

NETFLIX, INC. vs. BLOCKBUSTER INC.

CASE NO. C 06 2361 WHA (JCS)

BLOCKBUSTER INC.'S

EXHIBIT H

TO

JOINT CLAIM CONSTRUCTION AND PREHEARING STATEMENT

filed on November 15, 2006

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NETFLIX, INC., a Delaware)
corporation,)
Plaintiff,)
vs.)
BLOCKBUSTER INC., a Delaware)
corporation, DOES 1-50,)
Defendants.)

ORIGINAL

No. C 06 2361 WHA
VOLUME I

AND RELATED COUNTER ACTION.)

Deposition of ERIC P. MEYER, at
1620 26th Street, Santa Monica,
California, commencing at 9:05 A.M.,
Friday, September 22, 2006, before
Judith A. Mango, CSR No. 5584.

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1 APPEARANCES OF COUNSEL:

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3 FOR THE PLAINTIFF:

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5 KEKER & VAN NEST

6 BY: JEFFREY R. CHANIN, ESQ.

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10

11 FOR THE DEFENDANTS:

12

13 ALSCHULER GROSSMAN STEIN & KAHAN LLP

14 BY: MARSHALL B. GROSSMAN, ESQ.

15 WILLIAM J. O'BRIEN, ESQ.

16 TONY D. CHEN, ESQ.

17 DOMINIQUE THOMAS, ESQ.

18 1620 26th Street

19 Fourth Floor, North Tower

20 Santa Monica, California 90404-4060

21 (310) 907-1000

22

23 ALSO PRESENT:

24 DAVID HYMAN

25 RYAN GULINO, VIDEO OPERATOR

1 VIDEO OPERATOR: Good morning. We are on 08:58 AM
2 the record at 9:05 A.M. on September 22, 2006 for the
3 videotaped deposition of Eric P. Meyer. We are
4 taping this deposition at 1620 26th Street, Fourth
5 Floor, North Tower in Santa Monica, California on 09:05 AM
6 behalf of the defense in the action entitled
7 "NetFlix, Inc. versus Blockbuster, Inc. and DOES 1
8 through 50." The case number is C 06 2361 WHA.

9 My name is Ryan Gulino. I'm the legal
10 videographer from Veritext Court Reporting Services, 09:06 AM
11 located at 550 South Hope Street, Suite 1775 in Los
12 Angeles.

13 This is Tape 1 of Volume I. Would counsel
14 please identify yourselves for the record.

15 MR. CHANIN: Jeffrey Chanin of Keker & Van 09:06 AM
16 Nest on behalf of NetFlix and also representing Eric
17 Meyer.

18 MR. HYMAN: I'm David Hyman. I'm with
19 NetFlix.

20 MR. GROSSMAN: You are general counsel? 09:06 AM

21 MR. HYMAN: Of NetFlix.

22 MR. GROSSMAN: And the witness, Eric Meyer
23 is here. On behalf of Blockbuster, I'm Marshall
24 Grossman and to my left is Bill O'Brien, Tony Chen
25 and Dominique Thomas. 09:06 AM

1 MR. CHANIN: Is this a good time for a 09:53 AM
2 break, Marshall?
3 MR. GROSSMAN: Not yet.
4 MR. CHANIN: Okay. Can we take one within
5 the next five minutes, please. 09:53 AM
6 MR. GROSSMAN: Do you need a personal break?
7 MR. CHANIN: I do.
8 MR. GROSSMAN: Because we haven't been going
9 for an hour. But if you need one.
10 MR. CHANIN: I do. 09:53 AM
11 MR. GROSSMAN: Go ahead and take it, but
12 keep it brief, please. Okay. We will come back in
13 less than five minutes, please.
14 VIDEO OPERATOR: Off the record at 9:53 A.M.
15 (Recess taken.) 09:58 AM
16 VIDEO OPERATOR: We are back on the record
17 at 9:58 A.M.
18 BY MR. GROSSMAN:
19 Q. You understand you are still under oath?
20 A. Yes, I do. 09:58 AM
21 Q. When you worked at NetFlix did you become
22 familiar with a term called queue?
23 A. Yes.
24 Q. Q U E U E, right?
25 A. Yes. 09:58 AM

1 Q. What was your understanding of the meaning 09:58 AM
2 of the word "queue" when you were working at NetFlix?

3 A. There is a technical definition of queue.
4 It is -- let me just word it correctly. It is -- I'm
5 not sure if the meaning didn't evolve over time. My 09:59 AM
6 recollection of the definition would be a prioritized
7 set of DVD titles that a specific subscriber would
8 like to receive.

