

EXHIBIT E 1

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6 NETFLIX, INC.

7 UNITED STATES DISTRICT COURT
8 NORTHERN DISTRICT OF CALIFORNIA
9

10 NETFLIX, INC., a Delaware corporation,
11 Plaintiff,

12 v.

13 BLOCKBUSTER, INC., a Delaware
corporation, DOES 1-50,
14 Defendant.
15

Case No. C 06 2361 WHA

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

Complaint filed: April 4, 2006

16 PROPOUNDING PARTY: DEFENDANT BLOCKBUSTER, INC.
17 RESPONDING PARTY: PLAINTIFF NETFLIX, INC.
18 SET NO.: ONE
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1 Pursuant to Federal Rule of Civil Procedure 34, Plaintiff and Counterclaim Defendant
2 Netflix, Inc. ("Netflix") responds to Defendant and Counterclaimant Blockbuster, Inc.
3 ("Blockbuster")'s First Set of Requests for Production of Documents to Netflix as follows:

4 **GENERAL OBJECTIONS**

5 1. Netflix objects to each instruction, definition, or Request that attempts to impose
6 any requirement or discovery obligation greater than or different from those imposed by the
7 Federal Rules of Civil Procedure or any applicable Local Rules or Orders of the Court. Netflix
8 will not comply with any attempt to impose obligations not required by the above provisions.

9 2. Netflix objects to every document Request that seeks information protected by the
10 attorney-client privilege, the work-product doctrine, or any other applicable protection from
11 disclosure. Any inadvertent disclosure of such information shall not constitute a waiver of any
12 applicable protection from disclosure.

13 3. Netflix objects to every document Request to the extent that they seek
14 confidential or proprietary information. Netflix will produce confidential or proprietary
15 information only subject to an appropriate protective order and the applicable Rules of this
16 Court, and/or any agreement between the parties.

17 4. Netflix objects to every document Request to the extent that they seek information
18 with respect to which Netflix is under a duty of confidentiality to a third party.

19 5. An agreement by Netflix to search for and produce responsive documents does
20 not mean that such documents exist. Such a response means that Netflix will produce responsive
21 documents that it can locate with reasonable diligence and that are not otherwise protected from
22 disclosure.

23 6. Netflix expressly reserves the right to amend, supplement, or correct these
24 responses.

25 7. Netflix reserves the right to use or introduce, for any hearing or trial, information
26 or documents not known to exist at this time, including information obtained through discovery
27 in this litigation.

28 8. Netflix objects to the demand in the Requests that the documents called for

1 produced on August 14, 2006 at 10:00 a.m. Netflix will instead produce documents at a
2 mutually convenient time and place.

3 9. Netflix incorporates these General Objections into each specific response below.
4 A specific response may restate an objection for emphasis or some other reason. The failure to
5 restate any General Objection in a specific response shall not constitute a waiver of the objection.

6 **RESPONSES TO REQUESTS FOR PRODUCTION**

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

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

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

11 Netflix objects to this Request to the extent that it calls for information protected by the
12 attorney-client privilege or the work product doctrine.

13 Subject to and without waiving the foregoing objection, Netflix will produce all non-
14 privileged, responsive documents so described that are locatable after a diligent search of all
15 locations at which such materials might plausibly exist.

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

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

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

20 Netflix objects to this Request to the extent that it calls for information protected by the
21 attorney-client privilege or the work product doctrine.

22 Subject to and without waiving the foregoing objection, Netflix will produce all non-
23 privileged, responsive documents so described that are locatable after a diligent search of all
24 locations at which such materials might plausibly exist.

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

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

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

2 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
3 and/or applications other than the patents-in-suit, because such patents/applications have no
4 relevance to any issue in this case. Netflix further objects to producing documents relating to its
5 patent applications that have not either been issued or been published on the grounds that the
6 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
7 information regarding Netflix's future business plans, and should not be produced to a company
8 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix
9 further objects to Blockbuster's Request that it produce documents relating to prosecution of
10 patents before patent offices or agencies other than the United States Patent and Trademark
11 Office. The prosecution of patents that are not only not asserted in this case, but cannot be
12 asserted here because they are being prosecuted and will be issued in a foreign country, is in no
13 way relevant to any of the issues presented in this case.

14 Netflix objects to this Request as overly broad and unduly burdensome, seeking material
15 that is irrelevant to the subject matter of this action and is not reasonably calculated to lead to the
16 discovery of admissible evidence. Netflix also objects to this Request to the extent that it calls
17 for information protected by the attorney-client privilege or the work product doctrine. Further,
18 Netflix objects to the extent that this Request duplicates prior Requests.

19 Subject to and without waiving the foregoing objections, Netflix will produce all non-
20 privileged, responsive documents so described and related to the '381 and '450 patents that are
21 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

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

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

26 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
27 and/or applications other than the patents-in-suit, because such patents/applications have no
28 relevance to any issue in this case. Netflix further objects to producing documents relating to its

1 patent applications that have not either been issued or been published on the grounds that the
2 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
3 information regarding Netflix's future business plans, and should not be produced to a company
4 that is seeking directly to compete with Netflix in the market, such as Blockbuster.

5 Netflix also objects to this Request to the extent that it calls for information protected by
6 the attorney-client privilege or the work product doctrine. Further, Netflix objects to the extent
7 that this Request duplicates prior Requests.

8 Subject to and without waiving the foregoing objections, Netflix will produce all non-
9 privileged, responsive documents so described and related to the '381 and '450 patents that are
10 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

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

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

15 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
16 and/or applications other than the patents-in-suit, because such patents/applications have no
17 relevance to any issue in this case. Netflix further objects to producing documents relating to its
18 patent applications that have not either been issued or been published on the grounds that the
19 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
20 information regarding Netflix's future business plans, and should not be produced to a company
21 that is seeking directly to compete with Netflix in the market, such as Blockbuster.

