

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

VL COLLECTIVE IP, LLC.,
Patent Owner.

Case IPR2023-00891
Patent No. 8,605,794

**PETITIONER'S UNOPPOSED MOTION FOR
ENTRY OF PROTECTIVE ORDER**

Petitioner Netflix, Inc., hereby moves for entry of the Protective Order appended below as Appendix A. Petitioner has conferred with Patent Owner via email and teleconference. Patent Owner does not oppose entry of the proposed Protective Order.

I. BACKGROUND

On March 28, 2024, the Board issued Paper 26, granting leave for Patent Owner to conduct additional discovery on Real Party in Interest (“RPI”), estoppel and termination issues in relation to *Unified Patents, LLC v. VL Collective IP LLC*, IPR2022-1086 (“the ’086 IPR”). Petitioner, Patent Owner, and Unified have conferred regarding discovery matters and agreed that entry of the proposed protective order is warranted in view of the confidential nature of discovery likely to be produced.

II. DISCUSSION

Good cause exists to enter the proposed Protective Order. The proposed Protective Order is similar to the protective orders the Board entered in *Samsung Electronics Co., Ltd. v. MemoryWeb, LLC*, IPR2022-00222 and *Apple, Inc. v. MemoryWeb, LLC*, IPR2022-00031. *See Samsung*, Paper 47; *Apple*, Papers 52, 55. Patent Owner seeks discovery of similar information relating to Unified in the present proceeding, including the agreement between Unified and Petitioner and certain communications between Petitioner and Unified. *See, e.g., Samsung*, Exs.

2033–2035. The proposed Protective Order will govern the handling of confidential materials produced by Petitioner and would address any concerns over the handling of documents containing confidential business information relating to Unified’s business operations. *See* IPR2021-01413, Papers 10, 26.

The proposed Protective Order differs from the Board’s Default Protective Order in Appendix B of the Patent Trial and Appeal Consolidated Trial Practice Guide, November 2019 (“TPG”) in that the proposed Protective Order includes a “HIGHLY CONFIDENTIAL – ATTORNEY’S EYES ONLY” designation at Netflix’s request. Additionally, the proposed Protective Order identifies the persons to which access to confidential information is limited and clarifies the treatment of confidential materials unless the Board determines that information does not qualify for confidential treatment. Per Netflix’s request, these changes are designated to limit access to certain materials by each party’s representatives and in-house counsel. In *Apple*, the Board found that these differences addressed the parties’ obligations and did not limit the Board’s authority in that proceeding. *Apple*, Paper 55.

Accordingly, good cause exists for granting this unopposed motion and entry of the proposed Protective Order.

Case IPR2023-00891
Patent No. 8,605,794

Respectfully submitted,

Dated: April 18, 2024

By: // Aliza George Carrano //
Aliza George Carrano
Counsel for Petitioner

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6, the undersigned certifies that on April 18, 2024, a copy of the foregoing document was served by email directed to the following counsel of record and distribution list:

Christine E. Lehman
clehman@reichmanjorgensen.com

Michael Matulewicz-Crowley
mmatulewicz-crowley@reichmanjorgensen.com

Jaime F. Cardenas-Navia
jcardenas-navia@reichmanjorgensen.com

Naveed S. Hasan
nhasan@reichmanjorgensen.com

RJ_VideoLabs-Netflix@reichmanjorgensen.com

// Aliza George Carrano //
Aliza George Carrano
Counsel for Petitioner

APPENDIX A

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NETFLIX, INC.,
Petitioner,

v.

VL COLLECTIVE IP, LLC.,
Patent Owner.

Case IPR2023-00891
Patent No. 8,605,794

PROTECTIVE ORDER

The following Protective Order will govern the filing and treatment of confidential information in the proceeding:

Protective Order

This protective order governs the treatment and filing of confidential information, including documents and testimony.

1. Confidential information shall be clearly marked “CONFIDENTIAL – PROTECTIVE ORDER MATERIAL.” To the extent a producing Party believes that certain material qualifying to be designated CONFIDENTIAL – PROTECTIVE ORDER MATERIAL is so sensitive that its dissemination deserves even further limitation, the producing Party may designate such material “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

2. Access to confidential information marked “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” is limited to the following individuals who have executed the acknowledgement appended to this order:

(A) Outside counsel. Outside counsel of record for a party in the proceeding, including employees of outside counsel of record’s law firm(s) to whom it is reasonably necessary to disclose this information to assist outside counsel of record in connection with this proceeding, including members of their firms,

associate attorneys, paralegal, clerical, and other regular employees of such counsel. All in-house counsel and other representatives of the parties (other than outside counsel of record) shall not be allowed to view HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY Information.

