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4 UNITED STATES DISTRICT COURT  
5 NORTHERN DISTRICT OF CALIFORNIA  
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7 NETFLIX, INC.,  
8 Plaintiff,

9 v.

10 ROVI CORPORATION, et al.,  
11 Defendants.

Case No. 11-cv-6591-PJH

**ORDER DENYING LEAVE TO FILE  
SUPPLEMENTAL BRIEF**

12  
13 Before the court is Rovi's motion for leave to file a supplemental brief in opposition  
14 to Netflix's motion for summary judgment of invalidity under section 101. The motion sets  
15 forth three reasons that attempt to demonstrate good cause to allow a supplemental brief.

16 First, Rovi notes that the court issued various written questions for both parties at  
17 the outset of the summary judgment hearing, and requests a supplemental brief to  
18 "ensure the court has a full and clear record concerning those questions to assist in its  
19 consideration of Netflix's motion."

20 Second, Rovi seeks to "update[] the court on factual circumstances that have  
21 changed since the hearing on Netflix's motion." Specifically, Rovi notes that, at the  
22 hearing, Netflix pointed to Rovi's infringement contentions as support for the argument  
23 that the patents recite generic computer components, and are therefore invalid. Rovi  
24 now informs the court that "[s]ince the hearing, Rovi has provided Netflix with updated  
25 infringement contentions that do not contain the language Netflix cherry-picked for the  
26 hearing."

27 Third, Rovi seeks to inform the court of two recent judicial opinions regarding  
28 patentability under section 101, and "submits that it should be granted leave to submit its

1 supplemental brief to ensure the court has the benefit of a complete and current record.”

2 The court will address each of these reasons in turn. First, as to the written  
3 questions, the court issued those questions to guide the parties’ presentations at the  
4 hearing, not to invite an additional round of briefing. Both parties had an equal  
5 opportunity to address the questions during the three hour and thirty-four minutes of the  
6 hearing. The court finds no need for a supplemental brief from Rovi, nor a sur-rebuttal  
7 from Netflix.

8 Second, as to the infringement contentions, the court agrees with Rovi’s own  
9 argument that infringement contentions are not relevant to the section 101 invalidity  
10 analysis. To the extent that Netflix cited Rovi’s contentions as indicative of invalidity, the  
11 court did not consider those arguments. Thus, the substance of any updated  
12 infringement contentions are similarly irrelevant to the section 101 analysis.

13 Finally, to the extent that either party wishes to bring recent judicial opinions to the  
14 court’s attention, the local rules provide a mechanism for the filing of a “statement of  
15 recent decision” containing “a citation to and providing a copy of the new opinion –  
16 without argument.” Civil L.R. 7-3(d)(2). However, the rule only allows such statements to  
17 be filed “[b]efore the noticed hearing date.” The hearing date has now passed, and the  
18 record is closed.

19 For the foregoing reasons, Rovi’s motion for leave to file a supplemental brief is  
20 DENIED.

21 **IT IS SO ORDERED.**

22 Dated: May 21, 2015



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25 PHYLLIS J. HAMILTON  
26 United States District Judge