22 Netflix objects to this Request as overly broad and unduly burdensome, seeking material
23 that is irrelevant to the subject matter of this action and is not reasonably calculated to lead to the
24 discovery of admissible evidence. Netflix also objects to this Request to the extent that it calls
25 for information protected by the attorney-client privilege or the work product doctrine. Further,
26 Netflix objects to the extent that this Request duplicates prior Requests.

27 Subject to and without waiving the foregoing objections, Netflix will produce all non-
28 privileged, responsive documents so described and related to the '381 and '450 patents that are

1 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

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

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

6 Netflix objects to this Request to the extent that it calls for information protected by the
7 attorney-client privilege or the work product doctrine.

8 Subject to and without waiving the foregoing objection, Netflix will produce all non-
9 privileged, responsive documents so described that are locatable after a diligent search of all
10 locations at which such materials might plausibly exist.

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

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

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

15 Netflix objects to this Request to the extent that it calls for information protected by the
16 attorney-client privilege or the work product doctrine. Netflix further objects as the demand for
17 materials "evidencing infringement or noninfringement" is vague, ambiguous, and calls for a
18 legal conclusion.

19 Subject to and without waiving the foregoing objection, Netflix will produce all non-
20 privileged, responsive documents so described that are locatable after a diligent search of all
21 locations at which such materials might plausibly exist.

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

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

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

26 Netflix objects to this Request to the extent that it calls for information protected by the
27 attorney-client privilege or the work product doctrine. Netflix further objects as the demand for
28 materials "evidencing validity or invalidity" is vague, ambiguous, and calls for a legal

1 conclusion.

2 Subject to and without waiving the foregoing objection, Netflix will produce all non-
3 privileged, responsive documents so described that are locatable after a diligent search of all
4 locations at which such materials might plausibly exist.

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

6 All MATERIALS asserting, referring to or evidencing the scope of the '450 PATENT or
7 the '381 PATENT or any aspect of the construction of any claim of either patent.

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

9 Netflix objects to this Request to the extent that it calls for information protected by the
10 attorney-client privilege or the work product doctrine. Netflix further objects to this Request as
11 vague and ambiguous with regard to "scope", and understands the term to refer to construction of
12 claims. To the extent that Blockbuster demands Netflix produce materials that would evidence
13 Netflix's construction of a claim, Netflix objects to the Request as premature in that it seeks to
14 impose upon Netflix a duty to come forward with a claim construction well prior to the date
15 provided for in the Court's Case Management Order and the Local Rules of this Court, and
16 objects to the Request as well as calling for a legal conclusion.

17 Subject to and without waiving the foregoing objections, Netflix will produce all non-
18 privileged, responsive documents so described that are locatable after a diligent search of all
19 locations at which such materials might plausibly exist.

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

21 All MATERIALS asserting, referring to or evidencing the scope of any SUBJECT
22 APPLICATION OR PATENT or any aspect of the construction of any claim of any such
23 application or patent.

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

25 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
26 and/or applications other than the patents-in-suit, because such patents/applications have no
27 relevance to any issue in this case. Netflix further objects to producing documents relating to its
28 patent applications that have not either been issued or been published on the grounds that the

1 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
2 information regarding Netflix's future business plans, and should not be produced to a company
3 that is seeking directly to compete with Netflix in the market, such as Blockbuster.

4 Netflix also objects to this Request to the extent that it calls for information protected by
5 the attorney-client privilege or the work product doctrine. Netflix further objects to this Request
6 as vague and ambiguous with regard to "scope", and understands the term to refer to construction
7 of claims. To the extent that Blockbuster demands Netflix produce materials that would
8 evidence Netflix's construction of a claim, Netflix objects to the Request as premature in that it
9 seeks to impose upon Netflix a duty to come forward with a claim construction well prior to the
10 date provided for in the Court's Case Management Order and the Local Rules of this Court, and
11 objects to the Request as well as calling for a legal conclusion. Netflix objects to the extent that
12 this Request duplicates prior Requests.

13 Subject to and without waiving the foregoing objections, Netflix will produce all non-
14 privileged, responsive documents so described and related to the '381 and '450 patents that are
15 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

17 All MATERIALS asserting, referring to or evidencing the patentability or unpatentability
18 of any SUBJECT APPLICATION OR PATENT or of any claim of any such application or
19 patent.

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

21 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
22 and/or applications other than the patents-in-suit, because such patents/applications have no
23 relevance to any issue in this case. Netflix further objects to producing documents relating to its
24 patent applications that have not either been issued or been published on the grounds that the
25 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
26 information regarding Netflix's future business plans, and should not be produced to a company
27 that is seeking directly to compete with Netflix in the market, such as Blockbuster.

28 Netflix objects to this Request to the extent that it calls for information protected by the

1 attorney-client privilege or the work product doctrine. Further, Netflix objects to the extent that
2 this Request duplicates prior Requests. Netflix further objects as the demand for materials
3 “evidencing patentability or unpatentability” is vague, ambiguous, and calls for a legal
4 conclusion.

5 Subject to and without waiving the foregoing objections, Netflix will produce all non-
6 privileged, responsive documents so described and related to the ‘381 and ‘450 patents that are
7 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

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

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

13 Netflix objects to this Request to the extent that it calls for information protected by the
14 attorney-client privilege or the work product doctrine. Netflix further objects to this Request as
15 the phrases “any method performed” or “any related apparatus or computer-readable medium” is
16 vague and ambiguous. Netflix further objects as the demand for materials “evidencing the
17 patentability or unpatentability” is vague, ambiguous, and calls for a legal conclusion.

18 Netflix also objects to this Request as overly broad and unduly burdensome, seeking
19 material that is irrelevant to the subject matter of this action and is not reasonably calculated to
20 lead to the discovery of admissible evidence. To the extent this Request seeks material relevant
21 to the subject matter of this action, Netflix objects that this Request duplicates prior Requests.