(B) Experts. Retained experts of a party in the proceeding who further certify in the Acknowledgement that they are not a competitor to any party, or a consultant for, or employed by, such a competitor with respect to the subject matter of the proceeding.

(C) The Office. Employees and representatives of the United States Patent and Trademark Office who have a need for access to the confidential information shall have such access without the requirement to sign an Acknowledgement. Such employees and representatives shall include the Director, members of the Board and their clerical staff, other support personnel, court reporters, and other persons acting on behalf of the Office.

(D) Support Personnel. Administrative assistants, clerical staff, court reporters and other support personnel of the foregoing persons who are reasonably necessary to assist those persons in the proceeding shall not be required to sign an Acknowledgement, but shall be informed of the terms and

requirements of the Protective Order by the person they are supporting who receives confidential information.

3. Access to confidential information marked “CONFIDENTIAL – PROTECTIVE ORDER MATERIAL” is limited to the following individuals who have executed the acknowledgment appended to this order:

- (A) Above Personnel. Those persons or entities identified in paragraph 2 of this Protective Order under the conditions set forth in that paragraph.
- (B) Parties. Persons who are owners of a patent involved in the proceeding and other persons who are named parties to the proceeding.
- (C) In-house counsel. In-house counsel of a party; provided, however, that no more than three such in-house counsel shall be afforded access to confidential information.

4. Persons receiving confidential information (including information designated “Highly Confidential – Attorneys’ Eyes Only”) shall use reasonable efforts to maintain the confidentiality of such information, including:

- (A) Maintaining such information in a secure location to which persons not authorized to receive the information shall not have access;
- (B) Otherwise using reasonable efforts to maintain the confidentiality of the information, which efforts shall be no less rigorous than those the recipient

uses to maintain the confidentiality of information not received from the disclosing party;

(C) Ensuring that support personnel of the recipient who have access to the confidential information understand and abide by the obligation to maintain the confidentiality of information received that is designated as confidential; and

(D) Limiting the copying of confidential information to a reasonable number of copies needed for conduct of the proceeding and maintaining a record of the locations of such copies.

5. Persons receiving confidential information shall use the following procedures to maintain the confidentiality of the information:

(A) Documents and Information Filed With the Board.

(i) A party may file documents or information with the Board along with a Motion to Seal. The Motion to Seal should provide a non-confidential description of the nature of the confidential information that is under seal, and set forth the reasons why the information is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The submission shall be treated as confidential and remain

under seal, unless the Board determines that the documents or information do not to qualify for confidential treatment. The information shall remain under seal unless the Board determines that some or all of the information does not qualify for confidential treatment.

(ii) Where confidentiality is alleged as to some but not all of the information submitted to the Board, the submitting party shall file confidential and non-confidential versions of its submission, together with a Motion to Seal the confidential version setting forth the reasons why the information redacted from the non-confidential version is confidential and should not be made available to the public. A party may challenge the confidentiality of the information by opposing the Motion to Seal. The non-confidential version of the submission shall clearly indicate the locations of information that has been redacted. The confidential version of the submission shall be filed under seal. The redacted information shall remain under seal unless the Board determines that some or all of the redacted information does not qualify for confidential treatment.

(B) Documents and Information Exchanged Among the Parties. Documents (including deposition transcripts) and other information designated as

confidential that are disclosed to another party during discovery or other proceedings before the Board shall be clearly marked as “CONFIDENTIAL – PROTECTIVE ORDER MATERIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” and shall be produced in a manner that maintains its confidentiality.

6. Within 60 days after the final disposition of this action, including the exhaustion of all appeals and motions, each party receiving confidential information must return, or certify the destruction of, all copies of the confidential information to the producing party.

7. A Party may request in writing to the other Party that the designation given to any CONFIDENTIAL – PROTECTIVE ORDER MATERIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” be modified or withdrawn. If the Parties does not agree to redesignation, the non-designating Party may apply to the Board for relief.

EXHIBIT A

NETFLIX, INC. v. VL COLLECTIVE IP LLC

Case No. IPR2023-00891

U.S. Patent 8,605,794

Standard Acknowledgment for Access to Protective Order Material

I _____, affirm that I have read the Protective Order; that I will abide by its terms; that I will use the confidential information only in connection with this proceeding and for no other purpose; that I will only allow access to support staff who are reasonably necessary to assist me in this proceeding; that prior to any disclosure to such support staff I informed or will inform them of the requirements of the Protective Order; that I am personally responsible for the requirements of the terms of the Protective Order and I agree to submit to the jurisdiction of the Office and the United States District Court for the Eastern District of Virginia for purposes of enforcing the terms of the Protective Order and providing remedies for its breach.

Executed on _____, 20__.