

EXHIBIT A

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16 Attorneys for Defendant and Counterclaimant,
 17 Blockbuster Inc.

18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA

20 NETFLIX, INC., a Delaware corporation,

21 Plaintiff,

22 vs.

23 BLOCKBUSTER INC., a Delaware
 24 corporation, DOES 1-50,

25 Defendants.

26 CASE NO. C 06 2361 WHA

27 **BLOCKBUSTER'S FIRST SET
 28 OF REQUESTS FOR
 PRODUCTION TO NETFLIX**

Complaint Filed: April 4, 2006

AND RELATED COUNTER ACTION:

Blockbuster Inc. requests under Rule 34 of the Federal Rules of Civil Procedure that Netflix, Inc., produce each of the following categories of documents and things for inspection and copying at the offices of Alschuler Grossman Stein & Kahan LLP, the Water Garden, 1620 26th Street, Fourth Floor, North Tower, Santa Monica, CA 90404-4060 on August 14, 2006, at 10:00 a.m.

DEFINITIONS

“041 APPLICATION” means U.S. Patent Application Serial Number

1 09/561,041, including any amendments of that application.

2 "727 APPLICATION" means U.S. Patent Application Serial Number
3 10/438,727, including any amendments of that application.

4 "381 PATENT" means United States Patent No. 7,024,381.

5 "450 PATENT" means United States Patent No. 6,584,450.

6 "CLAIMED FEATURE" means any feature recited in any claim of
7 either the '450 PATENT or the '381 PATENT.

8 "COMMUNICATION" means any communication of any kind
9 whatsoever, whether oral, written, telephonic, electronic, or other.

10 "MATERIALS" includes COMMUNICATIONS and means any and
11 all documents and tangible things of any description whatsoever, including, without
12 limitation, all "writings," "recordings," "photographs," "original[s]," and
13 "duplicate[s]" as defined in Rule 1001 of the Federal Rules of Evidence.

14 "NCR PATENT" means (1) any patent that NCR Corporation has ever
15 asserted against NETFLIX, (2) any patent under which NCR Corporation has
16 suggested the possibility of NETFLIX taking a license, and (3) each of the
17 following patents:

18 a. U.S. Patent No. 5,699,526, entitled "Ordering and
19 Downloading Resources from Computerized Repositories," which names as
20 inventor David M. Siefert, issued December 16, 1997, on an application filed
21 August 21, 1996;

22 b. U.S. Patent No. 5,951,643, entitled "Mechanism for
23 Dependably Organizing and Managing Information for Web Synchronization
24 and Tracking Among Multiple Browsers," which names as inventors James
25 A. Shelton, Michael I. Ingrassia, Jr., and Thomas M. Roland, issued
26 September 14, 1999, on an application filed October 6, 1997;

27 c. U.S. Patent No. 5,991,791, entitled "Security Aspects of
28 Computer Resource Repositories," which names as inventor David M.

1 Siefert, issued November 23, 1999, on an application filed January 10, 1997;

2 d. U.S. Patent No. 6,026,403, entitled "Computer System for
3 Management of Resources," which names as inventor David M. Siefert,
4 issued February 15, 2000, on an application filed March 24, 1994;

5 e. U.S. Patent No. 6,169,997, entitled "Method and
6 Apparatus for Forming Subject (Context) Map and Presenting Internet Data
7 According to the Subject Map," which names as inventors Karen A.
8 Papierniak, James E. Thaisz, Luo-Jen Chiang, and Paresh B. Shah, issued
9 January 2, 2001, on an application filed April 29, 1998;

10 f. U.S. Patent No. 6,253,203, entitled "Privacy-Enhanced
11 Database," which names as inventors Kenneth W. O'Flaherty, Richard G.
12 Stellwagen, Jr., Todd A. Walter, Reid M. Watts, David A. Ramsey, Adriaan
13 W. Veldhuisen and Renda K. Ozden, issued June 26, 2001, on an application
14 filed October 2, 1998;

15 g. U.S. Patent No. ,6,480,855, entitled "Managing a
16 Resource on a Network Where Each Resource Has an Associated Profile with
17 an Image," which names as inventor David M. Siefert, issued November 12,
18 2002, on an application filed August 22, 2000;

19 h. U.S. Patent No. 6,502,096, entitled "Computerized Asset
20 Management System," which names as inventor David M. Siefert, issued
21 December 31, 2002, on an application filed August 22, 2000; and

22 i. U.S. Patent No. 6,714,931, entitled "Method and
23 Apparatus for Forming User Sessions and Presenting Internet Data
24 According to the User Sessions," which names as inventors Karen A.
25 Papierniak, James E. Thaisz, Luo-Jen Chiang, Anjali M. Diwekar, issued
26 March 30, 2004, on an application filed April 29, 1998.

27 "NETFLIX" means Netflix, Inc.; all of its predecessors and successors
28 in interest; and all past or present officers, employees, attorneys, and agents of any

1 of them.

