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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
HONORABLE R. GARY KLAUSNER, JUDGE PRESIDING
GOTV STREAMING, LLC,)
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Plaintiff,)
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Vs.) No. CV22-07556-RGK
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NETFLIX, INC.,)
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Defendant.)
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_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
DAY 2
LOS ANGELES, CALIFORNIA
WEDNESDAY, OCTOBER 18, 2023

MIRIAM V. BAIRD, CSR 11893, CCRA
OFFICIAL U.S. DISTRICT COURT REPORTER
350 WEST FIRST STREET
FOURTH FLOOR
LOS ANGELES, CALIFORNIA 90012
MVB11893@aol.com

1 services. But you can consider it all the servers on the one
2 hand.

3 Then on the other hand the user interfaces, which
4 are on four categories of devices that have been discussed
5 multiple times. That's the TV, the Apple devices, the
6 Android devices, and then the internet, people accessing
7 Netflix via web browsers on the internet.

8 Q. Professor, did you hear Dr. Malek talk about the patent
9 claims requiring an application?

10 A. I did, yes.

11 Q. Is that the Netflix UI?

12 A. Most certainly not. The claimed application -- it's
13 very clear in the claims in the patent -- the application has
14 to be executing on the server. That's completely different
15 from the client device like a laptop computer or a mobile
16 phone. The Netflix UI is on the client device so that the
17 claimed application can't be that, the Netflix UI.

18 Q. Do have an understanding of how to assess if Netflix has
19 infringed a claim or not?

20 A. Yes. Well, to infringe a patent claim, the accused
21 system or device has to meet every one of the elements of the
22 claim. And so in this case I looked at each of the claims
23 and every one of the elements in light of the product that
24 had been accused.

25 Q. And did you understand the patent from a particular

1 alluded to earlier, which is at that time a broad diversity
2 of devices. They came up with what they believed to be a
3 specific solution to enabling applications running on servers
4 to be presented to users of those devices.

5 Q. You mentioned the patents had a particular arrangement.
6 The patent describes a particular arrangement. What is that
7 at a high level?

8 A. So the patents, the asserted claims require an
9 application that's executing on a server and that the server
10 sends -- in order to facilitate that, the server sends an
11 identification of custom configuration and further sends what
12 is called compiled content.

13 Q. How does this work from a client device's perspective?

14 A. So the client device basically needs to be told how to
15 display something and then what to display. So the client
16 receives the custom configuration, receives the compiled
17 content, and then it can construct the display for the
18 screen.

19 Q. Let's talk a bit about Netflix, Professor. Have you
20 used Netflix?

21 A. I have from time to time, yes. I work a lot so I don't
22 watch a lot of TV, but I have on occasion.

23 Q. Did you enjoy it?

24 A. Which I do, yes. I sometimes watch some shows on
25 various networks, including Netflix, and I try do enjoy it.

1 look and feel portion of that construction?

2 A. Yes, I did.

3 Q. Did you see Dr. Malek's report that provides his
4 understanding of the look and feel portion of the
5 construction?

6 A. Yes, I did.

7 Q. Does the Netflix system -- excuse me. What has
8 Dr. Malek identified as the application that we see in this
9 construction?

10 A. So it's important to emphasize that the claims require
11 -- they recite an application, and that application has to be
12 executing on the server. Dr. Malek has pointed to the entire
13 Netflix back end, the combination of the content delivery
14 network, the CDN, and the AWS, Amazon web services server.
15 So all of that collectively is what Dr. Malek has pointed to
16 as meeting the application.

17 Q. Does the Netflix system have the claimed custom
18 configuration that determines the look and feel of the
19 application?

20 A. Not at all.

21 Q. Why not?

22 A. So the look and feel, it's to help -- to answer that
23 question, I think it's helpful to explain the look and feel.
24 The Court's construction again specifically says that the
25 custom configuration is tied to the look and feel.

1 element defines look and feel of the Amazon or Netflix
2 homepage.

