

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS
JURY TRIAL
DAY 3, VOLUME II
LOS ANGELES, CALIFORNIA
THURSDAY, OCTOBER 19, 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 Court has said any place you see custom configuration in the
2 claim, you effectively have to pop in this definition. You
3 have to -- it's like you cross out custom configuration and
4 write in configuration that determines the look and feel of
5 the application. Okay. So that's why we get into look and
6 feel.

7 So remember, I showed you the evidence that both
8 experts agree that the application that's in the claim is a
9 back-end application. In fact, you remember I asked
10 Dr. Malek: If I download the Netflix app on my phone, is
11 that the application in the claim? He said no. He agreed
12 with me. Both experts agree. The application must be on the
13 back end.

14 So what Dr. Villasenor says is: Well, the
15 definition is configuration that determines the look and feel
16 of the application, that the application is the application
17 that both experts agree resides on the back end. So what he
18 says is: Well, there's no look and feel to the back end,
19 right?

20 The back end is a server. It's just a big
21 information store. It doesn't need an interface for users.
22 It doesn't need all the things that they've been pointing to.
23 It doesn't need the stuff that we've been pointing to as
24 being look and feel. It's just a big information store. No
25 Netflix user ever goes to the Netflix back end to pick a

1 they're treating it.

2 So what did we do? We said, okay, we're going to
3 ask people of ordinary skill in the art. We're going to ask
4 people in this field what does it mean. What does look and
5 feel mean? So what did we do?

6 We asked Dr. Malek, who is an accomplished guy. We
7 asked Dr. Villasenor, who is accomplished and even more
8 experienced. They both agree that look and feel has an
9 ordinary meaning in this space. In this field,
10 Dr. Villasenor told us, he says that look and feel means
11 aggregate user experience that's characteristic of the
12 application -- which is true to the claims, because remember,
13 the application in the claims is what's on the server. And
14 the claim says -- and we're going to talk about this -- that
15 this custom configuration has to be associated with the
16 application.

17 Dr. Malek over on the right says one way of
18 thinking about look and feel would be a -- I asked him: One
19 way of thinking about look and feel would be a consistent
20 design, consistent style, consistent theme, correct? He
21 didn't say, oh, that's not what the patent says. He knows
22 what look and feel is. What he said is, yes, as required by
23 the claim.

24 He is saying in this claim look and feel has a
25 meaning, and this is the meaning. There should be

1 a few Disney franchises. You know you're not on Netflix
2 there, right? You know you're on Disney, right? It's not
3 the top image. It's not the rows of movies. It's the other
4 stuff that gives you the look and feel.

5 So for those reasons, in both claims in the '715
6 patent and the '245 patent, we are missing the custom
7 configuration. That's what, you know, makes our product
8 oblong and the claim is round. We don't infringe. That's
9 reason one.

10 So let's get to reason two. It's somewhat related
11 to reason one but it's more focused on where that application
12 lives. The claim language says: Wherein said custom
13 configuration is associated with an application. That's in
14 both of the patents. All right? I've underlined it for you.

15 Again, Dr. Malek and Dr. Villasenor both agree that
16 the application lives on the server, on the back end. No
17 dispute about that. So what's the difference here? In the
18 patents, and we talked about this, the compiled content and
19 the custom configuration come from the server -- this is a
20 requirement of the claim -- and create the look and feel on
21 the client device. That's the patent.

22 In the Netflix system, remember, the intelligence
23 resides on the phone. So what Netflix gets is just
24 information that it has the intelligence to use on the client
25 device. It doesn't get a custom configuration for all the