

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

NETFLIX, INC.,

Plaintiff,

v.

ROVI CORPORATION, et al.,

Defendants.

No. C 11-6591 PJH

**ORDER GRANTING IN PART MOTION
TO DISMISS AND VACATING HEARING**

On December 4, 2014, the parties submitted a stipulation indicating that Netflix does not oppose Rovi's motion to dismiss Netflix's first and second causes of action (for declaratory judgment of non-infringement and invalidity of the '185 patent). See Dkt. 98-2. While the court appreciates the parties' resolution of the motion, the court also advises the parties that it has already expended the resources to review this matter, and urges them to make efforts to resolve future disputes before engaging in unnecessary motion practice – or at the very least, to resolve such disputes more than six days before a scheduled hearing, so that the court does not expend unnecessary resources in preparation for the hearing.

Moreover, the court is unclear as to the purpose of Netflix's motion for leave to file a sur-reply. Through their stipulation, the parties have informed the court that Netflix no longer opposes Rovi's motion. The proposed sur-reply does not appear to serve any purpose other than to burden the court with more paper (including 13 pages of emails between opposing counsel).

Netflix's motion for leave to file a sur-reply is DENIED. However, given the parties' stipulation, Rovi's motion to dismiss is GRANTED, to the extent that it seeks dismissal of

1 Netflix's first and second causes of action. The December 10, 2014 hearing date is
2 vacated. As provided in the parties' stipulation, the dismissal shall be without prejudice. To
3 the extent that Rovi's motion seeks dismissal of any of Netflix's claims or counterclaims
4 related to the '016 patent or the '776 patent, the motion is denied as moot.

5 **IT IS SO ORDERED.**

6 Dated: December 8, 2014
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9 PHYLLIS J. HAMILTON
10 United States District Judge
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