

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,	)	
Petitioner,	)	
v.	)	Case
	)	IPR2023-00628
VIDEOLABS, INC.,	)	
	)	Patent No.
Patent Owner.	)	7,233,790
	)	

DEPOSITION OF JUNE ANN MUNFORD

April 5, 2024

10:03 a.m. Eastern Daylight Time

Reported by: Lori J. Goodin, RPR, CLR, CRR,
RSA, California CSR #13959

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1 INDEX TO EXAMINATION

2 WITNESS: JUNE ANN MUNFORD

3

4 EXAMINATION BY PAGE

5 MR. MATULEWICZ-CROWLEY 5

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8

9 INDEX TO EXHIBITS

10

11 PREVIOUSLY MARKED EXHIBITS

12 PRIOR MARKED EXHIBITS FIRST REFERRAL

13 Exhibit 1030 5

14

15 (Newly marked exhibits retained by reporter.

16 Previously marked exhibits retained by counsel.)

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1 FRIDAY, APRIL 5, 2024, 10:03 a.m. EDT

2 PROCEEDINGS

3 * * *

4 Whereupon,

5 JUNE ANN MUNFORD,

6 a witness called for examination, having been
7 first duly sworn, was examined and testified as
8 follows:

9 * * *

10 MR. MATULEWICZ-CROWLEY: This is
11 Michael Matulewicz-Crowley with Reichman
12 Jorgensen Lehman & Feldberg on behalf of
13 patent owners.

14 MS. CARRANO: Aliza George Carrano
15 of Willkie Farr & Gallagher on behalf of
16 petitioner, Netflix. Also with me is my
17 colleague, Dane Sowers.

18 THE WITNESS: Do I need an
19 introduction afterwards? I'm not sure how
20 this works.

21 MR. MATULEWICZ-CROWLEY: No problem.
22 We can just start now.

1 THE WITNESS: Okay.

2 EXAMINATION

3 BY MR. MATULEWICZ-CROWLEY:

4 Q. My first question is, can you state
5 your full name for the record.

6 A. Sure. My name is June Ann Munford.

7 Q. Ms. Munford, have you been deposed
8 before?

9 A. Yes.

10 Q. Okay. About how many times?

11 A. Let me check my CV to be sure. I
12 see that I have at least nine depositions under
13 my belt.

14 Q. Okay. And I have put your
15 declaration, which is Exhibit 1030, in this
16 proceeding into the Chat window.

17 (Whereupon, previously marked
18 Exhibit 1030,
19 first referral.)

20 BY MR. MATULEWICZ-CROWLEY:

21 Q. And then, I believe you have a clean
22 copy in front of you. Is that right?

1 A. Yes, I have an unmarked paper copy.

2 Q. Okay. I guess anyone in the
3 proceeding that wants this, let me know if you
4 don't have it or can't access it, if I dropped it
5 in wrong.

6 Do you have any other documents with
7 you, either electronic or physical?

8 A. No.

9 Q. So, I know you have been deposed
10 before, but there is just a few introductory
11 things I want to go over.

12 Can you make sure to speak slowly so
13 that the court reporter can take down our words
14 accurately?

15 A. I do.

16 Q. Okay. And can you make sure to
17 answer with words, so again the court reporter
18 can take it down, not nods or nonverbal
19 responses?

20 A. Yes.

21 Q. Okay. You know, if we can both try
22 and not talk over each other, again for the court

1 reporter's sanity. Can you do that?

2 A. Yes.

3 Q. Okay. Is there any reason that you
4 can't be completely truthful and accurate in your
5 testimony today?

6 A. No.

7 Q. Okay. What did you do to prepare
8 for the deposition today?

9 A. I met with counsel to prepare, and
10 then I also reviewed my declaration separately.

11 Q. Okay. How long did you meet with
12 counsel for to prepare for this deposition?

13 A. Say, somewhere between 90 and
14 120 minutes.

15 Q. Okay. And what day did you meet
16 with counsel to prepare for this deposition?

17 A. Yesterday, the 4th.

18 Q. Did you review any documents that
19 refreshed your recollection in preparing for your
20 deposition today?

21 A. Other than the declaration itself?

22 Q. Yes.

1 A. I only reviewed the declaration
2 itself.

3 Q. Okay. Okay. So, I want to ask you
4 a few questions about your background.

5 Have you ever worked for the
6 Internet Archive?

7 A. I have not.

8 Q. Have you ever worked with the
9 Internet Archive in a professional capacity?

10 A. I am assuming you are speaking about
11 the organization itself, rather than using the
12 Internet Archive services?

13 Q. Yes.

14 A. Yes. I have used the archive
15 services, but I have not interacted with them as
16 a professional organization.

17 Q. Okay. You noted that the Internet
18 Archive is formally certified by the State of
19 California as a public library.

20 What does that mean?

21 A. Formal certification on a state
22 level means that the institution had to reach out

1 to the State of California and follow a series of
2 guidance and rules in order to be formally
3 certified as a public library, one of which is
4 ensuring that the materials created by the
5 library are in some way accessible to the public.

6 Q. What did the Internet Archive have
7 to show or do regarding the public accessibility
8 of its materials?

9 A. I'm not familiar with the formal
10 certification process at the time that the
11 Internet Archive secured this certification.

12 Q. Do you know how the Internet Archive
13 works?

14 A. I'm not sure what you mean.

15 Q. So, how does the Internet Archive
16 get the materials that are available on -- or
17 through the Internet Archive?

18 A. Which materials in specific? They
19 have a variety of services.

20 Q. Okay. So, well, one of the Internet
21 Archive services is purportedly showing past
22 versions of web pages. Correct?

1 A. Yes.

2 Q. How does the Internet Archive get
3 those past versions of web pages?

4 A. Based on my understanding of the
5 Internet Archive's practices, they use a
6 proprietary piece of software that was developed
7 in-house.