3 Q. What does Dr. Malek point to as custom configuration
4 that satisfies a look and feel requirement?

5 A. So, for example, he points to the billboard image as
6 well as the images in the continue-watching row and the
7 containers for those images. Those are some examples of what
8 he points to.

9 Q. And which application is that supposed to determine the
10 look and feel for?

11 A. Well, according to the patent, the application is --
12 needs to be executing on the server. Dr. Malek has alleged
13 that the application is basically running on the entire back
14 end. I disagree with that, but that's what he alleges.

15 Q. Do you have any reaction to that?

16 A. Well, I disagree with that. I don't think that -- I
17 think what's on the user devices is one thing, and what's on
18 the back end is something completely different. When you
19 download an app onto your mobile phone, a Netflix app, that's
20 an application on the mobile phone. That's not an
21 application running in the Netflix back end.

22 Q. Can you elaborate a little bit more on why no particular
23 billboard image or background image determines look and feel
24 of an application.

25 A. Yeah. As I mentioned before, the look -- as I

1 or none of the collection of elements that Dr. Malek has
2 identified are -- actually provide, as the Court's
3 construction requires, the look and feel of the Netflix
4 homepage.

5 Q. And anything further in term --

6 A. Yeah. The -- it has to be for an application, the
7 claimed application. And the claimed application in the
8 patents has to be executing on the server, and that's also
9 what is not happening here.

10 Q. If the custom configuration isn't present in an accused
11 system, what does that mean about the alleged -- the accused
12 claims here?

13 A. Well, that means that this claim element is not met in
14 each of claim 1 for the '715 patent and claim 12 for the '245
15 patent. And if any one claimed element is missing, that
16 means the claim as a whole is not infringed. So that means
17 that neither claim 4 for the '715 patent nor claim 16 for the
18 '245 patent are infringed.

19 Q. Professor, do you have any other reasons why you
20 conclude there's no infringement here?

21 A. I do, yes.

22 Q. And what is that?

23 A. So this next demonstrative is -- it's the same,
24 basically the same text that I was discussing before. What
25 has changed is that there's a different portion of the text

1 highlighted, and it's important to notice that both the top
2 and the bottom require that the custom configuration is
3 associated with an application.

4 And that application has to be the same application
5 that I discussed before, the one that's executing on the
6 server. And that's not satisfied either.

7 Q. Are the various components of the Netflix system that
8 Dr. Malek points to for custom configuration, are those
9 associated with the application he identifies?

10 A. No, they are not.

11 Q. Why is that?

12 A. Because they -- the application will have a particular
13 -- it will be understood by one of skill in the art, and
14 these are components that are operating on the user
15 interfaces of the individual, you know, client devices, and
16 they are not associated with what Dr. Malek has identified as
17 the aspects of the application.

18 Q. You've mentioned a few times, Professor, the notion of
19 the entire Netflix back end. Can a collection of software
20 programs ever constitute an application together?

21 A. Yes. Under -- just speaking generally, not about this
22 case particularly. But, yes, it is possible to have an
23 application that is built using a collection of software
24 programs. That's right.

25 Q. Do you agree with Dr. Malek's opinion in this case that

1 correct?

2 A. Compiled content must be sent to the device. That's
3 right.

4 Q. The device has its own software application on it,
5 correct?

6 A. It has software on it.

7 Q. Is that software not an application?

8 A. Well, I just want to be careful to make sure that the
9 word application is not misused. It is not the claimed
10 application.

11 Q. That's right. It's not the claimed application, but it
12 is an application, correct?

13 A. It depends -- I mean, it doesn't say that specifically
14 here, but it -- I don't think it excludes that. But it
15 doesn't say specifically that it must be describable as an
16 application on the client.

17 Q. So you have an application, claimed application on the
18 server, correct?

19 A. There must be an application on the server. That's
20 right.

21 Q. Then the app -- a different application on the wireless
22 device renders a user display, correct?

23 A. Well, it renders a display that shows the application
24 that's running on the server, yeah.

25 Q. Okay. So when you look at that look and feel, you're