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

23 All MATERIALS constituting, recording, referring to, or evidencing
24 COMMUNICATIONS between W. Reed Hastings and Edward Stead concerning any SUBJECT
25 PATENT or APPLICATION.

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

27 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
28 and/or applications other than the patents-in-suit, because such patents/applications have no

1 relevance to any issue in this case. Netflix further objects to producing documents relating to its
2 patent applications that have not either been issued or been published on the grounds that the
3 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
4 information regarding Netflix's future business plans, and should not be produced to a company
5 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix
6 further objects to the extent that these materials are in Blockbuster's possession.

7 Subject to and without waiving the foregoing objections, Netflix will produce all non-
8 privileged, responsive documents so described and related to the '381 and '450 patents that are
9 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

11 All MATERIALS constituting, recording, referring to, or evidencing
12 COMMUNICATIONS between NETFLIX and BLOCKBUSTER concerning any SUBJECT
13 PATENT or APPLICATION.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

15 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
16 and/or applications other than the patents-in-suit, because such patents/applications have no
17 relevance to any issue in this case. Netflix further objects to producing documents relating to its
18 patent applications that have not either been issued or been published on the grounds that the
19 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
20 information regarding Netflix's future business plans, and should not be produced to a company
21 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix also
22 objects to the extent that these materials are in Blockbuster's possession.

23 Subject to and without waiving the foregoing objections, Netflix will produce all non-
24 privileged, responsive documents so described and related to the '381 and '450 patents that are
25 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

27 All MATERIALS constituting, recording, referring to, or evidencing
28 COMMUNICATIONS concerning any patent rights, patent license, or patent infringement

1 related to Blockbuster Online.

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

3 Netflix objects to this Request as overly broad and unduly burdensome, seeking material
4 that is irrelevant to the subject matter of this action and is not reasonably calculated to lead to the
5 discovery of admissible evidence. Netflix also objects to this Request to the extent that it calls
6 for information protected by the attorney-client privilege or the work product doctrine.

7 Subject to and without waiving the foregoing objections, Netflix will produce all non-
8 privileged, responsive documents so described and related to the '381 and '450 patents that are
9 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

11 All MATERIALS constituting, recording, referring to, or evidencing
12 COMMUNICATIONS concerning any patent rights, patent license, or patent infringement
13 related to NETFLIX.

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

15 Netflix objects to this Request to the extent that it seeks documents relating to its patents
16 and/or applications other than the patents-in-suit, because such patents/applications have no
17 relevance to any issue in this case. Netflix further objects to producing documents relating to its
18 patent applications that have not either been issued or been published on the grounds that the
19 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
20 information regarding Netflix's future business plans, and should not be produced to a company
21 that is seeking directly to compete with Netflix in the market, such as Blockbuster.

22 Netflix objects to this Request on the grounds that it is overly broad and unduly
23 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
24 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
25 this Request to the extent that it calls for information protected by the attorney-client privilege or
26 the work product doctrine.

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

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

1 COMMUNICATIONS concerning the '450 PATENT.

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

3 Netflix objects to this Request to the extent that it calls for information protected by the
4 attorney-client privilege or the work product doctrine.

5 Subject to and without waiving the foregoing objection, Netflix will produce all non-
6 privileged, responsive documents so described that are locatable after a diligent search of all
7 locations at which such materials might plausibly exist.

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

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

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

12 Netflix objects to this Request to the extent that it calls for information protected by the
13 attorney-client privilege or the work product doctrine.

14 Subject to and without waiving the foregoing objection, Netflix will produce all non-
15 privileged, responsive documents so described that are locatable after a diligent search of all
16 locations at which such materials might plausibly exist.

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

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

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

21 Netflix objects to this Request to the extent that it calls for information protected by the
22 attorney-client privilege or the work product doctrine.

23 Subject to and without waiving the foregoing objection, Netflix will produce all non-
24 privileged, responsive documents so described that are locatable after a diligent search of all
25 locations at which such materials might plausibly exist.

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

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

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

2 Netflix objects to this Request to the extent that it calls for information protected by the
3 attorney-client privilege or the work product doctrine.

4 Subject to and without waiving the foregoing objection, Netflix will produce all non-
5 privileged, responsive documents so described that are locatable after a diligent search of all
6 locations at which such materials might plausibly exist.

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

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

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

13 Netflix objects to this Request as overly broad and unduly burdensome, seeking material
14 that is irrelevant to the subject matter of this action and is not reasonably calculated to lead to the
15 discovery of admissible evidence. Netflix further objects to this Request to the extent that it calls
16 for information protected by the attorney-client privilege or the work product doctrine.

17 Subject to and without waiving the foregoing objections, Netflix will produce all non-
18 privileged, responsive documents so described that are locatable after a diligent search of all
19 locations at which such materials might plausibly exist.

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*, Case No. C 06
23 1892 in the United States District Court for the Northern District of California, or their respective
24 counsel.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

26 Netflix objects to this Request as overly broad and unduly burdensome, seeking material
27 that is irrelevant to the subject matter of this action and is not reasonably calculated to lead to the
28 discovery of admissible evidence. Netflix further objects to this Request to the extent that it calls

1 for information protected by the attorney-client privilege or the work product doctrine.

2 Subject to and without waiving the foregoing objections, Netflix will produce all non-
3 privileged, responsive documents so described that are locatable after a diligent search of all
4 locations at which such materials might plausibly exist.

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

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

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

10 Netflix objects to this Request as overly broad and unduly burdensome, seeking material
11 that is irrelevant to the subject matter of this action and is not reasonably calculated to lead to the
12 discovery of admissible evidence. Netflix further objects to this Request to the extent that it calls
13 for information protected by the attorney-client privilege or the work product doctrine.