8 Q. And do you know how that software
9 works?

10 A. I do not. It is largely
11 proprietary.

12 Q. Do you know how often the Internet
13 Archive captures past versions of web pages?

14 A. I do not know the Internet Archive's
15 schedule or software's internal mechanisms.

16 I do know that individuals can
17 submit websites to the Internet Archive for
18 archival purposes.

19 Q. You have two documents attached to
20 your declaration, Ericsson01 and Ericsson02.

21 Correct?

22 A. As well as my CV, yes.

1 Q. Were either Ericsson01 or Ericsson02
2 submitted to the Internet Archive?

3 A. I have no knowledge.

4 Q. Okay. Do you know, are the past
5 versions of web pages as shown on the Internet
6 Archive always exactly the same as the web page
7 looked if one had accessed them at that time?

8 A. I can't speak for the experiences of
9 accessing the websites involved in this
10 declaration at the time that they were captured.

11 By I do understand that there are
12 mechanisms present in web design that are not
13 always one to one replicated in Wayback Machine
14 captures.

15 Q. Okay. What mechanisms are you aware
16 of that are not captured one to one in the
17 Internet Archive?

18 A. A good example would be search
19 engine results. The vast majority of search
20 engine bars do not function in Internet Archive
21 captures.

22 There are also issues with an older

1 style of arranging web pages known as frames.

2 Q. What are the issue with frames?

3 A. Frames do not always properly
4 display themselves and may create a sense of
5 strange formatting in the page.

6 Q. Is it possible with dynamic content
7 for the Internet Archive to show content that
8 might not have been there at the time, if you had
9 originally accessed the website?

10 A. Can you define dynamic content in
11 this context?

12 Q. Well, yes. Let me just say, is it
13 possible for the Internet Archive to show content
14 that was not actually there at the time, if you
15 had accessed the web page at the original time?

16 MS. CARRANO: Objection, form.

17 THE WITNESS: Again, I don't have
18 any formal experience with these archives
19 contained within the declaration.

20 My understanding is that the capture
21 is as accurate as possible.

22 BY MR. MATULEWICZ-CROWLEY:

1 Q. Well, do you know how accurate it is
2 possible to be?

3 A. I would say that depends on the
4 material being captured.

5 Q. Okay. So you are not sure how
6 accurate the Internet Archive is necessarily in
7 any given situation?

8 MS. CARRANO: Objection, form.

9 THE WITNESS: I believe -- I
10 apologize.

11 I believe that it is as accurate as
12 their software allows them to replicate.
13 Obviously, sometimes there is an issue with
14 formatting not displaying properly.

15 I have never seen an incident in
16 which external material would be inserted
17 into these captures.

18 BY MR. MATULEWICZ-CROWLEY:

19 Q. Okay. So, if we look at Ericsson01.
20 There is a PDF in what you have attached as
21 Ericsson01. Correct?

22 A. Let me verify. Yes.

1 Q. And it says on the first page of the
2 PDF, "Mobile Applications with J2ME Trademark."

3 A. Yes.

4 Q. Okay. Is it possible for -- well,
5 actually let me ask you this.

6 Ericsson01 is an Internet Archive
7 page purportedly dating back to August 3rd, 2003.
8 Correct?

9 A. Yes.

10 Q. Okay. To be clear, you have not
11 accessed this web page or -- strike that.

12 To be clear, you did not access this
13 web page on October 3rd, 2003, correct?

14 A. Correct.

15 Q. And you have no knowledge of what
16 was actually available at this url on
17 August 3rd, 2003, besides the Internet Archive
18 page. Correct?

19 A. I would say I have nothing to
20 confirm formally. I believe that url is still
21 functional.

22 Q. Right. But you have no knowledge or

1 experience of what was available at the time, in
2 August 2003, besides the Internet Archive page.
3 Correct?

4 A. I have no additional knowledge
5 outside of the Internet Archive's capture.

6 But I do know that there have been
7 minimal changes between now and then.

8 Q. It is possible -- just as a computer
9 science matter, it is possible to have the same
10 url and switch out the document that is available
11 at that url. Right?

12 MS. CARRANO: Objection, form.

13 THE WITNESS: In web -- in web
14 design, it is theoretically possible to
15 connect different resources to that url, yes.

16 BY MR. MATULEWICZ-CROWLEY:

17 Q. All right. So, just as an example,
18 if I had MMC dot com/PDF, that could be, let's
19 say document A today. And then I could make it
20 be document B, a totally different document
21 tomorrow. Right?

22 MS. CARRANO: Objection, incomplete

1 hypothetical.

2 THE WITNESS: I can only say that
3 such changes are possible with web design.

4 BY MR. MATULEWICZ-CROWLEY:

5 Q. Okay. And similarly, it is possible
6 that a different version of the mobile
7 applications with J2ME, a white paper, were
8 available at this url at different times.
9 Correct?

10 A. I don't know that that is possible.
11 All I know is that it is possible sometimes to
12 change what the url is pointing to.

13 Q. Well, why would it not be possible
14 in this instance?

15 A. I'm not saying it is not possible
16 that it happened.

17 I have no evidence that it happened.
18 I have no knowledge of it happening.

19 Q. Okay. So, it is possible that there
20 was a different version of the mobile
21 applications with J2ME white paper available at
22 the url at a different time, right?

1 MS. CARRANO: Objection, form.

2 THE WITNESS: I would say on a date
3 other than August 3rd, 2003, that is
4 possible, yes.

5 As of August 3rd, 2003, that is what
6 was represented.

7 BY MR. MATULEWICZ-CROWLEY:

8 Q. And is this the -- this is the
9 earliest version of the mobile applications with
10 J2ME white paper PDF that you could find on the
11 Internet Archive; is that right?

12 A. This is one version that I could
13 find. I did not look into all of them, you know,
14 with an infinite amount of time to do so.

15 Q. Well, you don't know of any earlier
16 version, earlier than August 3rd, 2003, of the
17 mobile applications with J2ME white paper,
18 correct?

