

KEKER & VAN NEST LLP  
 ASHOK RAMANI - # 200020  
 aramani@kvn.com  
 MICHAEL S. KWUN - # 198945  
 mkwun@kvn.com  
 SHARIF E. JACOB - # 257546  
 sjacob@kvn.com  
 STACY S. CHEN - # 261822  
 schen@kvn.com  
 633 Battery Street  
 San Francisco, CA 94111-1809  
 Telephone: 415 391 5400  
 Facsimile: 415 397 7188

Attorneys for Plaintiff, Counter-Defendant,  
 and Counter-Claimant, NETFLIX, INC.

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

NETFLIX, INC.,

Plaintiff,

v.

ROVI CORPORATION; ROVI  
 TECHNOLOGIES CORPORATION; ROVI  
 GUIDES, INC. (f/k/a GEMSTAR-TV  
 GUIDE INTERNATIONAL); and UNITED  
 VIDEO PROPERTIES, INC.,

Defendants.

Case No. 4:11-CV-6591 PJH

**UNOPPOSED MOTION OF  
 NETFLIX, INC. TO STAY ACTION**

Date: June 13, 2012  
 Time: 9:00 a.m.  
 Dept.: Courtroom 3, 3rd Floor  
 Judge: Hon. Phyllis J. Hamilton

Date Filed: December 21, 2011

Trial Date: None

ROVI CORPORATION; ROVI  
 TECHNOLOGIES CORPORATION; ROVI  
 GUIDES, INC. (f/k/a GEMSTAR-TV  
 GUIDE INTERNATIONAL); UNITED  
 VIDEO PROPERTIES, INC.; APTIV  
 DIGITAL, INC.; and STARSIGHT  
 TELECAST, INC.,

Counter-Claimants,

v.

NETFLIX, INC.,

Counter-Defendant.

NETFLIX, INC.,

Counter-Claimant,

v.

ROVI CORPORATION; UNITED VIDEO  
PROPERTIES, INC.; APTIV DIGITAL,  
INC.; and STARSIGHT TELECAST, INC.,

Counter-Defendants.

**NOTICE OF MOTION AND MOTION**

To DEFENDANTS and COUNTER-CLAIMANTS Rovi Corporation, Rovi Technologies, Rovi Guides, Inc., and United Video Properties, Inc., and COUNTER-CLAIMANTS Aptiv Digital, Inc. and Starsight Telecast, Inc. (collectively, “Rovi”) and all attorneys of record, please take notice that the following motion will be heard at 9:00 A.M. on June 13, 2012, or as soon thereafter as counsel may be heard, in Courtroom 3, 3rd floor of this Court, located at 1301 Clay Street, Oakland, CA 94612.

Plaintiff Netflix, Inc. (“Netflix”) will and hereby does move, unopposed, to stay this action pending final resolution of any action instituted upon the Complaint styled *Certain Products Containing Interactive Program Guide and Parental Control Technology*, filed in the U.S. International Trade Commission on May 1, 2012, and bearing docket number 2984, including any initial and final determinations of the Administrative Law Judge, the ITC, and review and appeals therefrom. Should the Court grant this motion and stay the action, Netflix also requests that the Court take off calendar next week’s May 17, 2012 initial case-management conference.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION AND PROCEDURAL HISTORY**

On December 21, 2011, Netflix filed a Complaint requesting declaratory relief of non-infringement and patent invalidity of five United States Patents. On February 17, 2012, Rovi answered and countersued Netflix and alleged infringement of three additional United States Patents. On or about May 1, 2012, Rovi filed a Complaint with the U.S. International Trade Commission (“ITC”) styled *Certain Products Containing Interactive Program Guide and Parental Control Technology*, which bears docket number 2984 (“ITC Action”). See Declaration of Stacy S. Chen (“Chen Decl.”) Ex. A. Rovi named Netflix as a proposed Respondent in the ITC Action, alleging infringement of four of the eight patents at issue in the present action.

Because of the efficiencies that would arise from staying this action in its entirety during the pendency of the ITC Action, Netflix moves to stay this action pending final resolution of the ITC Action. Rovi does not oppose this motion, see Chen Decl. Ex. B, consistent with the parties’ declaration in their case-management-conference statement filed yesterday. Dkt. 41 at 4 (“[T]he parties have agreed to jointly seek a stay of this action.”).

**II. ARGUMENT**

The Court, in its discretion may stay this proceeding as a part of the “power inherent in every court to control disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.” See *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936); *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962). Netflix, as a named respondent in the ITC Complaint, may request and have entered as a matter of right a stay “with respect to any claim that involves the same issues involved in the proceeding before the Commission” pursuant to 28 U.S.C. § 1659. Staying the present action in its entirety would best promote efficiency and preserve judicial resources. As evidenced by Rovi’s nonopposition, a stay of the present action would not unduly prejudice any of the parties.

**III. CONCLUSION**

The Court should stay this action pending final resolution of any action instituted upon the Complaint styled *Certain Products Containing Interactive Program Guide and Parental Control*

1 *Technology*, filed in the ITC on May 1, 2012, and bearing docket number 2984, including any  
2 initial and final determinations of the Administrative Law Judge, the ITC, and review and appeals  
3 therefrom. Should the Court grant this motion, it should also vacate the case-management  
4 conference scheduled for Thursday, May 17, 2012.

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6 Dated: May 11, 2011

Respectfully submitted,

7 KEKER & VAN NEST, LLP

8  
9 By: /s/ Ashok Ramani

10 ASHOK RAMANI  
11 MICHAEL S. KWUN  
12 SHARIF E. JACOB  
13 STACY S. CHEN

14 Attorneys for Plaintiff, Counter-Defendant,  
15 and Counter-Claimant NETFLIX, INC.  
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