14 Subject to and without waiving the foregoing objections, Netflix will produce all non-
15 privileged, responsive documents so described that are locatable after a diligent search of all
16 locations at which such materials might plausibly exist.

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

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

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

22 Netflix objects to this Request on the grounds that it seeks material that is irrelevant to
23 the subject matter of this action and is not reasonably calculated to lead to the discovery of
24 admissible evidence. Netflix further objects to this Request to the extent that it calls for
25 information protected by the attorney-client privilege or the work product doctrine.

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

27 All MATERIALS constituting, recording, referring to, or evidencing
28 COMMUNICATIONS between the parties in *Frank Chavez v. Netflix, Inc.*, San Francisco

1 Superior Court Case No. CGC 04-434884, or their respective counsel.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

3 Netflix objects that this Request seeks material that is irrelevant to the subject matter of
4 this action and is not reasonably calculated to lead to the discovery of admissible evidence.
5 Netflix further objects to this Request to the extent that it calls for information protected by the
6 attorney-client privilege or the work product doctrine.

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

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

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

12 Netflix objects that this Request seeks material that is irrelevant to the subject matter of
13 this action and is not reasonably calculated to lead to the discovery of admissible evidence.
14 Netflix further objects to this Request to the extent that it calls for information protected by the
15 attorney-client privilege or the work product doctrine.

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

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

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

21 Netflix objects to this Request on the grounds that it is overly broad and unduly
22 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
23 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
24 this Request to the extent that it calls for information protected by the attorney-client privilege or
25 the work product doctrine.

26 Subject to and without waiving the foregoing objections, Netflix will produce all non-
27 privileged, responsive documents so described that are locatable after a diligent search of all
28 locations at which such materials might plausibly exist.

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

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

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

6 Netflix objects to this Request on the grounds that it is overly broad and unduly
7 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
8 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
9 this Request to the extent that it calls for information protected by the attorney-client privilege or
10 the work product doctrine. Netflix also objects to this Request as vague and ambiguous with
11 regard to "any interest."

12 Subject to and without waiving the foregoing objections, Netflix will produce all non-
13 privileged, responsive documents so described that are locatable after a diligent search of all
14 locations at which such materials might plausibly exist.

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

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

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

20 Netflix objects to this Request on the grounds that it is overly broad and unduly
21 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
22 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
23 this Request to the extent that it calls for information protected by the attorney-client privilege or
24 the work product doctrine. Netflix also objects to this Request as vague and ambiguous with
25 regard to "any alliance, partnership or joint venture."

26 Subject to and without waiving the foregoing objections, Netflix will produce all non-
27 privileged, responsive documents so described that are locatable after a diligent search of all
28 locations at which such materials might plausibly exist.

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

2 All MATERIALS constituting, recording, referring to, or evidencing business plans,
3 business descriptions, slides, handouts, or presentations provided by NETFLIX, before April 28,
4 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 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

16 Netflix objects to this Request on the grounds that it is overly broad and unduly
17 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
18 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
19 this Request to the extent that it calls for information protected by the attorney-client privilege or
20 the work product doctrine.

21 Subject to and without waiving the foregoing objections, Netflix will produce all non-
22 privileged, responsive documents so described that are locatable after a diligent search of all
23 locations at which such materials might plausibly exist.

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

25 All MATERIALS received from Wal-Mart, or constituting, recording, referring to, or
26 evidencing any COMMUNICATION with Wal-Mart, concerning any NETFLIX patent or patent
27 application.

28

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

2 Netflix objects to this Request to the extent that it seeks documents relating to its patents
3 and/or applications other than the patents-in-suit, because such patents/applications have no
4 relevance to any issue in this case. Netflix further objects to producing documents relating to its
5 patent applications that have not either been issued or been published on the grounds that the
6 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
7 information regarding Netflix's future business plans, and should not be produced to a company
8 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix
9 further objects to this Request to the extent that it calls for information protected by the attorney-
10 client privilege or the work product doctrine.

11 Subject to and without waiving the foregoing objections, Netflix will produce all non-
12 privileged, responsive documents so described that are locatable after a diligent search of all
13 locations at which such materials might plausibly exist.

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

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

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

20 Netflix objects to this Request on the grounds that it is overly broad and unduly
21 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
22 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
23 this Request to the extent that it calls for information protected by the attorney-client privilege or
24 the work product doctrine. Netflix also objects to this Request as vague and ambiguous with
25 regard to "any subscription cable or satellite television service or pay television service."
26 Netflix further objects to producing minutiae of a personal nature that are literally responsive to
27 this Request, such as any personal purchases orders of its employees from any subscription cable
28 or satellite television service or pay television service in existence before April 28, 1999.

1 Subject to and without waiving the foregoing objections, Netflix will produce all non-
2 privileged, responsive documents that so reference "HBO" or "Showtime" and that are locatable
3 after a diligent search of all locations at which such materials might plausibly exist. Further,
4 Netflix is willing to meet and confer with Blockbuster in order to arrive at a narrowed Request
5 that could possibly yield additional materials relevant to this case without imposing the burdens
6 associated with this Request in its current form, but Netflix will not undertake to discern a
7 reasonable interpretation of, and engage in a corresponding search for responsive documents that
8 make any reference to, "any subscription cable or satellite television service or pay television
9 service in existence before April 28, 1999."

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

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

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

15 Netflix objects to this Request on the grounds that it is overly broad and unduly
16 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
17 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
18 this Request to the extent that it calls for information protected by the attorney-client privilege or
19 the work product doctrine. Netflix further objects to producing minutiae of a personal nature that
20 are literally responsive to this Request, such as any personal purchases orders of its employees
21 from TiVo.

22 Subject to and without waiving the foregoing objections, Netflix will produce all non-
23 privileged, responsive documents so described that are locatable after a diligent search of all
24 locations at which such materials might plausibly exist.