19 MS. CARRANO: Objection, form.

20 THE WITNESS: I know of this
21 August 3rd, 2003, version of the PDF, and
22 that is all I know.

1 BY MR. MATULEWICZ-CROWLEY:

2 Q. Do you see that the url includes dot
3 co dot T-H?

4 A. For which example? Both?

5 Q. Both. Yes. Ericsson01 and
6 Ericsson02.

7 A. Yes, I do see that.

8 Q. What does that mean?

9 A. That is the Thailand version of the
10 Ericsson web page.

11 Q. Okay. Do you know why this document
12 was available on the Thai version of Ericsson's
13 web page?

14 A. Based on the other appendix attached
15 to this declaration, it appears that this
16 document was on the Thailand web page due to a
17 programming competition in Thailand sponsored by
18 Ericsson.

19 Q. Okay. What do you know about this
20 competition in Thailand?

21 A. I only know what is represented in
22 the appendix itself, whatever is in the text. I

1 have no additional information.

2 Q. Okay. So, if we look at Ericsson02.

3 You point to a link on Page 4. Correct?

4 A. Let me ensure that that is correct.

5 Yes.

6 Q. So, do you know what happens if you
7 click to the link that you point to on Page 4, in
8 the Internet Archive version of Ericsson02?

9 A. I don't recall.

10 Q. Ericsson02 is from August 3rd, 2002.
11 Correct?

12 A. Yes.

13 Q. Okay. It is possible that the link
14 in Ericsson02 takes you to a different version of
15 the white paper than the version shown in
16 Ericsson01. Correct?

17 MS. CARRANO: Objection, form.

18 THE WITNESS: All I know is that the
19 url itself when plugged into the Internet
20 Archive produces the white paper.

21 BY MR. MATULEWICZ-CROWLEY:

22 Q. So, it is possible that the link on

1 Page 4 that you point to in Ericsson02 takes you
2 to a different version than that shown in
3 Ericsson01. Correct?

4 MS. CARRANO: Same objection.

5 THE WITNESS: It is theoretically
6 possible.

7 BY MR. MATULEWICZ-CROWLEY:

8 Q. Okay. But in fact, it is possible
9 that the link in Ericsson02 takes you to a
10 entirely different document than the PDF shown in
11 Ericsson01. Right?

12 MS. CARRANO: Objection, form.

13 THE WITNESS: Again, it is
14 theoretically possible.

15 BY MR. MATULEWICZ-CROWLEY:

16 Q. Okay. So, if Ericsson had updated
17 or -- actually let me strike that.

18 If Ericsson -- sorry. Let's go back
19 to Ericsson01 and talk about that.

20 If Ericsson had changed what PDF was
21 available at the link in Ericsson01 on
22 August 4th, 2003, do you know whether the new

1 version of the PDF or the old version of the PDF
2 would show up in Internet Archive?

3 MS. CARRANO: Objection. Incomplete
4 hypothetical.

5 THE WITNESS: I can't say for
6 certain. All I would assume is that if
7 the -- this version of the PDF were available
8 at the time that the Internet Archive
9 captured the page, that is the PDF that would
10 be represented.

11 BY MR. MATULEWICZ-CROWLEY:

12 Q. Are you familiar with the dynamic
13 web page?

14 A. I think you will have to be more
15 specific with what you mean by that.

16 Q. Okay. So, what I'm trying to get at
17 is, is it possible -- hold on one moment.

18 Is it possible for the, for a web
19 page as captured in the Internet Archive to
20 reference dynamic content that can be updated or
21 changed after the date that the web page was
22 captured?

1 MS. CARRANO: Objection, calls for
2 speculation.

3 THE WITNESS: What type of dynamic
4 content are you describing?

5 BY MR. MATULEWICZ-CROWLEY:

6 Q. Any sort of dynamic content.

7 A. So, anywhere down from HTML to a PDF
8 document?

9 Q. Yeah. Let's say kind of just to
10 help explain it, let's say you have a web page
11 and it points to image somewhere in the internet.

12 Is it possible that the Internet
13 Archive captures the reference to the image such
14 that if the image is changed when a person later
15 accesses the Internet Archive, it shows the
16 changed or updated image?

17 MS. CARRANO: Same objection.

18 THE WITNESS: I have never
19 experienced that while using the Internet
20 Archive.

21 Usually if it links to content off
22 site, then it tells you as much.

1 Whereas, links captured within the
2 Internet Archive's internal ecosystem tend to
3 point to links inside the Internet Archive
4 ecosystem.

5 MR. MATULEWICZ-CROWLEY: Can we take
6 a short break?

7 MS. CARRANO: Sure.

8 (Recess taken -- 10:26 a.m.)

9 (After recess -- 10:29 a.m.)

10 BY MR. MATULEWICZ-CROWLEY:

11 Q. Ms. Munford, do you know anything
12 about European patents?

13 A. I suppose I only have general
14 knowledge as to what they are and how they work.

15 Q. Okay. Do you know anything about
16 how documents are cited in European patents?

17 A. I can't say I do.

18 Q. Okay. Are you familiar or -- strike
19 that.

20 Are aware that some websites can't
21 be accessed by just anyone in the world?

22 A. I'm not sure what you mean. Are you

1 talking about access restrictions, dating, pay
2 walls, account systems? I'm a little confused.

3 Q. Yes. There is a whole bunch of ways
4 that websites can be, you know, limited in their
5 access to only certain people. Right?

6 A. Yes, sure.

7 Q. Okay. So, it is possible that the
8 link on Page 4 that you point to in Ericsson02,
9 that the document at that link was not available
10 to just everyone in the world. Right?

11 MS. CARRANO: Objection,
12 speculation.

13 THE WITNESS: Based on my
14 understanding of the Internet Archive's
15 process, they are not capable of archiving
16 the materials that have access restrictions.

