

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

<p>AFFINITY LABS OF TEXAS, LLC, Plaintiff, v. NETFLIX, INC., Defendant.</p>	<p>Case No. 1:15-cv-00849-RP</p>
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AMENDED DECLARATION OF NADER MIR, PH.D. IN SUPPORT OF DEFENDANT
NETFLIX, INC.'S OPENING CLAIM CONSTRUCTION BRIEF RE U.S. PATENT NOS.
9,094,802 AND 9,444,868

I. INTRODUCTION

1. My name is Nader Mir. I have been retained by Netflix, Inc. to offer an opinion on the nature and level of ordinary skill in the art relevant to U.S. Patent No. 9,094,802 (“the ’802 patent”) and U.S. Patent No. 9,444,868 (“the ’868 patent”) and to offer an opinion on how such a person would understand certain of the terms in the ’802 and ’868 patent claims. This declaration sets forth my opinions concerning these matters, and I am called upon to testify, I could and would testify competently thereto.

2. My compensation is not dependent on the outcome of this proceeding, nor on my reaching any particular findings or conclusions, or on any outcome in the case. The opinions contained in this declaration are mine and based upon my knowledge, experience, and study of the materials discussed.

3. I am not an employee, consultant, or contractor of either Affinity Labs of Texas or Netflix, and have no financial interest in either party.

II. QUALIFICATIONS AND PROFESSIONAL EXPERIENCE

4. My professional career has spanned more than 30 years in design, analysis, testing, teaching, research, and performance evaluation in the general fields of telecommunications, wireless networks computer networks, TCP/IP, communications systems, multimedia including voice and video communication and networks.

5. I am currently a professor in the Department of Electrical Engineering at San Jose State University in California and teach courses on telecommunications, wireless networks computer networks, TCP/IP, VoIP and Multimedia Networks. I was previously the Associate Chairman of the Electrical Engineering Department at San Jose State University. I am also the

Director of a number of graduate programs that San Jose State University offers to several high-tech companies in Northern California.

6. I was awarded a Ph.D. in Electrical Engineering, with a focus on computer networking and communication systems and protocols, from Washington University in St. Louis in 1995. I received a Master's of Science (M.Sc.) degree in Electrical Engineering from Washington University in St. Louis in 1990 and my Bachelors of Science (B.Sc.) degree, with honors, in Electrical Engineering from Polytechnic University in 1985.

7. For more than 30 years, I have studied, designed, and worked in the general fields of telecommunications, computer networks and communications systems. Based on my extensive research, engineering, and teaching experience in such fields, I have been recognized as a specialist in the areas of computer and communication networks; networking devices; protocols including (but not limited to) packet switched networks, integrated voice, video, data networks, computer networking, TCP/IP, network server operations, voice over IP (VoIP), content delivery networking (CDN), media streaming including adaptive bitrate streaming (ABS), databases in networks, client/server, public-switched telephone networks (PSTN) and SS7 protocols, telecommunication systems including PSTN and SS7 protocols, wireless networks, networking devices such as switches and routers, network security, and network virtualization, among others.

8. Prior to my current position, I was an assistant professor at the University of Kentucky in Lexington. From 1994 to 1996, I was a research scientist at the Advanced Telecommunications Institute, Stevens Institute of Technology, New Jersey, working on the design of advanced communication systems and high-speed computer networks.

9. From 1990 to 1994, I worked at the Computer and Communications Research Center at Washington University in St. Louis as a research assistant on the design and analysis of high-speed switching systems and controllers for computer networks.

10. From 1985 to 1988, I worked with Telecommunication Research & Development Center (TRDC), Surrey, as a telecommunications system research & development engineer, participating in the design of a high-speed digital telephone Private Branch Exchange (PBX).

11. I am the named inventor on U.S. patent No. 7,012,895 B1, a switching system for use in high-speed computer networks.

12. I hold several technical editorial positions for various journals, including *IEEE Communication Magazine* and *IEEE Communications Standards*. As a Technical Editor of *IEEE Communication Magazine*, I am responsible for accepting or rejecting scientific articles submitted to the journal in the areas of computer networking and communication systems. I am a senior member of the IEEE and have served as a member of the technical program committees and the steering committees for a number of major IEEE communications and networking conferences.

13. I have authored a major textbook, titled *Computer & Communication Networks*, by Pearson Prentice-Hall publisher which is now a standard textbook adopted world-wide for undergraduate and graduate courses in numerous universities and colleges. The first edition of the book was published in 2006¹ and the second edition was published in 2015² containing 874 pages covering a broad range of fundamental and advanced topics in telecommunication networks, computer networks on all layers of TCP/IP protocol stack, communication systems, wireless networks and network security. I have published more than 100 refereed technical

¹ Nader Mir, *Computer and Communication Networks* (Prentice-Hall, 1st ed. 2006).

² Nader Mir, *Computer and Communication Networks* (Prentice-Hall, 2nd ed. 2015).

journal articles and conference papers, all in the field of communication systems and computer networking.

14. I have received a number of prestigious university, national, and international awards. In particular, I have received a number of research grants from private, state, and governmental funding agencies for conducting research in the fields of computers and communication networks. I am also the recipient of several university teaching recognition awards from San Jose State University; several research excellence awards; and the school's published book award for the year.

15. I have been invited to give a number of talks at both national and international conferences. My speeches at conferences have focused on a variety of topics in computer networking including topics on TCP/IP, networked servers, multimedia networks including media streaming including adaptive bitrate streaming, switching systems, and networking user interfaces, packet telephony and VoIP (including SIP and IMS), TCP/IP internet, and design of networking equipment, modems, switches and routers. I am the recipient of a number of Outstanding Presentation awards from leading international conferences.

16. My qualifications, along with a full list of my publications, are set forth in more detail in my *curriculum vitae*, attached hereto as **Exhibit A**.

III. THE ASSERTED PATENTS, THE RELEVANT FIELD, AND THE LEVEL OF ONE OF ORDINARY SKILL IN THE ART

17. I have been asked to develop and offer opinions related to how a person of ordinary skill in the art would have understood the '802 and '868 patents. I have reviewed the '802 patent and file history. A copy of the '802 patent is attached to this declaration as **Exhibit B**. I have also reviewed the '868 patent and its file history. A copy of the '868 patent is attached to this declaration as **Exhibit C**. Additionally, I have considered my own experience and

Amended Memorandum Decision on Plaintiff's Opening Claim Construction Brief

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