include, without limitation, this request's use of the
19 terms "BLOCKBUSTER," "BLOCKBUSTERONLINE," and "RELATING TO."

20 Subject to and without waiving the foregoing objections, Blockbuster
21 will conduct a reasonable and diligent search for non-privileged, non-work-product
22 documents discussing competitive threats to Blockbuster Online's profits or
23 revenues and will produce such documents so located that have not already been
24 produced in this case.

25 **REQUEST FOR PRODUCTION NO. 101:**

26 All DOCUMENTS RELATING TO each business transaction, if any,
27 that BLOCKBUSTER contends was not consummated because of this litigation.

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RESPONSE TO REQUEST FOR PRODUCTION NO. 101:

Each of Blockbuster's General Objections is incorporated here by reference. Blockbuster specifically objects to this request to the extent it seeks documents that are protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege or immunity and to the extent that it seeks documents that are confidential or proprietary. Blockbuster further specifically objects to this request on the grounds that it is vague, ambiguous, overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor calculated to lead to the discovery of admissible evidence in this case, and is beyond the scope of discovery permitted by the Federal Rules of Civil Procedure. The bases for these objections include, without limitation, this request's use of the terms "BLOCKBUSTER" and "RELATING TO."

Subject to and without waiving the foregoing objections, Blockbuster will conduct a reasonable and diligent search for non-privileged, non-work-product documents sufficient to reasonably describe each transaction referred to in this request and will produce such documents so located that have not already been produced in this case.

REQUEST FOR PRODUCTION NO. 102:

All DOCUMENTS RELATING TO each business transaction, if any, that BLOCKBUSTER contends was not consummated because of the PATENTS-IN-SUIT.

RESPONSE TO REQUEST FOR PRODUCTION NO. 102:

Each of Blockbuster's General Objections is incorporated here by reference. Blockbuster specifically objects to this request to the extent it seeks documents that are protected by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privilege or immunity and to the extent that it seeks documents that are confidential or proprietary. Blockbuster further specifically objects to this request on the grounds that it is vague, ambiguous,

1 overbroad, unduly burdensome, oppressive, harassing, is not relevant to nor
2 calculated to lead to the discovery of admissible evidence in this case, and is
3 beyond the scope of discovery permitted by the Federal Rules of Civil Procedure.
4 The bases for these objections include, without limitation, this request's use of the
5 terms "BLOCKBUSTER" and "RELATING TO."

6 Subject to and without waiving the foregoing objections, Blockbuster
7 will conduct a reasonable and diligent search for non-privileged, non-work-product
8 documents sufficient to reasonably describe each transaction referred to in this
9 request and will produce such documents so located that have not already been
10 produced in this case.

11 DATED: October 2, 2006

ALSCHULER GROSSMAN STEIN & KAHAN
LLP

12
13
14 By 

15 William J. O'Brien
16 Attorneys for Defendant and Counterclaimant,
17 Blockbuster Inc.

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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Alschuler Grossman Stein & Kahan LLP, The Water Garden, 1620 26th Street, Fourth Floor, North Tower, Santa Monica, California 90404-4060. On October 2, 2006, I served a true copy of the within documents:

BLOCKBUSTER INC.'S RESPONSE TO NETFLIX'S FIRST SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS

- by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
The above transmission was reported as complete and without error. Attached hereto is a copy of the respective transmission report, which was properly issued by the transmitting facsimile machine.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Monica, California, addressed as set forth below.
- by placing the document(s) listed above in a sealed envelope, with the overnight delivery charge prepaid, addressed as set forth below, and deposited in a box or facility regularly maintained by the overnight delivery service carrier, Federal Express.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

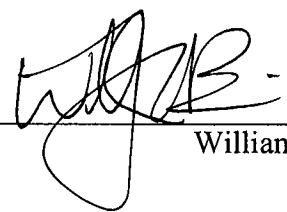
Jeffrey R. Chanin, Esq.	Tel: 415.391.5400
Daralyn J. Durie, Esq.	Fax: 415.397.7188
Keker & Van Nest, LLP	
710 Sansome Street	Attorneys for Plaintiff
San Francisco, CA 94111-1704	Netflix, Inc.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am a member of the bar of this court.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 2, 2006.



William J. O'Brien