17 So, I suppose it is theoretically
18 possible, but the capture from 2003 suggests
19 otherwise.

20 BY MR. MATULEWICZ-CROWLEY:

21 Q. Well, the Internet Archive didn't
22 capture the Page 4 link in Ericsson02 in

1 August of 2002, correct?

2 A. Correct. They captured it in 2003.

3 Q. Okay. So, it is possible that in

4 2000 -- strike that.

5 It is possible that before

6 August 3rd, 2003, that the Page 4 link in

7 Ericsson02 was not accessible to everyone.

8 Right?

9 A. It is theoretically possible,

10 although it would be a rather strange

11 presentation given that it is offered freely in a

12 Java-based competition.

13 Q. Well, you don't know that it is

14 offered freely in the competition before

15 August 3, 2003, correct?

16 A. I know that it is offered freely on

17 the 2002 website as the PDF link containing a

18 bunch of other links with no signs or data access

19 restriction.

20 Q. But it is possible that when you

21 click the Java white paper link on Page 4 of

22 Ericsson02, that you can't actually get access to

1 the PDF behind that link unless you have certain
2 access, right?

3 A. Again, the copy captured in 2003
4 suggests otherwise.

5 But if you are talking about the
6 period of time from '02 to '03, I suppose it is
7 theoretically possible, although again, I believe
8 that the context of the content page suggests
9 otherwise.

10 Q. Why do you think that the context of
11 the content page suggests otherwise?

12 A. Well, it doesn't outline any access
13 restrictions. It doesn't provide any
14 instructions for accessing the material. It
15 simply provides a link.

16 Q. It is possible that the link on
17 Page 4 of Ericsson02 was only available to
18 competition participants, right?

19 A. I can't speculate on who it was
20 available to. All I can say is I suppose it is
21 theoretically possible that there was access
22 restrictions up until around the capture date

1 of 2003.

2 I don't believe that there is any
3 evidence to suggest that there was access
4 restrictions, but it is possible.

5 Q. You don't know for sure either way?

6 A. I can't say for certain, no.

7 Q. Would it be possible for one company
8 to have access to the PDF link shown in
9 Ericsson01 before August 3rd, 2003, but for the
10 rest of the world not to have access?

11 A. I can't speculate on who would and
12 would not -- let me clarify it.

13 I can't speak to who exactly would
14 have had access at that time. I have no
15 knowledge of any access restrictions, if they did
16 exist.

17 Q. Okay. Are you familiar with the
18 company Vodafone?

19 A. I'm familiar with them, yes.

20 Q. So, just as an example, is it
21 possible that Vodafone had access to the PDF in
22 Ericsson01 before August 3rd, 2003, but that the

1 general public did not?

2 A. I can't speculate on whether or not
3 one person had access or the other person didn't.

4 I see no sign of access restrictions
5 and nothing describing them.

6 Q. But it is possible that the general
7 public did not have access to the PDF in
8 Ericsson01 before August 3rd, 2003. Right?

9 A. I don't necessarily agree. The
10 existence of access restrictions is not the same
11 thing as the complete unavailability for the
12 material.

13 And not only that, but I can't speak
14 on the access restrictions that may or may not
15 have existed because I don't see any evidence of
16 them.

17 Q. But again it is possible that the
18 PDF at Ericsson01 had access restrictions such
19 that the general population could not access it
20 before August 3rd, 2003. Correct?

21 MS. CARRANO: Objection, form.

22 THE WITNESS: I think it is

1 theoretically possible. I see nothing to
2 suggest it.

3 And I really can't speculate on who
4 would have had access and who would not have
5 had access.

6 BY MR. MATULEWICZ-CROWLEY:

7 Q. Okay. But it was theoretically
8 possible for the PDF in Ericsson01 to not have
9 been available to the general public before
10 August 3rd, 2003?

11 A. Via this website, I believe that it
12 is possible for there to be access restrictions
13 present on the PDF presented in the 2002 web
14 capture.

15 But I believe once we are up to the
16 2003 point, the Internet Archive's making the
17 material available would subcede all of those
18 access restrictions.

19 Q. And when you say 2003 in that
20 answer, you are referring specifically to
21 August 3rd, 2003?

22 A. That web capture, yes. It is of

1 course possible for it to be available from other
2 sources. This is just the one.

3 MR. MATULEWICZ-CROWLEY: I have no
4 further questions.

5 MS. CARRANO: I have no questions.

6 (Whereupon, signature not having been waived, the
7 deposition suspended at 10:37 a.m.)

8 * * *

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1 CERTIFICATE OF NOTARY

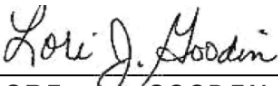
2

3 I, LORI J. GOODIN, RPR, CLR, CRR,
4 CA CSR # 13959 the Notary for this deposition, do
5 hereby certify that the witness whose testimony
6 appears in the foregoing deposition was sworn by
7 me; that I am neither counsel for, related to,
8 nor employed by any of the parties to the action
9 in which this deposition was taken; and, further, that I am
10 not a relative or employee of any attorney or
11 counsel employed by the parties hereto, or
12 financially or otherwise interested in the
13 outcome of this action.

10

11

12


LORI J. GOODIN, RPR, CLR, CRR
Notary Public in and for:

13

14 STATE OF FLORIDA, COUNTY OF SARASOTA
Notary Commission Number: GG987804
My Commission expires: May 12, 2028
15 STATE OF CALIFORNIA, CA CSR# 13959
My Commission expires: February 22, 2025
16 STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL
My Commission expires: August 2, 2025
17 DISTRICT OF COLUMBIA, WASHINGTON DC
My Commission expires: June 1, 2026
18 STATE OF DELAWARE: COUNTY OF KENT
My Commission expires: September 9, 2025
19 STATE OF PENNSYLVANIA, COUNTY OF LEHIGH
20 My Commission expires: April 5, 2025
21
22

1 June Ann Munford, c/o
WILLKIE FARR & GALLAGHER LLP
2 787 7th Avenue
New York, New York 10019

3
Case: Netflix, Inc. v. VideoLabs. Inc.
4 Date of deposition: April 5, 2024
Deponent: June Ann Munford

5
6 Please be advised that the transcript in the above
referenced matter is now complete and ready for signature.
7 The deponent may come to this office to sign the transcript,
8 a copy may be purchased for the witness to review and sign,
9 or the deponent and/or counsel may waive the option of
10 signing. Please advise us of the option selected.
11 Please forward the errata sheet and the original signed
12 signature page to counsel noticing the deposition, noting the
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15 not hesitate to call our office at (202)-232-0646.