9 Q. Were you familiar with the concept of a
10 queue as being a sequence of work objects that are 09:59 AM
11 waiting to be processed? Were you ever familiar with
12 that concept of the queue?

13 A. I'm not sure what you mean by your
14 definition. Can you repeat it, please.

15 Q. A queue does not have to be limited to DVDs, 10:00 AM
16 does it?

17 MR. CHANIN: Excuse me. I'm going to object
18 to the form of the question as being overbroad and
19 ambiguous without context.

20 BY MR. GROSSMAN:

21 Q. Before going to work for NetFlix you were
22 familiar with the concept of queues, weren't you?

23 A. Yes.

24 Q. And how did you familiar with the concept of
25 queues before you ever went to work at NetFlix? 10:00 AM

1 A. There are multiple definitions of queues 10:00 AM
2 that exist. There is the English language one.
3 There is also a technical computer science term
4 called queue.

5 Q. And what does queue mean in the practice of 10:01 AM
6 a computer scientist or a software engineer?

7 A. It is -- in technical terms it's a FIFO
8 list. That is, first in/first out list.

9 Q. So there is more than one object in the
10 queue, so to speak? 10:01 AM

11 A. Yes.

12 Q. And the objects are processed in a
13 particular order, correct?

14 A. There is no indication -- there is no
15 indication of process. It is a structure. 10:02 AM

16 Q. It's a structure?

17 A. Yes.

18 Q. The items on the list are prioritized,
19 correct?

20 A. Technically they are not prioritized. They 10:02 AM
21 are ordered.

22 Q. They are ordered. They are ordered one,
23 two, three, four; whatever, correct?

24 A. There's no numbering associated with it.

25 Q. There is a list, correct? 10:03 AM

1 A. It is a technical list. 10:03 AM

2 Q. And when did you first become familiar with

3 the concept of a queue being a technical list of some

4 sort?

5 A. Early '80's. 10:03 AM

6 Q. And how did you become familiar with that?

7 A. Computer science classes.

8 Q. And in order to have a technical list there

9 has to be something at the top of the list and

10 something at the bottom of the list, correct? 10:03 AM

11 A. Well, actually, there are queues which are

12 linear and there are queues which are circular.

13 There are different forms of queues. There's a lot

14 of literature on queues.

15 Q. What type of queue was it that was in 10:03 AM

16 operation at NetFlix? Was that lineal, circular

17 or --

18 A. From a technical point of view it was not a

19 queue.

20 Q. It was not a queue at NetFlix? 10:04 AM

21 A. No.

22 Q. What was it?

23 A. It was -- there is no computer science

24 technical term for it.

25 Q. Well, you called it a queue, right? 10:04 AM

1 STATE OF CALIFORNIA) ss:
2 COUNTY OF LOS ANGELES)

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4 I, JUDITH A. MANGO, CSR No. 5584, do hereby
5 certify:

6

7 That the foregoing deposition of ERIC P. MEYER
8 was taken before me at the time and place therein set
9 forth, at which time the witness was placed under
10 oath and was sworn by me to tell the truth, the whole
11 truth, and nothing but the truth;

12

13 That the testimony of the witness and all
14 objections made at the time of the examination were
15 recorded stenographically by me and were thereafter
16 transcribed under my direction and supervision, and
17 that the foregoing pages contain a full, true and
18 accurate record of all proceedings and testimony to
19 the best of my skill and ability.

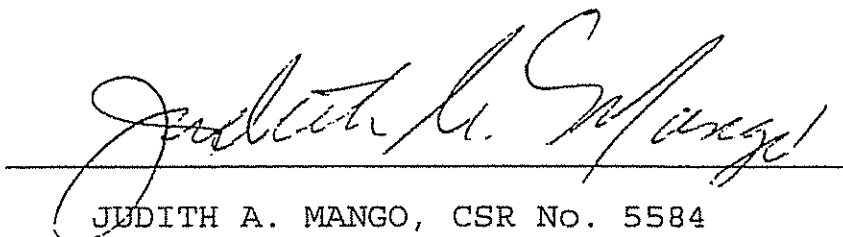
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21 I further certify that I am neither counsel for
22 any party to said action, nor am I related to any
23 party to said action, nor am I in any way interested
24 in the outcome thereof.

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1 IN WITNESS WHEREOF, I have subscribed my name
2 this 4th day of October, 2006.

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JUDITH A. MANGO, CSR No. 5584