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

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

1 April 4, 2006.

2 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

3 Netflix objects to this Request on the grounds that it is overly broad and unduly
4 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
5 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
6 this Request to the extent that it calls for information protected by the attorney-client privilege or
7 the work product doctrine. Netflix also objects to this Request as vague and ambiguous with
8 regard to "any Internet grocery service." Netflix further objects to producing minutiae of a
9 personal nature that are literally responsive to this Request, such as any personal purchases
10 orders of its employees from any Internet grocery service in existence before April 28, 1999.

11 Subject to and without waiving the foregoing objections, Netflix will produce all non-
12 privileged, responsive documents that so reference "Webvan" or "Home Grocer" and that are
13 locatable after a diligent search of all locations at which such materials might plausibly exist.
14 Further, Netflix is willing to meet and confer with Blockbuster in order to arrive at a narrowed
15 Request that could possibly yield additional materials relevant to this case without imposing the
16 burdens associated with this Request in its current form, but Netflix will not undertake to discern
17 a reasonable interpretation of, and engage in a corresponding search for responsive documents
18 that make any reference to, "any Internet grocery service in existence before April 28, 1999."

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

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

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

24 Netflix objects to this Request on the grounds that it is overly broad and unduly
25 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
26 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
27 this Request to the extent that it calls for information protected by the attorney-client privilege or
28 the work product doctrine. Netflix further objects to producing minutiae of a personal nature that

1 are literally responsive to this Request, such as any personal purchases orders of its employees
2 from Amazon.com.

3 Subject to and without waiving the foregoing objections, Netflix will produce all non-
4 privileged, responsive documents so described that are locatable after a diligent search of all
5 locations at which such materials might plausibly exist.

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

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

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

11 Netflix objects to this Request on the grounds that it is overly broad and unduly
12 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
13 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
14 this Request to the extent that it calls for information protected by the attorney-client privilege or
15 the work product doctrine. Netflix further objects to producing minutiae of a personal nature that
16 are literally responsive to this Request, such as any personal purchases orders of its employees
17 from eBay.

18 Subject to and without waiving the foregoing objections, Netflix will produce all non-
19 privileged, responsive documents so described that are locatable after a diligent search of all
20 locations at which such materials might plausibly exist.

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

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

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

27 Netflix objects to this Request on the grounds that it is overly broad and unduly
28 burdensome, seeking material that is irrelevant to the subject matter of this action and is not

1 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
2 this Request to the extent that it calls for information protected by the attorney-client privilege or
3 the work product doctrine.

4 Subject to and without waiving the foregoing objections, Netflix will produce all non-
5 privileged, responsive documents so described that are locatable after a diligent search of all
6 locations at which such materials might plausibly exist.

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

8 All MATERIALS referring to or evidencing any distribution or circulation of music or
9 audio on a subscription basis before April 28, 1999, or referring to or evidencing any knowledge
10 thereof by NETFLIX or any PERSON UNDER A DUTY OF CANDOR at any time before April
11 4, 2006.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

13 Netflix objects to this Request on the grounds that it is overly broad and unduly
14 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
15 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
16 this Request to the extent that it calls for information protected by the attorney-client privilege or
17 the work product doctrine.

18 Subject to and without waiving the foregoing objections, Netflix will produce all non-
19 privileged, responsive documents so described that are locatable after a diligent search of all
20 locations at which such materials might plausibly exist.

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

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

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

26 Netflix objects to this Request on the grounds that it is overly broad and unduly
27 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
28 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to

1 this Request to the extent that it calls for information protected by the attorney-client privilege or
2 the work product doctrine.

3 Subject to and without waiving the foregoing objections, Netflix will produce all non-
4 privileged, responsive documents so described that are locatable after a diligent search of all
5 locations at which such materials might plausibly exist.

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

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

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

11 Netflix objects to this Request on the grounds that it is overly broad and unduly
12 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
13 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
14 this Request to the extent that it calls for information protected by the attorney-client privilege or
15 the work product doctrine.

16 Subject to and without waiving the foregoing objections, Netflix will produce all non-
17 privileged, responsive documents so described that are locatable after a diligent search of all
18 locations at which such materials might plausibly exist.

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

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

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

24 Netflix objects to this Request on the grounds that it is overly broad and unduly
25 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
26 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
27 this Request to the extent that it calls for information protected by the attorney-client privilege or
28 the work product doctrine.

1 Subject to and without waiving the foregoing objections, Netflix will produce all non-
2 privileged, responsive documents sufficient to fully describe any digital display, selection, and
3 ordering of items over the Internet before April 28, 1999, that was known to NETFLIX or any
4 PERSON UNDER A DUTY OF CANDOR at any time before April 4, 2006 that are locatable
5 after a diligent search of all locations at which such materials might plausibly exist.

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

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

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

11 Netflix objects to this Request on the grounds that it is overly broad and unduly
12 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
13 reasonably calculated to lead to the discovery of admissible evidence. Netflix objects to the
14 extent that these materials are in Blockbuster's possession.

15 Subject to and without waiving the foregoing objections, Netflix will produce all non-
16 privileged, responsive documents so described that are locatable after a diligent search of all
17 locations at which such materials might plausibly exist.

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

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

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

23 Netflix objects to this Request on the grounds that it is overly broad and unduly
24 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
25 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
26 this Request to the extent that it calls for information protected by the attorney-client privilege or
27 the work product doctrine.

28 Subject to and without waiving the foregoing objections, Netflix will produce all non-

1 privileged, responsive documents so described that are locatable after a diligent search of all
2 locations at which such materials might plausibly exist.

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

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

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

8 Netflix objects to this Request on the grounds that it is overly broad and unduly
9 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
10 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
11 this Request to the extent that it calls for information protected by the attorney-client privilege or
12 the work product doctrine.