2 “PERSON UNDER A DUTY OF CANDOR” means any and all of:

- 3 a. W. Reed Hastings, Neil Duncan Hunt, and Marc B.
4 Randolph;
- 5 b. Christopher J. Palermo and Brian D. Hickman;
- 6 c. All inventors named in the '041 APPLICATION and '727
7 APPLICATION;
- 8 d. All attorneys and agents who prepared or prosecuted the
9 '041 APPLICATION or '727 APPLICATION; and
- 10 e. Every other person who was substantively involved in the
11 preparation or prosecution of the '041 APPLICATION or '727
12 APPLICATION and who was associated with an inventor, with the assignee
13 or with anyone to whom there was an obligation to assign the application.

14 “SUBJECT INVENTION” means any invention disclosed or claimed
15 in the '450 PATENT or the '381 PATENT.

16 “SUBJECT PATENT OR APPLICATION” means any and all of: the
17 '450 PATENT; the '381 PATENT; the '041 APPLICATION and '727
18 APPLICATION; any U.S., foreign, or international patent application claiming
19 priority of the '041 APPLICATION or '727 APPLICATION or of any application
20 from which either of them claims priority; and any U.S., foreign, or international
21 patent application in which Netflix has or had an interest that discloses or claims
22 any features recited in a claim of either or both of the '450 or '381 patents.

23 The words “and” and “or” should be construed disjunctively or
24 conjunctively as necessary to make the request inclusive rather than exclusive.

25 The singular form of a word shall be interpreted to include the plural,
26 and vice versa; and verb tenses shall be interpreted to include past, present and
27 future tenses.

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REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All MATERIALS submitted to or received from the United States Patent and Trademark Office in connection with the '041 APPLICATION or '450 PATENT.

REQUEST FOR PRODUCTION NO. 2:

All MATERIALS submitted to or received from the United States Patent and Trademark Office in connection with the '727 APPLICATION or '381 PATENT.

REQUEST FOR PRODUCTION NO. 3:

All MATERIALS submitted to or received from the United States Patent and Trademark Office or any other patent office or agency in connection with any SUBJECT PATENT OR APPLICATION.

REQUEST FOR PRODUCTION NO. 4:

All files of NETFLIX, including any NETFLIX patent attorney or patent agent, for any SUBJECT PATENT or APPLICATION.

REQUEST FOR PRODUCTION NO. 5:

All MATERIALS constituting, recording, referring to, or evidencing any assertion of, or attempt to license, any SUBJECT APPLICATION OR PATENT.

REQUEST FOR PRODUCTION NO. 6:

All MATERIALS constituting, recording, referring to, or evidencing any reason or justification for not asserting the '450 PATENT before April 4, 2006.

REQUEST FOR PRODUCTION NO. 7:

All MATERIALS asserting, referring to or evidencing infringement or noninfringement of the '450 PATENT or the '381 PATENT.

REQUEST FOR PRODUCTION NO. 8:

All MATERIALS asserting, referring to or evidencing validity or invalidity of the '450 PATENT or the '381 PATENT.

REQUEST FOR PRODUCTION NO. 9:

All MATERIALS asserting, referring to or evidencing the scope of the '450

1 PATENT or the '381 PATENT or any aspect of the construction of any claim of
2 either patent.

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

4 All MATERIALS asserting, referring to or evidencing the scope of any
5 SUBJECT APPLICATION OR PATENT or any aspect of the construction of any
6 claim of any such application or patent.

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

8 All MATERIALS asserting, referring to or evidencing the patentability or
9 unpatentability of any SUBJECT APPLICATION OR PATENT or of any claim of
10 any such application or patent.

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

12 All MATERIALS asserting, referring to or evidencing the patentability or
13 unpatentability of any method performed by NETFLIX or of any related apparatus
14 or computer-readable medium.

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

16 All MATERIALS constituting, recording, referring to, or evidencing
17 COMMUNICATIONS between W. Reed Hastings and Edward Stead concerning
18 any SUBJECT PATENT or APPLICATION.

19 **REQUEST FOR PRODUCTION NO. 14:**

20 All MATERIALS constituting, recording, referring to, or evidencing
21 COMMUNICATIONS between NETFLIX and BLOCKBUSTER concerning any
22 SUBJECT PATENT or APPLICATION.

23 **REQUEST FOR PRODUCTION NO. 15:**

24 All MATERIALS constituting, recording, referring to, or evidencing
25 COMMUNICATIONS concerning any patent rights, patent license, or patent
26 infringement related to Blockbuster Online.

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

28 All MATERIALS constituting, recording, referring to, or evidencing

1 COMMUNICATIONS concerning any patent rights, patent license, or patent
2 infringement related to NETFLIX.

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

4 All MATERIALS constituting, recording, referring to, or evidencing
5 COMMUNICATIONS concerning the '450 PATENT.

6 **REQUEST FOR PRODUCTION NO. 18:**

7 All MATERIALS constituting, recording, referring to, or evidencing
8 COMMUNICATIONS concerning the '381 PATENT.

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

10 All MATERIALS constituting, recording, referring to, or evidencing
11 COMMUNICATIONS concerning the '041 APPLICATION.

12 **REQUEST FOR PRODUCTION NO. 20:**

13 All MATERIALS constituting, recording, referring to, or evidencing
14 COMMUNICATIONS concerning the '727 APPLICATION.

15 **REQUEST FOR PRODUCTION NO. 21:**

16 All MATERIALS filed, served, and produced for inspection by an
17 adverse party in *Netflix, Inc. v. NCR Corporation*, Case No. C 06 1892 in the
18 United States District Court for the Northern District of California, and all
19 transcripts or other records of any discovery or proceedings in that case.