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5 Witness Name: June Ann Munford
Deposition Date: April 5, 2024

6
I do hereby acknowledge that I have read
7 and examined the foregoing pages
of the transcript of my deposition and that:

8
9 (Check appropriate box):
() The same is a true, correct and
10 complete transcription of the answers given by
me to the questions therein recorded.
11 () Except for the changes noted in the
attached Errata Sheet, the same is a true,
12 correct and complete transcription of the
13 answers given by me to the questions therein
14 recorded.

15
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17 DATE WITNESS SIGNATURE
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22 DATE NOTARY

Page 34

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5

6 ERRATA SHEET

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8 Case: Netflix, Inc. v. VideoLabs. Inc.

9 Witness Name: June Ann Munford

10 Deposition Date: April 5, 2024

11 Page No. Line No. Change

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Signature

Date

A	answers 33:10,13	29:10,21 31:16	25:2 26:3	18:17,20 25:12
a.m 1:13 4:1 23:8	apologize 13:10	available 9:16	captures 10:13	25:14 26:18
23:9 30:7	APPEAL 1:2	14:16 15:1,10	11:14,21 13:17	complete 28:11
absent 32:21	APPEARANC...	16:8,21 18:12	22:13	32:6 33:10,12
acarrano@will...	2:1	20:21 21:7 24:9	Carrano 2:4 4:14	completely 7:4
2:7	appears 18:15	26:17,20 29:9	4:14 12:16 13:8	computer 15:8
access 6:4 14:12	31:6	29:17 30:1	15:12,22 17:1	confirm 14:20
24:1,5,16 25:18	appendix 18:14	Avenue 2:5,16	17:19 19:17	confused 24:2
25:22 26:2,12	18:22	32:2	20:4,12 21:3	connect 15:15
26:21 27:3,8,10	applicable 32:13	aware 11:15	22:1,17 23:7	consent 32:22
27:14,15,21	applications 14:2	23:20	24:11 28:21	contained 12:19
28:3,4,7,10,14	16:7,21 17:9,17	B	30:5	containing 25:17
28:18,19 29:4,5	appropriate 33:9	B 15:20	Case 1:6 32:3	content 12:6,7,10
29:12,18	April 1:12 4:1	back 14:7 20:18	33:4 34:8	12:13 21:20
accessed 11:7	31:22 32:4 33:5	background 8:4	certain 21:6 24:5	22:4,6,21 26:8
12:9,15 14:11	34:10	bars 11:20	26:1 27:6	26:11
23:21	archival 10:18	Based 10:4 18:14	CERTIFICATE	context 12:11
accesses 22:15	archive 8:6,9,12	24:13	31:1	26:8,10
accessibility 9:7	8:14,18 9:6,11	behalf 2:2,14	certification 8:21	copy 5:22 6:1
accessible 9:5	9:12,15,17,21	4:12,15	9:10,11	26:3 32:8
25:7	10:2,13,17 11:2	believe 5:21 13:9	certified 8:18 9:3	Copying 32:21
accessing 11:9	11:6,17,20 12:7	13:11 14:20	certify 31:5	Copyright 32:20
26:14	12:13 13:6 14:6	26:7 27:2 29:11	change 16:12	correct 9:22
account 24:2	14:17 15:2	29:15	34:11	10:21 13:21
accurate 7:4	17:11 19:8,20	belt 5:13	changed 20:20	14:8,13,14,18
12:21 13:1,6,11	21:2,8,19 22:13	BOARD 1:2	21:21 22:14,16	15:3 16:9 17:18
accurately 6:14	22:15,20 23:3	box 33:9	changes 15:7	19:3,4,11,16
acknowledge	24:21	break 23:6	16:3 33:11	20:3 25:1,2,15
33:6	Archive's 10:5,14	bunch 24:3 25:18	Chat 5:16	28:20 33:9,12
action 31:7,9	15:5 23:2 24:14	C	check 5:11 33:9	counsel 3:16 7:9
additional 15:4	29:16	c/o 32:1	cited 23:16	7:12,16 31:6,8
19:1	archives 12:18	CA 31:4,15	clarify 27:12	32:9,12
advise 32:10	archiving 24:15	California 1:19	clean 5:21	COUNTY 31:13
advised 32:6	arranging 12:1	8:19 9:1 31:15	clear 14:10,12	31:16,19,21
agree 28:9	ARUNDEL	call 32:15	click 19:7 25:21	course 30:1
Aliza 2:4 4:14	31:16	called 4:6	CLR 1:18 31:3	court 6:13,17,22
allowed 32:13	assume 21:6	calls 22:1	31:12	create 12:4
allows 13:12	assuming 8:10	capable 24:15	colleague 4:17	created 9:4
amount 17:14	attached 10:19	capacity 8:9	COLUMBIA	CRR 1:18 31:3
and/or 32:9	13:20 18:14	capture 12:20	31:17	31:12
Ann 1:10 3:2 4:5	33:11	15:5 24:18,22	com/PDF 15:18	CSR 1:19 31:4,15
5:6 32:1,4 33:5	attorney 31:8	26:22 29:14,22	come 32:7	CV 5:11 10:22
34:9	August 14:7,17	captured 11:10	Commission	D
ANNE 31:16	15:2 17:3,5,16	11:16 13:4 21:9	31:14,14,15,16	D.C 1:21 2:11
answer 6:17	17:21 19:10	21:19,22 23:1	31:18,20,22	33:2 34:3
29:20	20:22 25:1,6,15		company 27:7,18	Dane 2:10 4:17
	27:9,22 28:8,20		competition	

