

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

SBJ HOLDINGS 1, LLC,

Plaintiff

vs.

NETFLIX, INC., AMAZON.COM, INC.,
and BORDERS GROUP, INC.,

Defendants.

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Case No: 1:07-mc-000729-SS

**STIPULATION AND MOTION FOR ENTRY OF ORDER REGARDING
DEFENDANTS’ SUBPOENA TO THIRD PARTY VIGNETTE CORPORATION**

Defendants Netflix, Inc., Amazon.com, Inc., and Borders Group, Inc. (“Defendants”), and third-party Vignette Corporation (“Vignette”) submit the following Stipulation and Motion for Entry of Order concerning Defendants’ Subpoena to Vignette in the above referenced matter.

On August 8, 2007, Defendants served a subpoena on Vignette for documents relating to the validity of U.S. Patent 6,330,592 (on which Vignette is listed as the Assignee).

On August 28, 2007, Vignette moved for a protective order and to extend the deadline for compliance with the Subpoena.

On August 29, 2007, the Court granted Vignette’s motion and ordered that: (1) the deadline for compliance with the subpoena served on Vignette be extended to September 28, 2007, (2) that Vignette and Defendants confer on the scope of the subpoena requests and the proper protection of Vignette’s confidential information, and (3) the parties report

back to the Court by September 7, 2007 and advise whether an agreement has been reached.

On September 7, 2007, Defendants and Vignette filed a joint statement to notify the Court of their meet and confer efforts, and that no agreement had been reached yet.

On September 20, 2007, Defendants and Vignette reached an agreement to prioritize certain categories of documents responsive to certain requests contained in the Subpoena.

STIPULATION AND REQUEST FOR ORDER

In view of the foregoing, the Defendants and Vignette stipulate to the following and request an order thereon:

1. On or before September 28, 2007, Vignette shall produce to Defendants, for each Story Server version sold or developed, in whole or part, prior to December 5, 1998, an executable copy of the software, the product documentation (e.g. user manuals or programmer guides) associated with the software, and any documentation (e.g. functional or feature specifications) reflecting the development history of the Patent Subject Matter;

2. On or before September 28, 2007, Vignette shall produce to Defendants in writing, for each Story Server version sold or developed, in whole or part, prior to December 5, 1998, the date of first beta release, the date of first product announcement, the date of first sale, license, or offer to sell or license, and all documentation relied upon to draft its written responses.

3. On or before September 28, 2007, Vignette shall produce all the due diligence files relating to the transfer of the Patent-in-Suit.

4. Defendants and Vignette shall meet and confer in good faith regarding the additional documents sought by the subpoena, including but not limited to the source code for each Story Server version sold or developed, in whole or part, prior to December 5, 1998.

5. All information produced by Vignette to Defendants in response to the subpoena shall be afforded the protections in Eastern District of Texas Patent Rule 2-2, attached as Exhibit A, until a protective order is entered by the Eastern District of Texas in the underlying lawsuit, Cause no. 2:07-cv-00120-TJW, at which time Vignette shall be afforded all of the protections contained therein. However, Vignette shall have the right to object to the terms and negotiate additional or different terms if it reasonably believes that the protective order does not afford adequate safeguards for its confidential or proprietary information and documents.

6. Defendants shall meet and confer with Vignette in good faith regarding any additional protections sought by Vignette following the entry of a protective order in the underlying litigation. In the event the parties cannot reach agreement to the terms of a protective order, any dispute will be submitted to this Court for resolution in Cause no. 1:07-mc-000729-SS.

7. Nothing in this Stipulation shall affect either Defendants' or Vignette's right to seek or object, respectively, to the production of additional information pursuant to the Subpoena.

Dated: September 21, 2007

Respectfully submitted,

/s/ Blake C. Erskine

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Certificate of Service

I hereby certify that a true copy of the foregoing document was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the counsel of record, and by facsimile to the below listed counsel on September 21, 2007.

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