13 Subject to and without waiving the foregoing objections, Netflix will produce all non-
14 privileged, responsive documents so described that are locatable after a diligent search of all
15 locations at which such materials might plausibly exist.

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

17 All MATERIALS recording, referring to, or evidencing of how or when NETFLIX or
18 any PERSON UNDER A DUTY OF CANDOR obtained or became aware of any prior art
19 reference or other information submitted to the United States Patent and Trademark Office in
20 connection with the '727 APPLICATION or '381 PATENT.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

22 Netflix objects to this Request on the grounds that it is overly broad and unduly
23 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
24 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
25 this Request to the extent that it calls for information protected by the attorney-client privilege or
26 the work product doctrine.

27 Subject to and without waiving the foregoing objections, Netflix will produce all non-
28 privileged, responsive documents so described that are locatable after a diligent search of all

1 locations at which such materials might plausibly exist.

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

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

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

7 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
8 and/or applications other than the patents-in-suit, because such patents/applications have no
9 relevance to any issue in this case. Netflix further objects to producing documents relating to its
10 patent applications that have not either been issued or been published on the grounds that the
11 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
12 information regarding Netflix's future business plans, and should not be produced to a company
13 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix
14 further objects to Blockbuster's Request that it produce documents relating to prosecution of
15 patents before patent offices or agencies other than the United States Patent and Trademark
16 Office. The prosecution of patents that are not only not asserted in this case, but cannot be
17 asserted here because they are being prosecuted and will be issued in a foreign country, is in no
18 way relevant to any of the issues presented in this case.

19 Netflix objects to this Request on the grounds that it is overly broad and unduly
20 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
21 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
22 this Request to the extent that it calls for information protected by the attorney-client privilege or
23 the work product doctrine. Netflix also objects to the extent that this Request duplicates prior
24 Requests.

25 Subject to and without waiving the foregoing objections, Netflix will produce all non-
26 privileged, responsive documents so described and related to the '381 and '450 patents that are
27 locatable after a diligent search of all locations at which such materials might plausibly exist.

28

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

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

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

6 Netflix objects as the phrase "failure or omission to submit any prior art reference" is
7 vague, ambiguous, and calls for a legal conclusion. Netflix further objects to this Request to the
8 extent that it calls for information protected by the attorney-client privilege or the work product
9 doctrine.

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

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

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

15 Netflix objects as the phrase "failure or omission to submit any prior art reference" is
16 vague, ambiguous, and calls for a legal conclusion. Netflix further objects to this Request to the
17 extent that it calls for information protected by the attorney-client privilege or the work product
18 doctrine.

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

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

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

25 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
26 and/or applications other than the patents-in-suit, because such patents/applications have no
27 relevance to any issue in this case. Netflix further objects to producing documents relating to its
28 patent applications that have not either been issued or been published on the grounds that the

1 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
2 information regarding Netflix's future business plans, and should not be produced to a company
3 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix
4 further objects to Blockbuster's Request that it produce documents relating to prosecution of
5 patents before patent offices or agencies other than the United States Patent and Trademark
6 Office. The prosecution of patents that are not only not asserted in this case, but cannot be
7 asserted here because they are being prosecuted and will be issued in a foreign country, is in no
8 way relevant to any of the issues presented in this case.

9 Netflix objects as the phrase "failure or omission to submit any prior art reference" is
10 vague, ambiguous, and calls for a legal conclusion. Netflix further objects to this Request to the
11 extent that it calls for information protected by the attorney-client privilege or the work product
12 doctrine.

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

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

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 50:**

19 Netflix objects to this Request to the extent that it calls for information protected by the
20 attorney-client privilege or the work product doctrine. Netflix objects to this Request to the
21 extent that it calls for information protected by the attorney-client privilege or the work product
22 doctrine. Netflix objects as the phrase "prior art reference" is vague, ambiguous, and calls for a
23 legal conclusion as to what constitutes prior art.

24 Subject to and without waiving the foregoing objections, Netflix will produce all non-
25 privileged, responsive documents so described that are locatable after a diligent search of all
26 locations at which such materials might plausibly exist.

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

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

1 justification for submitting or not submitting any prior art reference or other information to the
2 United States Patent and Trademark Office in connection with the '727 APPLICATION or '381
3 PATENT.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

5 Netflix objects to this Request to the extent that it calls for information protected by the
6 attorney-client privilege or the work product doctrine. Netflix also objects to this Request to the
7 extent that it calls for information protected by the attorney-client privilege or the work product
8 doctrine. Netflix objects as the phrase "prior art reference" is vague, ambiguous, and calls for a
9 legal conclusion as to what constitutes prior art.

10 Subject to and without waiving the foregoing objections, Netflix will produce all non-
11 privileged, responsive documents so described that are locatable after a diligent search of all
12 locations at which such materials might plausibly exist.

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

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

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 52:**

19 Netflix objects to Blockbuster's demand that it produce documents relating to its patents
20 and/or applications other than the patents-in-suit, because such patents/applications have no
21 relevance to any issue in this case. Netflix further objects to producing documents relating to its
22 patent applications that have not either been issued or been published on the grounds that the
23 pendency of these patents, and the nature of the areas that they cover, is competitively sensitive
24 information regarding Netflix's future business plans, and should not be produced to a company
25 that is seeking directly to compete with Netflix in the market, such as Blockbuster. Netflix
26 further objects to Blockbuster's Request that it produce documents relating to prosecution of
27 patents before patent offices or agencies other than the United States Patent and Trademark
28 Office. The prosecution of patents that are not only not asserted in this case, but cannot be

1 asserted here because they are being prosecuted and will be issued in a foreign country, is in no
2 way relevant to any of the issues presented in this case.

3 Netflix objects to this Request on the grounds that it is overly broad and unduly
4 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
5 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
6 this Request to the extent that it calls for information protected by the attorney-client privilege or
7 the work product doctrine. Netflix also objects to the extent that this Request duplicates prior
8 Requests.