data 25:18 date 17:2 21:21 26:22 32:4 33:5 33:17,22 34:10 34:22 dating 14:7 24:1 day 7:15 Daylight 1:13 DC 31:17 declaration 5:15 7:10,21 8:1 10:20 11:10 12:19 18:15 define 12:10 DELAWARE 31:19 depends 13:3 deponent 32:4,7 32:9 deposed 5:7 6:9 deposition 1:10 7:8,12,16,20 30:7 31:4,6,7 32:4,12 33:5,7 34:10 depositions 5:12 describing 22:4 28:5 design 11:12 15:14 16:3 developed 10:6 different 15:15 15:20 16:6,8,20 16:22 19:14 20:2,10 Digital 1:20 32:19,20 33:1 34:1 display 12:4 displaying 13:14 DISTRICT 31:17 document 15:10 15:19,20,20 18:11,16 20:10 22:8 24:9 documents 6:6 7:18 10:19	23:16 dot 15:18 18:2,3 dropped 6:4 dsowers@willk... 2:12 due 18:16 duly 4:7 dynamic 12:6,10 21:12,20 22:3,6 E earlier 17:15,16 earliest 17:9 Eastern 1:13 ecosystem 23:2,4 EDT 4:1 either 6:7 11:1 27:5 electronic 6:7 electronically 32:21 employed 31:7,8 employee 31:8 engine 11:19,20 ensure 19:4 ensuring 9:4 entirely 20:10 Ericsson 18:10 18:18 20:16,18 20:20 Ericsson's 18:12 Ericsson01 10:20 11:1 13:19,21 14:6 18:5 19:16 20:3,11,19,21 27:9,22 28:8,18 29:8 Ericsson02 10:20 11:1 18:6 19:2 19:8,10,14 20:1 20:9 24:8,22 25:7,22 26:17 errata 32:11 33:11 34:6 ESQUIRE 2:4,10 2:15 European 23:12	23:16 evidence 1:20 16:17 27:3 28:15 32:19,20 33:1 34:1 exactly 11:6 27:13 examination 3:1 3:4 4:6 5:2 examined 4:7 33:7 example 11:18 15:17 18:4 27:20 Exhibit 3:13 5:15 5:18 exhibits 3:9,11,12 3:15,16 exist 27:16 existed 28:15 existence 28:10 experience 12:18 15:1 experienced 22:19 experiences 11:8 expires 31:14,15 31:16,18,20,22 explain 22:10 express 32:22 external 13:16 F fact 20:8 familiar 9:9 21:12 23:18 27:17,19 Farr 2:3,9 4:15 32:1 February 31:15 Feldberg 2:15 4:12 financially 31:9 find 17:10,13 first 3:12 4:7 5:4 5:19 14:1 FLORIDA 31:13	follow 9:1 follows 4:8 forbidden 32:21 foregoing 31:6 33:7 form 12:16 13:8 15:12 17:1,19 19:17 20:12 28:21 formal 8:21 9:9 12:18 formally 8:18 9:2 14:20 formatting 12:5 13:14 forward 32:11 frames 12:1,2,3 freely 25:11,14 25:16 FRIDAY 4:1 front 5:22 full 5:5 function 11:20 functional 14:21 further 30:4 31:7 G Gallagher 2:3,9 4:15 32:1 general 23:13 28:1,6,19 29:9 George 2:4 4:14 GG987804 31:14 given 13:7 25:11 33:10,13 go 6:11 20:18 good 11:18 Goodin 1:18 31:3 31:12 governing 32:13 Group 1:20 32:19,20 33:1 34:1 guess 6:2 guidance 9:2 H 	happened 16:16 16:17 happening 16:18 happens 19:6 help 22:10 hereto 31:8 hesitate 32:15 hold 21:17 HTML 22:7 hypothetical 16:1 21:4 I image 22:11,13 22:14,16 in-house 10:7 incident 13:15 includes 18:2 including 32:21 incomplete 15:22 21:3 INDEX 3:1,9 individuals 10:16 infinite 17:14 information 19:1 inserted 13:16 inside 23:3 instance 16:14 institution 8:22 instructions 26:14 interacted 8:15 interested 31:9 internal 10:15 23:2 internet 8:6,9,12 8:17 9:6,11,12 9:15,17,20 10:2 10:5,12,14,17 11:2,5,17,20 12:7,13 13:6 14:6,17 15:2,5 17:11 19:8,19 21:2,8,19 22:11 22:12,15,19 23:2,3 24:14,21 29:16
--	---	--	--	--