20 **REQUEST FOR PRODUCTION NO. 22:**

21 All MATERIALS constituting, recording, referring to, or evidencing
22 COMMUNICATIONS between the parties in *Netflix, Inc. v. NCR Corporation*,
23 Case No. C 06 1892 in the United States District Court for the Northern District of
24 California, or their respective counsel.

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

26 All MATERIALS constituting, recording, referring to, or evidencing any
27 settlement negotiations concerning *Netflix, Inc. v. NCR Corporation*, Case No. C 06
28 1892 in the United States District Court for the Northern District of California.

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

2 All MATERIALS filed, served, and produced for inspection by an
3 adverse party in *Frank Chavez v. Netflix, Inc.*, San Francisco Superior Court Case
4 No. CGC 04-434884, and any transcripts or other records of any discovery or
5 proceedings in that case.

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

7 All MATERIALS constituting, recording, referring to, or evidencing
8 COMMUNICATIONS between the parties in *Frank Chavez v. Netflix, Inc.*, San
9 Francisco Superior Court Case No. CGC 04-434884, or their respective counsel.

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

11 All MATERIALS constituting, referring to, recording, or evidencing any
12 settlement negotiations concerning *Frank Chavez v. Netflix, Inc.*, San Francisco
13 Superior Court Case No. CGC 04-434884.

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

15 All MATERIALS constituting, recording, referring to, or evidencing any
16 business plans, business description, slides, handouts, or presentations created or
17 used before April 28, 1999, in connection with any effort by NETFLIX to obtain
18 financing.

19 **REQUEST FOR PRODUCTION NO. 28:**

20 All MATERIALS constituting, recording, referring to, or evidencing any
21 business plans, business description, slides, handouts, or presentations created or
22 used before April 28, 1999, in connection with any effort by NETFLIX to sell any
23 interest in its business or company.

24 **REQUEST FOR PRODUCTION NO. 29:**

25 All MATERIALS constituting, recording, referring to, or evidencing any
26 business plans, business description, slides, handouts, or presentations created or
27 used before April 28, 1999, in connection with any effort by NETFLIX to obtain
28 any alliance, partnership, or joint venture.

1 **REQUEST FOR PRODUCTION NO. 30:**

2 All MATERIALS constituting, recording, referring to, or evidencing
3 business plans, business descriptions, slides, handouts, or presentations provided by
4 NETFLIX, before April 28, 1999, to any of the following:

- 5 a. AOL LLC
- 6 b. Best Buy Co., Inc.
- 7 c. Fox Entertainment Group, Inc.
- 8 d. Microsoft Corporation
- 9 e. NBC Universal, Inc.
- 10 f. Paramount Pictures Corporation
- 11 g. Sony Pictures Entertainment Inc.
- 12 h. The Walt Disney Company
- 13 i. Warner Bros. Entertainment Inc.
- 14 j. YAHOO! Inc.

15 **REQUEST FOR PRODUCTION NO. 31:**

16 All MATERIALS received from Wal-Mart, or constituting, recording,
17 referring to, or evidencing any COMMUNICATION with Wal-Mart, concerning
18 any NETFLIX patent or patent application.

19 **REQUEST FOR PRODUCTION NO. 32:**

20 All MATERIALS referring to or evidencing HBO, Showtime, or any
21 subscription cable or satellite television service or pay television service in
22 existence before April 28, 1999, or referring to or evidencing any knowledge
23 thereof by NETFLIX or any PERSON UNDER A DUTY OF CANDOR at any
24 time before April 4, 2006.

25 **REQUEST FOR PRODUCTION NO. 33:**

26 All MATERIALS referring to or evidencing TiVo or referring to or
27 evidencing any knowledge of TiVo by NETFLIX or any PERSON UNDER A
28 DUTY OF CANDOR at any time before April 4, 2006.

1 **REQUEST FOR PRODUCTION NO. 34:**

2 All MATERIALS referring to or evidencing Webvan, Home Grocer.com, or
3 any Internet grocery service in existence before April 28, 1999, or referring to or
4 evidencing any knowledge thereof by NETFLIX or any PERSON UNDER A
5 DUTY OF CANDOR of at any time before April 4, 2006.

6 **REQUEST FOR PRODUCTION NO. 35:**

7 All MATERIALS referring to or evidencing Amazon.com or referring to or
8 evidencing any knowledge of Amazon.com by NETFLIX or any PERSON UNDER
9 A DUTY OF CANDOR at any time before April 4, 2006.

10 **REQUEST FOR PRODUCTION NO. 36:**

11 All MATERIALS referring to or evidencing eBay or referring to or
12 evidencing any knowledge of eBay by NETFLIX or any PERSON UNDER A
13 DUTY OF CANDOR at any time before April 4, 2006.

14 **REQUEST FOR PRODUCTION NO. 37:**

15 All MATERIALS referring to or evidencing any distribution or circulation of
16 videos or films on a subscription basis before April 28, 1999, or referring to or
17 evidencing any knowledge thereof by NETFLIX or any PERSON UNDER A
18 DUTY OF CANDOR at any time before April 4, 2006.