9 Subject to and without waiving the foregoing objections, Netflix will produce all non-
10 privileged, responsive documents so described and related to the '381 and '450 patents that are
11 locatable after a diligent search of all locations at which such materials might plausibly exist.

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

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

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 53:**

17 Netflix objects to Blockbuster's Request that it produce documents relating to prosecution
18 of patents before patent offices or agencies other than the United States Patent and Trademark
19 Office. The prosecution of patents that are not only not asserted in this case, but cannot be
20 asserted here because they are being prosecuted and will be issued in a foreign country, is in no
21 way relevant to any of the issues presented in this case. Netflix further objects as the phrase
22 "failure or omission . . . to submit any prior art reference" is vague, ambiguous, and calls for a
23 legal conclusion.

24 Netflix objects to this Request on the grounds that it is overly broad and unduly
25 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
26 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
27 this Request to the extent that it calls for information protected by the attorney-client privilege or
28 the work product doctrine. Netflix also objects to the extent that this Request duplicates prior

1 Requests.

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

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

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 54:**

8 Netflix objects to Blockbuster's Request that it produce documents relating to prosecution
9 of patents before patent offices or agencies other than the United States Patent and Trademark
10 Office. The prosecution of patents that are not only not asserted in this case, but cannot be
11 asserted here because they are being prosecuted and will be issued in a foreign country, is in no
12 way relevant to any of the issues presented in this case. Netflix further objects as the phrase
13 "failure or omission . . . to submit any prior art reference" is vague, ambiguous, and calls for a
14 legal conclusion.

15 Netflix objects to this Request on the grounds that it is overly broad and unduly
16 burdensome, seeking material that is irrelevant to the subject matter of this action and is not
17 reasonably calculated to lead to the discovery of admissible evidence. Netflix further objects to
18 the extent that this Request duplicates prior Requests.

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

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

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 55:**

24 Netflix objects to this Request as vague, ambiguous, and oppressive. On one hand, this
25 Request could be read to purport to require Netflix to conduct a search for and produce materials
26 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
27 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
28 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as

1 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
2 construction well prior to the date provided for in the Court's Case Management Order and the
3 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.
4 Alternatively, to the extent that Blockbuster seeks to have Netflix search for and produce all
5 documents literally called for by the Request, without any further context, Netflix objects to the
6 Request as overly broad, unduly burdensome, and not reasonably calculated to lead to the
7 discovery of admissible evidence. This Request is nothing more than an attempt to harass
8 Netflix by requiring it to mount a search for and produce documents that could fall within the
9 literal terms of snippets of the claims of its patents.

10 Although Netflix is willing to meet and confer with Blockbuster in order to arrive at a
11 narrowed Request that could possibly yield materials relevant to this case without imposing the
12 burdens associated with a search for documents responsive to the Request in its current form,
13 Netflix is not willing to undertake to discern a reasonable interpretation of, and engage in a
14 corresponding search for documents responsive to, the Request as currently phrased.

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

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

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 56:**

19 Netflix objects to this Request as vague, ambiguous, and oppressive. On one hand, this
20 Request could be read to purport to require Netflix to conduct a search for and produce materials
21 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
22 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
23 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
24 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
25 construction well prior to the date provided for in the Court's Case Management Order and the
26 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.
27 Alternatively, to the extent that Blockbuster seeks to have Netflix search for and produce all
28 documents literally called for by the Request, without any further context, Netflix objects to the

1 Request as overly broad, unduly burdensome, and not reasonably calculated to lead to the
2 discovery of admissible evidence. This Request is nothing more than an attempt to harass
3 Netflix by requiring it to mount a search for and produce documents that could fall within the
4 literal terms of snippets of the claims of its patents.

5 Although Netflix is willing to meet and confer with Blockbuster in order to arrive at a
6 narrowed Request that could possibly yield materials relevant to this case without imposing the
7 burdens associated with a search for documents responsive to the Request in its current form,
8 Netflix is not willing to undertake to discern a reasonable interpretation of, and engage in a
9 corresponding search for documents responsive to, the Request as currently phrased.

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

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

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 57:**

15 Netflix objects to this Request as vague, ambiguous, and oppressive. On one hand, this
16 Request could be read to purport to require Netflix to conduct a search for and produce materials
17 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
18 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
19 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
20 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
21 construction well prior to the date provided for in the Court's Case Management Order and the
22 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.
23 Alternatively, to the extent that Blockbuster seeks to have Netflix search for and produce all
24 documents literally called for by the Request, without any further context, Netflix objects to the
25 Request as overly broad, unduly burdensome, and not reasonably calculated to lead to the
26 discovery of admissible evidence. This Request is nothing more than an attempt to harass
27 Netflix by requiring it to mount a search for and produce documents that could fall within the
28 literal terms of snippets of the claims of its patents.

1 Although Netflix is willing to meet and confer with Blockbuster in order to arrive at a
2 narrowed Request that could possibly yield materials relevant to this case without imposing the
3 burdens associated with a search for documents responsive to the Request in its current form,
4 Netflix is not willing to undertake to discern a reasonable interpretation of, and engage in a
5 corresponding search for documents responsive to, the Request as currently phrased.

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

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

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 58:**

10 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
11 Request could be read to purport to require Netflix to conduct a search for and produce materials
12 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
13 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
14 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
15 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
16 construction well prior to the date provided for in the Court's Case Management Order and the
17 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

18 Subject to and without waiving the foregoing objections, Netflix will produce all non-
19 privileged, responsive documents so described that are locatable after a diligent search of all
20 locations at which such materials might plausibly exist.