introduction 4:19	22:9,10	mean 8:20 9:14	NW 1:21 33:1	18:16 19:3,7
introductory	level 8:22	18:8 21:15	34:2	20:1 21:9,13,19
6:10	library 8:19 9:3,5	23:22		21:21 22:10
involved 11:9	limited 24:4	means 8:22	O	24:8,22 25:6,21
IPR2023-00628	Line 34:11	mechanisms	objection 12:16	26:8,11,17
1:6	link 19:3,7,13,22	10:15 11:12,15	13:8 15:12,22	32:12 33:4
issue 12:2 13:13	20:9,21 24:8,9	meet 7:11,15	17:1,19 19:17	34:11
issues 11:22	24:22 25:6,17	met 7:9	20:4,12 21:3	pages 9:22 10:3
	25:21 26:1,15	Michael 2:15	22:1,17 24:11	10:13 11:5 12:1
J	26:16 27:8	4:11	28:21	33:7
J 1:18 31:3,12	links 22:21 23:1,3	minimal 15:7	Obviously 13:13	paper 6:1 16:7,21
J2ME 14:2 16:7	25:18	minutes 7:14	October 14:13	17:10,17 19:15
16:21 17:10,17	little 24:2	mmatulewicz-c...	offered 25:11,14	19:20 25:21
Java 25:21	LLC 34:1	2:17	25:16	participants
Java-based 25:12	LLP 2:3,9,15	MMC 15:18	office 1:1 32:7,15	26:18
Jorgensen 2:15	32:1	mobile 14:2 16:6	Okay 5:1,10,14	parties 31:7,8
4:12	long 7:11	16:20 17:9,17	6:2,16,21 7:3,7	patent 1:1,2,7,8
June 1:10 3:2 4:5	look 13:19 17:13	moment 21:17	7:11,15 8:3,3	2:14 4:13
5:6 31:18 32:1	19:2	Munford 1:10	8:17 9:20 11:4	patents 23:12,16
32:4 33:5 34:9	looked 11:7	3:2 4:5 5:6,7	11:15 13:5,19	pay 24:1
	Lori 1:18 31:3,12	23:11 32:1,4	14:4,10 16:5,19	PDF 13:20 14:2
K		33:5 34:9	18:11,19 19:2	17:10,21 20:10
K 2:10	M	N	19:13 20:8,16	20:20 21:1,1,7
KENT 31:19	M 1:21 33:1 34:2	name 5:5,6 33:5	21:16 23:15,18	21:9 22:7 25:17
kind 22:9	Machine 11:13	34:9	24:7 25:3 27:17	26:1 27:8,21
know 6:3,9,21	Madison 2:16	necessarily 13:6	29:7	28:7,18 29:8,13
9:12 10:8,12,14	majority 11:19	28:9	old 21:1	PENNSYLVIA...
10:16 11:4 13:1	making 29:16	need 4:18	older 11:22	31:21
15:6 16:10,11	marked 3:11,12	neither 31:6	once 29:15	people 24:5
17:13,15,20,22	3:15,16 5:17	Netflix 1:4 4:16	option 32:9,10	period 26:6 32:13
18:11,19,21	MARYLAND	32:3 33:4 34:8	order 9:2	person 22:14
19:6,18 20:22	31:16	never 13:15	organization	28:3,3
23:11,15 24:4	material 13:4,16	22:18	8:11,16	petitioner 1:5 2:2
25:13,16 27:5	26:14 28:12	new 2:6,6,16,16	original 12:15	4:16
knowledge 11:3	29:17	20:22 32:2,2	32:11	physical 6:7
14:15,22 15:4	materials 9:4,8	Newly 3:15	originally 12:9	piece 10:6
16:18 23:14	9:16,18 24:16	nine 5:12	outcome 31:9	please 32:6,10,11
27:15	matter 15:9 32:6	nods 6:18	outline 26:12	32:14
known 12:1	Matulewicz-Cr...	nonverbal 6:18	outside 15:5	plugged 19:19
	2:15 3:5 4:10	Northwest 2:10	Owner 1:8 2:14	point 19:3,7 20:1
L	4:11,21 5:3,20	Notary 31:1,4,12	owners 4:13	23:3 24:8 29:16
L.L.C 33:1	12:22 13:18	31:14 33:22		pointing 16:12
largely 10:10	15:16 16:4 17:7	noted 8:17 33:11	P	points 22:11
LEHIGH 31:21	18:1 19:21 20:7	noticing 32:12	page 3:4 11:6	population 28:19
Lehman 2:15	20:15 21:11	noting 32:12	12:5,15 14:1,7	possible 12:6,13
4:12	22:5 23:5,10	Number 31:14	14:11,13,18	12:21 13:2 14:4
let's 15:18 20:18	24:20 29:6 30:3		15:2 18:10,13	15:8,9,14 16:3

16:5,10,11,13 16:15,19 17:4 19:13,22 20:6,8 20:14 21:17,18 22:12 24:7,18 25:3,5,9,20 26:7,16,21 27:4 27:7,21 28:6,17 29:1,8,12 30:1 practices 10:5 prepare 7:7,9,12 7:16 preparing 7:19 present 11:12 29:13 presentation 25:11 presented 29:13 previously 3:11 3:16 5:17 PRIOR 3:12 problem 4:21 Procedure 32:14 proceeding 5:16 6:3 PROCEEDINGS 4:2 process 9:10 24:15 produces 19:20 professional 8:9 8:16 programming 18:17 properly 12:3 13:14 proprietary 10:6 10:11 provide 26:13 provides 26:15 public 8:19 9:3,5 9:7 28:1,7 29:9 31:12 purchased 32:8 purportedly 9:21 14:7 purposes 10:18	put 5:14 Q question 5:4 questions 8:4 30:4,5 32:14 33:10,13 R reach 8:22 read 33:6 ready 32:6 really 29:3 reason 7:3 recall 19:9 recess 23:8,9 recollection 7:19 record 5:5 recorded 33:10 33:14 reference 21:20 22:13 referenced 32:6 referral 3:12 5:19 referring 29:20 refreshed 7:19 regarding 9:7 Reichman 2:15 4:11 related 31:6 relative 31:8 REMOTE 2:1 replicate 13:12 replicated 11:13 Reported 1:18 reporter 3:15 6:13,17 reporter's 7:1 represented 17:6 18:21 21:10 resources 15:15 responses 6:19 rest 27:10 restriction 25:19 restrictions 24:1 24:16 26:13,22 27:4,15 28:4,10	28:14,18 29:12 29:18 results 11:19 retained 3:15,16 review 7:18 32:8 reviewed 7:10 8:1 right 5:22 14:22 15:11,17,21 16:22 17:11 20:11 24:5,10 25:8 26:2,18 28:8 RPR 1:18 31:3,12 RSA 1:19 rules 9:2 32:14 S sanity 7:1 SARASOTA 31:13 saying 16:15 says 14:1 schedule 10:15 science 15:9 search 11:18,19 secured 9:11 see 5:12 18:2,7 28:4,15 29:1 seen 13:15 selected 32:10 sense 12:4 separately 7:10 September 31:20 series 9:1 services 8:12,15 9:19,21 sheet 32:11 33:11 34:6 short 23:6 show 9:7 12:7,13 21:2 showing 9:21 shown 11:5 19:15 20:2,10 27:8 shows 22:15 sign 28:4 32:7,8 signature 30:6	32:6,12 33:4,17 34:22 signed 32:11 signing 32:10 signs 25:18 similarly 16:5 simply 26:15 Sincerely 32:18 site 22:22 situation 13:7 slowly 6:12 software 10:6,8 13:12 software's 10:15 sorry 20:18 sort 22:6 sources 30:2 Sowers 2:10 4:17 speak 6:12 11:8 27:13 28:13 speaking 8:10 specific 9:18 21:15 specifically 29:20 speculate 26:19 27:11 28:2 29:3 speculation 22:2 24:12 sponsored 18:17 start 4:22 state 5:4 8:18,21 9:1 31:13,15,16 31:19,21 STATES 1:1 strange 12:5 25:10 Street 1:21 2:10 33:1 34:2 strike 14:11 20:17 23:18 25:4 style 12:1 subcede 29:17 submit 10:17 submitted 11:2 suggest 27:3 29:2 suggests 24:18	26:4,8,11 Suite 1:21 2:16 33:1 34:2 suppose 23:13 24:17 26:6,20 sure 4:19 5:6,11 6:12,16 9:14 13:5 23:7,22 24:6 27:5 suspended 30:7 switch 15:10 sworn 4:7 31:6 systems 24:2 T T-H 18:3 take 6:13,18 23:5 taken 23:8 31:7 takes 19:14 20:1 20:9 talk 6:22 20:19 talking 24:1 26:5 tells 22:22 tend 23:2 testified 4:7 testimony 7:5 31:5 text 18:22 Thai 18:12 Thailand 18:9,16 18:17,20 theoretically 15:14 20:5,14 24:17 25:9 26:7 26:21 29:1,7 thing 28:11 things 6:11 think 21:14 26:10 28:22 time 1:13 9:10 11:7,10 12:8,14 12:15 15:1 16:22 17:14 21:8 26:6 27:14 32:13 times 5:10 16:8 today 7:5,8,20
--	---	--	--	---