19 **REQUEST FOR PRODUCTION NO. 38:**

20 All MATERIALS referring to or evidencing any distribution or circulation of
21 music or audio on a subscription basis before April 28, 1999, or referring to or
22 evidencing any knowledge thereof by NETFLIX or any PERSON UNDER A
23 DUTY OF CANDOR at any time before April 4, 2006.

24 **REQUEST FOR PRODUCTION NO. 39:**

25 All MATERIALS referring to or evidencing any distribution or circulation of
26 books on a subscription basis before April 28, 1999, or referring to or evidencing
27 any knowledge thereof by NETFLIX or any PERSON UNDER A DUTY OF
28 CANDOR at any time before April 4, 2006.

1 **REQUEST FOR PRODUCTION NO. 40:**

2 All MATERIALS referring to or evidencing any use of waiting or
3 reservation lists for video rental before April 28, 1999, or referring to or evidencing
4 any knowledge thereof by NETFLIX or any PERSON UNDER A DUTY OF
5 CANDOR at any time before April 4, 2006.

6 **REQUEST FOR PRODUCTION NO. 41:**

7 MATERIALS sufficient to fully describe any digital display, selection, and
8 ordering of items over the Internet before April 28, 1999, that was known to
9 NETFLIX or any PERSON UNDER A DUTY OF CANDOR at any time before
10 April 4, 2006.

11 **REQUEST FOR PRODUCTION NO. 42:**

12 All MATERIALS referring to or constituting United States Patent No.
13 5,459,306, issued on October 17, 1995, entitled "Method and System for Delivering
14 On Demand, Individually Targeted Promotions."

15 **REQUEST FOR PRODUCTION NO. 43:**

16 All MATERIALS constituting, recording, referring to, or evidencing
17 submission of any prior art reference or other information to the United States
18 Patent and Trademark Office in connection with the '041 APPLICATION or '450
19 PATENT.

20 **REQUEST FOR PRODUCTION NO. 44:**

21 All MATERIALS constituting, recording, referring to, or evidencing
22 submission of any prior art reference or other information to the United States
23 Patent and Trademark Office in connection with the '727 APPLICATION or '381
24 PATENT.

25 **REQUEST FOR PRODUCTION NO. 45:**

26 All MATERIALS recording, referring to, or evidencing of how or when
27 NETFLIX or any PERSON UNDER A DUTY OF CANDOR obtained or became
28 aware of any prior art reference or other information submitted to the United States

1 Patent and Trademark Office in connection with the '727 APPLICATION or '381
2 PATENT.

3 **REQUEST FOR PRODUCTION NO. 46:**

4 All MATERIALS constituting, recording, referring to, or evidencing
5 submission of any prior art reference or other information to the United States
6 Patent and Trademark Office or any other patent office or agency in connection
7 with any SUBJECT APPLICATION OR PATENT.

8 **REQUEST FOR PRODUCTION NO. 47:**

9 All MATERIALS constituting, recording, referring to, or evidencing any
10 failure or omission to submit any prior art reference or other information to the
11 United States Patent and Trademark Office in connection with the '041
12 APPLICATION or '450 PATENT.

13 **REQUEST FOR PRODUCTION NO. 48:**

14 All MATERIALS constituting, recording, referring to, or evidencing any
15 failure or omission to submit any prior art reference or other information to the
16 United States Patent and Trademark Office in connection with the '727
17 APPLICATION or '381 PATENT.

18 **REQUEST FOR PRODUCTION NO. 49:**

19 All MATERIALS constituting, recording, referring to, or evidencing any
20 failure or omission to submit any prior art reference or other information to the
21 United States Patent and Trademark Office or any other patent office or agency in
22 connection with any SUBJECT APPLICATION OR PATENT.

23 **REQUEST FOR PRODUCTION NO. 50:**

24 All MATERIALS constituting, recording, referring to, or evidencing any
25 reason or justification for submitting or not submitting any prior art reference or
26 other information to the United States Patent and Trademark Office in connection
27 with the '041 APPLICATION or '450 PATENT.

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1 **REQUEST FOR PRODUCTION NO. 51:**

2 All MATERIALS constituting, recording, referring to, or evidencing any
3 reason or justification for submitting or not submitting any prior art reference or
4 other information to the United States Patent and Trademark Office in connection
5 with the '727 APPLICATION or '381 PATENT.

6 **REQUEST FOR PRODUCTION NO. 52:**

7 All MATERIALS constituting, recording, referring to, or evidencing any
8 reason or justification for submitting or not submitting any prior art reference or
9 other information to the United States Patent and Trademark Office or any other
10 patent office or agency in connection with any SUBJECT APPLICATION OR
11 PATENT.

12 **REQUEST FOR PRODUCTION NO. 53:**

13 All MATERIALS asserting, recording, referring to, or evidencing any failure
14 or omission by NETFLIX to submit any prior art reference or other information to
15 the United States Patent and Trademark Office or any other patent office or agency.