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

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

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 59:**

26 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
27 Request could be read to purport to require Netflix to conduct a search for and produce materials
28 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent

1 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
2 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
3 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
4 construction well prior to the date provided for in the Court's Case Management Order and the
5 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

6 Subject to and without waiving the foregoing objections, Netflix will produce all non-
7 privileged, responsive documents so described that are locatable after a diligent search of all
8 locations at which such materials might plausibly exist.

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

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

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 60:**

14 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
15 Request could be read to purport to require Netflix to conduct a search for and produce materials
16 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
17 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
18 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
19 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
20 construction well prior to the date provided for in the Court's Case Management Order and the
21 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

22 Subject to and without waiving the foregoing objections, Netflix will produce all non-
23 privileged, responsive documents so described that are locatable after a diligent search of all
24 locations at which such materials might plausibly exist.

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

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

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 61:**

2 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
3 Request could be read to purport to require Netflix to conduct a search for and produce materials
4 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
5 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
6 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
7 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
8 construction well prior to the date provided for in the Court's Case Management Order and the
9 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

10 Subject to and without waiving the foregoing objections, Netflix will produce all non-
11 privileged, responsive documents so described that are locatable after a diligent search of all
12 locations at which such materials might plausibly exist.

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

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

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 62:**

18 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
19 Request could be read to purport to require Netflix to conduct a search for and produce materials
20 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
21 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
22 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
23 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
24 construction well prior to the date provided for in the Court's Case Management Order and the
25 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

26 Subject to and without waiving the foregoing objections, Netflix will produce all non-
27 privileged, responsive documents so described that are locatable after a diligent search of all
28 locations at which such materials might plausibly exist.

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

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

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 63:**

6 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
7 Request could be read to purport to require Netflix to conduct a search for and produce materials
8 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
9 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
10 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
11 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
12 construction well prior to the date provided for in the Court's Case Management Order and the
13 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

14 Subject to and without waiving the foregoing objections, Netflix will produce all non-
15 privileged, responsive documents so described that are locatable after a diligent search of all
16 locations at which such materials might plausibly exist.

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

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

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 64:**

22 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
23 Request could be read to purport to require Netflix to conduct a search for and produce materials
24 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
25 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
26 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
27 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
28 construction well prior to the date provided for in the Court's Case Management Order and the

1 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

2 Subject to and without waiving the foregoing objections, Netflix will produce all non-
3 privileged, responsive documents so described that are locatable after a diligent search of all
4 locations at which such materials might plausibly exist.

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

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

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 65:**

10 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
11 Request could be read to purport to require Netflix to conduct a search for and produce materials
12 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
13 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
14 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
15 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
16 construction well prior to the date provided for in the Court's Case Management Order and the
17 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

18 Subject to and without waiving the foregoing objections, Netflix will produce all non-
19 privileged, responsive documents so described that are locatable after a diligent search of all
20 locations at which such materials might plausibly exist.

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

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

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 66:**

27 Netflix objects to this Request as vague, ambiguous, and oppressive. Further, this
28 Request could be read to purport to require Netflix to conduct a search for and produce materials

1 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
2 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
3 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
4 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
5 construction well prior to the date provided for in the Court's Case Management Order and the
6 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.

7 Subject to and without waiving the foregoing objections, Netflix will produce all non-
8 privileged, responsive documents so described that are locatable after a diligent search of all
9 locations at which such materials might plausibly exist.

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

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

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 67:**

14 Netflix objects to this Request as vague, ambiguous, and oppressive. On one hand, this
15 Request could be read to purport to require Netflix to conduct a search for and produce materials
16 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
17 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
18 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
19 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
20 construction well prior to the date provided for in the Court's Case Management Order and the
21 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.
22 Alternatively, to the extent that Blockbuster seeks to have Netflix search for and produce all
23 documents literally called for by the Request, without any further context, Netflix objects to the
24 Request as overly broad, unduly burdensome, and not reasonably calculated to lead to the
25 discovery of admissible evidence. This Request is nothing more than an attempt to harass
26 Netflix by requiring it to mount a search for and produce documents that could fall within the
27 literal terms of snippets of the claims of its patents.

28 Although Netflix is willing to meet and confer with Blockbuster in order to arrive at a

1 narrowed Request that could possibly yield materials relevant to this case without imposing the
2 burdens associated with a search for documents responsive to the Request in its current form,
3 Netflix is not willing to undertake to discern a reasonable interpretation of, and engage in a
4 corresponding search for documents responsive to, the Request as currently phrased.

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

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

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 68:**

9 Netflix objects to this Request as vague, ambiguous, and oppressive. On one hand, this
10 Request could be read to purport to require Netflix to conduct a search for and produce materials
11 that in any way relate to or depend on portions of the claims of the patents-in-suit. To the extent
12 that Blockbuster seeks thereby to require Netflix to construe a claim element that may or may not
13 eventually be in dispute in order to respond to this Request, Netflix objects to the Request as
14 premature in that it seeks to impose upon Netflix a duty to come forward with a claim
15 construction well prior to the date provided for in the Court's Case Management Order and the
16 Local Rules of this Court, and objects to the Request as well as calling for a legal conclusion.
17 Alternatively, to the extent that Blockbuster seeks to have Netflix search for and produce all
18 documents literally called for by the Request, without any further context, Netflix objects to the
19 Request as overly broad, unduly burdensome, and not reasonably calculated to lead to the
20 discovery of admissible evidence. This Request is nothing more than an attempt to harass
21 Netflix by requiring it to mount a search for and produce documents that could fall within the
22 literal terms of snippets of the claims of its patents.

23 Although Netflix is willing to meet and confer with Blockbuster in order to arrive at a
24 narrowed Request that could possibly yield materials relevant to this case without imposing the
25 burdens associated with a search for documents responsive to the Request in its current form,
26 Netflix is not willing to undertake to discern a reasonable interpretation of, and engage in a
27 corresponding search for documents responsive to, the Request as currently phrased.

28