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2
3 UNITED STATES DISTRICT COURT
4 NORTHERN DISTRICT OF CALIFORNIA
56
7 NETFLIX, INC.,

8 Plaintiff,

No. C 11-6591 PJH

9 v.

**ORDER GRANTING IN PART MOTION
TO DISMISS AND VACATING HEARING**

10 ROVI CORPORATION, et al.,

11 Defendants.
12 _____/

13 On December 4, 2014, the parties submitted a stipulation indicating that Netflix does
14 not oppose Rovi's motion to dismiss Netflix's first and second causes of action (for
15 declaratory judgment of non-infringement and invalidity of the '185 patent). See Dkt. 98-2.
16 While the court appreciates the parties' resolution of the motion, the court also advises the
17 parties that it has already expended the resources to review this matter, and urges them to
18 make efforts to resolve future disputes before engaging in unnecessary motion practice –
19 or at the very least, to resolve such disputes more than six days before a scheduled
20 hearing, so that the court does not expend unnecessary resources in preparation for the
21 hearing.

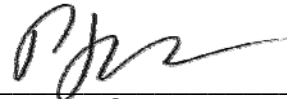
22 Moreover, the court is unclear as to the purpose of Netflix's motion for leave to file a
23 sur-reply. Through their stipulation, the parties have informed the court that Netflix no
24 longer opposes Rovi's motion. The proposed sur-reply does not appear to serve any
25 purpose other than to burden the court with more paper (including 13 pages of emails
26 between opposing counsel).

27 Netflix's motion for leave to file a sur-reply is DENIED. However, given the parties'
28 stipulation, Rovi's motion to dismiss is GRANTED, to the extent that it seeks dismissal of

1 Netflix's first and second causes of action. The December 10, 2014 hearing date is
2 vacated. As provided in the parties' stipulation, the dismissal shall be without prejudice. To
3 the extent that Rovi's motion seeks dismissal of any of Netflix's claims or counterclaims
4 related to the '016 patent or the '776 patent, the motion is denied as moot.

5 **IT IS SO ORDERED.**

6 Dated: December 8, 2014



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PHYLLIS J. HAMILTON
United States District Judge

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