16 **REQUEST FOR PRODUCTION NO. 54:**

17 All MATERIALS asserting, recording, referring to, or evidencing any failure
18 or omission by NETFLIX or any PERSON UNDER A DUTY OF CANDOR to
19 submit any prior art reference or other information to the United States Patent and
20 Trademark Office or any other patent office or agency.

21 **REQUEST FOR PRODUCTION NO. 55:**

22 All MATERIALS constituting, recording, referring to, or evidencing
23 any use, description or disclosure, prior to April 28, 1999, of any computer-
24 implemented rental of movies to a customer.

25 **REQUEST FOR PRODUCTION NO. 56:**

26 MATERIALS sufficient to fully describe any use, practice, description, or
27 disclosure, prior to April 28, 1999, of any computer-implemented rental of movies
28 to customers.

1 **REQUEST FOR PRODUCTION NO. 57:**

2 MATERIALS sufficient to fully describe any use, practice, description, or
3 disclosure, prior to April 28, 1999, of providing electronic digital information that
4 caused one of more attributes of movies to be displayed.

5 **REQUEST FOR PRODUCTION NO. 58:**

6 All MATERIALS constituting, recording, referring to, or evidencing any use,
7 practice, description, or disclosure, prior to April 28, 1999, of a movie rental queue.

8 **REQUEST FOR PRODUCTION NO. 59:**

9 All MATERIALS constituting, recording, referring to, or evidencing any use,
10 practice, description, or disclosure, prior to April 28, 1999, of a movie rental queue
11 associated with a customer.

12 **REQUEST FOR PRODUCTION NO. 60:**

13 All MATERIALS constituting, recording, referring to, or evidencing any use,
14 practice, description, or disclosure, prior to April 28, 1999, of a movie rental queue
15 comprising an ordered list.

16 **REQUEST FOR PRODUCTION NO. 61:**

17 All MATERIALS constituting, recording, referring to, or evidencing any use,
18 practice, description, or disclosure, prior to April 28, 1999, of a movie rental queue
19 in electronic digital form.

20 **REQUEST FOR PRODUCTION NO. 62:**

21 All MATERIALS constituting, recording, referring to, or evidencing any use,
22 practice, description, or disclosure, prior to April 28, 1999, of a movie rental queue
23 established from electronic digital information received over the Internet.

24 **REQUEST FOR PRODUCTION NO. 63:**

25 All MATERIALS constituting, recording, referring to, or evidencing any use,
26 practice, description, or disclosure, prior to April 28, 1999, of causing delivery to a
27 customer of up to a certain number of movies based on the order of a list.

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1 **REQUEST FOR PRODUCTION NO. 64:**

2 All MATERIALS constituting, recording, referring to, or evidencing any use,
3 practice, description, or disclosure, prior to April 28, 1999, of movie rental in which
4 a customer was not required to return movies within a specified time associated
5 with delivery.

6 **REQUEST FOR PRODUCTION NO. 65:**

7 All MATERIALS constituting, recording, referring to, or evidencing any use,
8 practice, description, or disclosure, prior to April 28, 1999, of, in response to one or
9 more delivery criteria being satisfied, selecting a movie based on the order of a list
10 and causing it to be delivered.

11 **REQUEST FOR PRODUCTION NO. 66:**

12 All MATERIALS constituting, recording, referring to, or evidencing any use,
13 practice, description, or disclosure, prior to April 28, 1999, of, in response to
14 electronic digital information received from the customer over the Internet,
15 electronically updating a movie rental queue.

16 **REQUEST FOR PRODUCTION NO. 67:**

17 MATERIALS sufficient to fully describe any use, practice, description, or
18 disclosure, prior to April 28, 1999, of a rental agreement that provided for a
19 periodic fee.

20 **REQUEST FOR PRODUCTION NO. 68:**

21 MATERIALS sufficient to fully describe any use, practice, description, or
22 disclosure, prior to April 28, 1999, of establishing a rental agreement over the
23 Internet.

24 **REQUEST FOR PRODUCTION NO. 69:**

25 All MATERIALS constituting, recording, referring to, or evidencing any use,
26 practice, description, or disclosure, prior to April 28, 1999, of shipping a movie
27 only if a fee was current.

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1 **REQUEST FOR PRODUCTION NO. 70:**

2 MATERIALS sufficient to fully describe any use, practice, description, or
3 disclosure, prior to April 28, 1999, of any computer system for renting movies.

4 **REQUEST FOR PRODUCTION NO. 71:**

5 MATERIALS sufficient to fully describe any use, practice, description, or
6 disclosure, prior to April 28, 1999, of renting movies using a computer coupled to a
7 digital telecommunications network.

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

9 MATERIALS sufficient to fully describe any use, practice, description, or
10 disclosure, prior to April 28, 1999, of renting movies using a computer coupled to a
11 digital telecommunications network.

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

13 MATERIALS sufficient to fully describe any use, practice, description, or
14 disclosure, prior to April 28, 1999, of renting movies using a computer with
15 electronic digital memory.

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

17 MATERIALS sufficient to fully describe any use, practice, description, or
18 disclosure, prior to April 28, 1999, of renting movies using a computer with
19 programs stored in memory causing the computer to perform steps.

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

21 All MATERIALS constituting, recording, referring to, or evidencing any use,
22 practice, description, or disclosure, prior to April 28, 1999, of updating a movie
23 rental queue by changing the order of two or more movies for rental to a customer.