15:19 tomorrow 15:21 totally 15:20 Trademark 1:1 14:2 transcript 32:6,7 33:7 transcription 33:10,12 TRIAL 1:2 true 33:9,11 truthful 7:4 try 6:21 trying 21:16 two 10:19 type 22:3	versions 9:22 10:3,13 11:5 VideoLabs 1:7 32:3 33:4 34:8 Vodafone 27:18 27:21	works 4:20 9:13 10:9 world 23:21 24:10 27:10 written 32:22 wrong 6:5	24:18 25:2,6,15 26:3 27:1,9,22 28:8,20 29:10 29:16,19,21 20036 1:21 33:2 34:3 202 1:22 33:2 202-303-1000 2:11 202)-232-0646 32:15 202)232-0646 34:4 2024 1:12 4:1 32:4,20 33:5 34:10 2025 31:15,16,20 31:22 2026 31:18 2028 31:14 212-728-8000 2:7 22 31:15 232-0646 1:22 33:2	6 7 7,233,790 1:8 787 2:5 32:2 7th 2:5 32:2 8 812 1:21 33:1 34:2 9 9 31:20 90 7:13
U unavailability 28:11 understand 11:11 understanding 10:4 12:20 24:14 UNITED 1:1 unmarked 6:1 updated 20:16 21:20 22:16 url 14:16,20 15:10,11,15 16:8,12,22 18:2 19:19 use 10:5 Usually 22:21	W waive 32:9 waived 30:6 walls 24:2 want 6:11 8:3 wants 6:3 Washington 1:21 2:11 31:17 33:2 34:3 way 9:5 27:5 Wayback 11:13 ways 24:3 web 9:22 10:3,13 11:5,6,12 12:1 12:15 14:11,13 15:13,13 16:3 18:10,13,16 21:13,18,21 22:10 29:13,22 website 12:9 25:17 29:11 websites 10:17 11:9 23:20 24:4 white 16:7,21 17:10,17 19:15 19:20 25:21 Willkie 2:3,9 4:15 32:1 window 5:16 witness 3:2 4:6 4:18 5:1 12:17 13:9 15:13 16:2 17:2,20 19:18 20:5,13 21:5 22:3,18 24:13 28:22 31:5 32:8 33:5,17 34:9 words 6:13,17 work 23:14 worked 8:5,8	X Y Yeah 22:9 Yesterday 7:17 York 2:6,6,16,16 32:2,2 Z 0 02 26:6 03 26:6 1 1 31:18 10:03 1:13 4:1 10:26 23:8 10:29 23:9 10:37 30:7 10017 2:16 10019 2:6 32:2 1030 3:13 5:15,18 12 31:14 120 7:14 13959 1:19 31:4 31:15 14D 2:16 1730 1:21 33:1 34:2 1875 2:10 2 2 31:16 2000 25:4 20006 2:11 2002 19:10 25:1 25:17 29:13 2003 14:7,13,17 15:2 17:3,5,16 17:21 20:22	24:18 25:2,6,15 26:3 27:1,9,22 28:8,20 29:10 29:16,19,21 20036 1:21 33:2 34:3 202 1:22 33:2 202-303-1000 2:11 202)-232-0646 32:15 202)232-0646 34:4 2024 1:12 4:1 32:4,20 33:5 34:10 2025 31:15,16,20 31:22 2026 31:18 2028 31:14 212-728-8000 2:7 22 31:15 232-0646 1:22 33:2 3 3 25:15 331-208-7170 2:17 3rd 14:7,13,17 17:3,5,16,21 19:10 25:6 27:9 27:22 28:8,20 29:10,21 4 4 19:3,7 20:1 24:8 24:22 25:6,21 26:17 400 2:16 4th 7:17 20:22 5 5 1:12 3:5,13 4:1 31:22 32:4 33:5 34:10	6 7 7,233,790 1:8 787 2:5 32:2 7th 2:5 32:2 8 812 1:21 33:1 34:2 9 9 31:20 90 7:13