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

25 All MATERIALS constituting, recording, referring to, or evidencing any use,
26 practice, description, or disclosure, prior to April 28, 1999, of updating a movie
27 rental queue by indicating an additional movie in an ordered list.

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

2 All MATERIALS constituting, recording, referring to, or evidencing any use,
3 practice, description, or disclosure, prior to April 28, 1999, of updating a movie
4 rental queue by removing an indication of one or more movies from the ordered list.

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

6 MATERIALS sufficient to fully describe any use, practice, description, or
7 disclosure, prior to April 28, 1999, of any computer-implemented method in which
8 two or more movies for renting to a customer are selected by a customer.

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

10 All MATERIALS constituting, recording, referring to, or evidencing any use,
11 practice, description, or disclosure, prior to April 28, 1999, of determining the order
12 of two or more movies based upon one or more preferences of a customer.

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

14 MATERIALS sufficient to fully describe any use, practice, description, or
15 disclosure, prior to April 28, 1999, of any delivery of a selected movie by mail.

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

17 MATERIALS sufficient to fully describe any use, practice, description, or
18 disclosure, prior to April 28, 1999, of any delivery of a selected movie by mail on
19 one or more optical media.

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

21 All MATERIALS constituting, recording, referring to, or evidencing any use,
22 practice, description, or disclosure, prior to April 28, 1999, of, in response to receipt
23 of a movie by mail, selecting another movie and causing it to be delivered to a
24 customer.

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

26 All MATERIALS constituting, recording, referring to, or evidencing any use,
27 practice, description, or disclosure, prior to April 28, 1999, of any computer-
28 implemented rental of movies in which the number of movies delivered to the

1 customer and not yet returned did not exceed a specified number.

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

3 All MATERIALS constituting, recording, referring to, or evidencing any use,
4 practice, description, or disclosure, prior to April 28, 1999, of electronically
5 updating a movie rental queue response to electronic digital information indicating
6 that delivery criteria were satisfied.

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

8 All MATERIALS constituting, recording, referring to, or evidencing any use,
9 practice, description, or disclosure, prior to April 28, 1999, of electronically
10 updating a movie rental queue in response to electronic digital information
11 comprising selection criteria.

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

13 MATERIALS sufficient to fully describe any use, practice, description, or
14 disclosure, prior to April 28, 1999, of rental of any of motion pictures, television
15 series, documentaries, cartoons, music videos, video recordings of concert
16 performances, instructional programs, or educational programs.

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

18 MATERIALS sufficient to fully describe any use, practice, description, or
19 disclosure, prior to April 28, 1999, of receiving one or more item selection criteria
20 that indicated one or more items a customer desired to rent.

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

22 MATERIALS sufficient to fully describe any use, practice, description, or
23 disclosure, prior to April 28, 1999, of providing a customer up to a specified
24 number of items indicated by one or more selection criteria.

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

26 MATERIALS sufficient to fully describe any use, practice, description, or
27 disclosure, prior to April 28, 1999, of, in response to receiving one or more items
28 provided to a customer, providing the customer one or more other items indicated

1 by one or more item selection criteria.

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

3 All MATERIALS constituting, recording, referring to, or evidencing any use,
4 practice, description, or disclosure, prior to April 28, 1999, of any rental of items to
5 a customer in which the total current number of items provided to the customer did
6 not exceed a specified number.

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

8 All MATERIALS constituting, recording, referring to, or evidencing any use,
9 practice, description, or disclosure, prior to April 28, 1999, of any rental of items to
10 a customer in which the total current number of items provided to the customer did
11 not exceed a specified limit.

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

13 MATERIALS sufficient to fully describe any use, practice, description, or
14 disclosure, prior to April 28, 1999, of renting movies.

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

16 MATERIALS sufficient to fully describe any use, practice, description, or
17 disclosure, prior to April 28, 1999, of a computer-readable medium for renting
18 items to customers.

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

20 MATERIALS sufficient to fully describe any use, practice, description, or
21 disclosure, prior to April 28, 1999, of a computer-readable medium for renting
22 items to customers that carried one or more sequences of instructions.

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

24 MATERIALS sufficient to fully describe any use, practice, description, or
25 disclosure, prior to April 28, 1999, of instructions that, when executed by one or
26 more processors, caused one or more of them to perform steps for renting items to
27 customers.

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

2 MATERIALS sufficient to fully describe any use, practice, description, or
3 disclosure, prior to April 28, 1999, of an apparatus for renting items to customers,
4 the apparatus including one or more processors.

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

6 MATERIALS sufficient to fully describe any use, practice, description, or
7 disclosure, prior to April 28, 1999, of an apparatus for renting items to customers,
8 the apparatus including a memory communicatively coupled to the one or more
9 processors, the memory including one or more sequences of one or more
10 instructions which, when executed by the one or more processors, caused the one or
11 more processors to perform steps.

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

13 MATERIALS sufficient to fully describe any use, practice, description, or
14 disclosure, prior to April 28, 1999, of an apparatus for renting items to customers
15 comprising an item rental mechanism configured to perform steps.

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

17 All MATERIALS constituting, recording, referring to, or evidencing any use,
18 practice, description, or disclosure, prior to April 28, 1999, of any rental of items to
19 customers in which a total number of items provided to the customer within a
20 specified period of time did not exceed a specified limit.

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

22 All MATERIALS constituting, recording, referring to, or evidencing any use,
23 practice, description, or disclosure, prior to April 28, 1999, of any rental of items to
24 customers in which a total number of items provided to the customer within a
25 specified period of time did not exceed a specified number.

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

27 All MATERIALS constituting, recording, referring to, or evidencing any use,
28 practice, description, or disclosure, prior to April 28, 1999, of any rental of items to

1 customers in which if the total number of items provided to the customer within a
2 specified period of time was less than a specified limit, there was an increase in the
3 specified limit for another period of time.

4 **REQUEST FOR PRODUCTION NO. 102:**

5 All MATERIALS constituting, recording, referring to, or evidencing any use,
6 practice, description, or disclosure, prior to April 28, 1999, of item selection criteria
7 that indicated a desired order for items that a customer desired to rent.

8 **REQUEST FOR PRODUCTION NO. 103:**

9 All MATERIALS constituting, recording, referring to, or evidencing any use,
10 practice, description, or disclosure, prior to April 28, 1999, of providing to a
11 customer up to a specified number of items indicated by item selection criteria in
12 the desired order indicated by the item selection criteria.

13 **REQUEST FOR PRODUCTION NO. 104:**

14 All MATERIALS constituting, recording, referring to, or evidencing any use,
15 practice, description, or disclosure, prior to April 28, 1999, of providing to a
16 customer one or more items indicated by item selection criteria in the desired order
17 indicated by the item selection criteria.

18 **REQUEST FOR PRODUCTION NO. 105:**

19 All MATERIALS constituting, recording, referring to, or evidencing any use,
20 practice, description, or disclosure, prior to April 28, 1999, of item selection criteria
21 specifying one or more preferred item attributes.

22 **REQUEST FOR PRODUCTION NO. 106:**

23 All MATERIALS constituting, recording, referring to, or evidencing any use,
24 practice, description, or disclosure, prior to April 28, 1999, of automatically
25 selecting and providing a customer up to a specified number of items that had one
26 or more preferred item attributes specified by item selection criteria.

27 **REQUEST FOR PRODUCTION NO. 107:**

28 All MATERIALS constituting, recording, referring to, or evidencing any use,

1 practice, description, or disclosure, prior to April 28, 1999, of, after providing a
2 customer with up to a specified number of items, automatically selecting and
3 providing to the customer one or more other items that had one or more preferred
4 item attributes specified by item selection criteria.

5 **REQUEST FOR PRODUCTION NO. 108:**

6 All MATERIALS constituting, recording, referring to, or evidencing any use,
7 practice, description, or disclosure, prior to April 28, 1999, of any item rental
8 queue.

9 **REQUEST FOR PRODUCTION NO. 109:**

10 All MATERIALS constituting, recording, referring to, or evidencing any use,
11 practice, description, or disclosure, prior to April 28, 1999, of any item rental queue
12 for a customer.

13 **REQUEST FOR PRODUCTION NO. 110:**

14 All MATERIALS constituting, recording, referring to, or evidencing any use,
15 practice, description, or disclosure, prior to April 28, 1999, of an item rental queue
16 that contained one or more entries that specify items that a customer desired to rent.

17 **REQUEST FOR PRODUCTION NO. 111:**

18 All MATERIALS constituting, recording, referring to, or evidencing any use,
19 practice, description, or disclosure, prior to April 28, 1999, of, in response to
20 receiving back any item provided to a customer, selecting one or more other items
21 from an item rental queue.

22 **REQUEST FOR PRODUCTION NO. 112:**

23 All MATERIALS constituting, recording, referring to, or evidencing any use,
24 practice, description, or disclosure, prior to April 28, 1999, of establishing an item
25 rental queue based on one or more item selection criteria.

26 **REQUEST FOR PRODUCTION NO. 113:**

27 All MATERIALS constituting, recording, referring to, or evidencing any use,
28 practice, description, or disclosure, prior to April 28, 1999, of, in response to

1 receiving a customer notification, providing the customer a second set of one or
2 more items indicated by item selection criteria.

3 **REQUEST FOR PRODUCTION NO. 114:**

4 All MATERIALS constituting, recording, referring to, or evidencing any use,
5 practice, description, or disclosure, prior to April 28, 1999, of, in response to
6 expiration of a specified amount of time, providing a customer a second set of one
7 or more items indicated by item selection criteria.

8 **REQUEST FOR PRODUCTION NO. 115:**

9 All MATERIALS constituting, recording, referring to, or evidencing any use,
10 practice, description, or disclosure, prior to April 28, 1999, of, in response to a
11 specified date being reached, providing a customer a second set of one or more
12 items indicated by item selection criteria.

13 **REQUEST FOR PRODUCTION NO. 116:**

14 All MATERIALS constituting, recording, referring to, or evidencing any use,
15 practice, description, or disclosure, prior to April 28, 1999, of, in response to a
16 specified fee being received, providing a customer a second set of one or more
17 items indicated by item selection criteria.

18 **REQUEST FOR PRODUCTION NO. 117:**

19 MATERIALS sufficient to fully describe any use, practice, description, or
20 disclosure, prior to April 28, 1999, of providing rental items to a customer by mail.

21 **REQUEST FOR PRODUCTION NO. 118:**

22 MATERIALS sufficient to fully describe any use, practice, description, or
23 disclosure, prior to April 28, 1999, of providing rental items to a customer by a
24 delivery agent.

25 **REQUEST FOR PRODUCTION NO. 119:**

26 MATERIALS sufficient to fully describe any use, practice, description, or
27 disclosure, prior to April 28, 1999, of renting movies.

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1 **REQUEST FOR PRODUCTION NO. 120:**

2 MATERIALS sufficient to fully describe any use, practice, description, or
3 disclosure, prior to April 28, 1999, of renting games.

4 **REQUEST FOR PRODUCTION NO. 121:**

5 All MATERIALS referring to or evidencing any use, practice, description or
6 disclosure of any SUBJECT INVENTION or CLAIMED FEATURE at any time
7 before April 28, 1999, or referring to or evidencing any knowledge thereof by
8 NETFLIX or any PERSON UNDER A DUTY OF CANDOR at any time before
9 April 4, 2006.

10 **REQUEST FOR PRODUCTION NO. 122:**

11 All MATERIALS in existence before April 28, 1999, that describe, refer to
12 or evidence any SUBJECT INVENTION or CLAIMED FEATURE.

13 **REQUEST FOR PRODUCTION NO. 123:**

14 MATERIALS sufficient to fully describe all rental methods used or practiced
15 by NETFLIX at any time before April 28, 1999.

16 **REQUEST FOR PRODUCTION NO. 124:**

17 MATERIALS sufficient to fully describe all rental methods used or practiced
18 by NETFLIX at any time before April 28, 2000.

19 **REQUEST FOR PRODUCTION NO. 125:**

20 MATERIALS sufficient to fully describe all rental methods used or practiced
21 by NETFLIX at any time as of April 28, 2000.

22 **REQUEST FOR PRODUCTION NO. 126:**

23 MATERIALS sufficient to fully describe all rental methods used or practiced
24 by NETFLIX at any time before May 14, 2003.

25 **REQUEST FOR PRODUCTION NO. 127:**

26 MATERIALS sufficient to fully describe all rental methods used or practiced
27 by NETFLIX at any time as of May 14, 2003.

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1 **REQUEST FOR PRODUCTION NO. 128:**

2 All MATERIALS asserting, evidencing, reflecting, or referring to any use by
3 NETFLIX of any practice known as "throttling" on or before April 28, 2000.

4 **REQUEST FOR PRODUCTION NO. 129:**

5 All MATERIALS asserting, evidencing, reflecting, or referring to any use by
6 NETFLIX of any practice known as "throttling" on or before May 14, 2003.

7 **REQUEST FOR PRODUCTION NO. 130:**

8 All MATERIALS asserting, evidencing, reflecting, or referring to any
9 preferential sorting or handling of NETFLIX mail.

10 **REQUEST FOR PRODUCTION NO. 131:**

11 All MATERIALS evidencing, reflecting, or referring to any
12 COMMUNICATIONS between NETFLIX and any employee of the United States
13 Postal Service concerning any preferential sorting or handling of NETFLIX mail.

14 **REQUEST FOR PRODUCTION NO. 132:**

15 All MATERIALS evidencing, reflecting, or referring to any
16 COMMUNICATIONS between William J. Henderson and the United States Postal
17 Service concerning NETFLIX.

18 **REQUEST FOR PRODUCTION NO. 133:**

19 All of the following MATERIALS referred to on Page 4 of Netflix's June 26,
20 2006 Initial Disclosures Under Rule 26 of the Federal Rules of Civil Procedure:

- 21 1. Documents publicly available at the Internet addresses
22 <http://netflix.com> and <http://blockbuster.com>.
- 23 2. U.S. Patents 6,584,450 and 7,024,381 and their prosecution
24 histories.
- 25 3. Documents relating to the conception of the invention described
26 in the abovementioned patents.
- 27 4. Documents and/or references cited in each of the above-
28 mentioned patents.

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5. Documents relating to the reduction to practice of the invention described in the above-mentioned patents.

6. Documents relating to industry recognition of the invention described in the abovementioned patents.

7. Documents relating to competitive information and analyses about Blockbuster.

8. Documents relating to Netflix's financial information.

9. Documents relating to Netflix's practice of the invention described in the abovementioned patents.

10. Documents relating to Blockbuster's conception of the Blockbuster Online service.

11. Documents relating to Blockbuster's competitive information and analyses about Netflix.

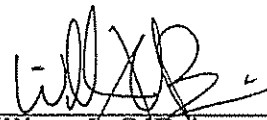
12. Documents relating to Blockbuster's financial information.

REQUEST FOR PRODUCTION NO. 134:

All MATERIALS identified in the disclosure statement to be provided by NETFLIX by July 28, 2006, in accordance with Paragraph 1 of the Court's Case Management Order of June 30, 2006.

DATED: July 11, 2006

ALSCHULER GROSSMAN STEIN & KAHAN LLP

By 

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

