

**BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001**

COMPLAINT OF GAMEFLY, INC.)
) Docket No. C2009-1
)

**FIRST DISCOVERY REQUESTS OF GAMEFLY, INC.,
TO THE UNITED STATES POSTAL SERVICE WITNESS
ROBERT LUNDAHL
(GFL/USPS-T4-1 to -43)**

Pursuant to Rules 25 through 27 of the Rules of Practice and Procedure of the Postal Regulatory Commission, GameFly, Inc., respectfully submits the following discovery requests to USPS witness Robert Lundahl.

Respectfully submitted,

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INSTRUCTIONS AND DEFINITIONS

1. GameFly incorporates by references the instructions and definitions set forth in its first discovery requests to the Postal Service, dated July 31, 2009.
2. These questions are directed to both the witness and the Postal Service, and call for all responsive information in the possession, custody or control of either the witness or the Postal Service.
3. If particular documents responsive to a request have already been produced to or by GameFly, it is sufficient to identify those documents by title and date (for pleadings) or by GFL Bates number (for documents produced by the Postal Service in discovery).

QUESTIONS

GFL/USPS-T4-1. Please produce copies of all documents that you received in connection with your work in this case.

GFL/USPS-T4-2. Please produce copies of all documents that you reviewed in connection with your work in this case.

GFL/USPS-T4-3. Please produce a copy of the contract and any other government documents (e.g., statement of scope of deliverables) under which you and your firm have performed your work in this case.

GFL/USPS-T4-4. Please produce all studies, analyses, reports and similar documents performed by you or ATR concerning damage to DVDs; damage to

mail from processing it on AFCS, DBCS or other automated letter processing equipment; damage to polycarbonate or other plastic objects from material fatigue or mechanical impact; videogame disk composition; videogame production processes.

GFL/USPS-T4-5. Please produce all studies, analyses, reports and similar documents performed by you or ATR concerning damage to DVDs.

GFL/USPS-T4-6. Please produce all studies, analyses, reports and similar documents performed by you or ATR concerning damage to mail from processing it on AFCS, DBCS or other automated letter processing equipment.

GFL/USPS-T4-7. Please produce all studies, analyses, reports and similar documents performed by you or ATR concerning damage to polycarbonate or other plastic objects from material fatigue or mechanical impact.

GFL/USPS-T4-8. Please produce all studies, analyses, reports and similar documents performed by you or ATR concerning videogame disk composition;.

GFL/USPS-T4-9. Please produce all studies, analyses, reports and similar documents performed by you or ATR concerning videogame production processes.

GFL/USPS-T4-10. Please list the previous cases in which you have provided expert testimony. For each case, identify the case name, court or agency, docket number, the date on which your written testimony or expert report was

submitted, and the date on which you testified orally. If your testimony has been recorded in a document, please produce it.

GFL/USPS-T4-11. Have you ever had a discussion with any employee of GameFly? If so, please identify the employee(s), and the date, location and substance of the discussion.

GFL/USPS-T4-12. This question concerns pages 3-11 of your testimony (USPS-T-4), where you discuss a number of factors that you contend affect the rate of DVD breakage. Please produce all studies, analyses, compilations of data, and other information quantifying the effect of each such factor on the rate of DVD breakage.

GFL/USPS-T4-13. This question concerns pages 11-14 of your testimony (USPS-T-4), where you discuss various methods of reducing damage to DVDs from Postal Service equipment. Please produce all studies, analyses, compilations of data, and other information on the effectiveness of each such method in reducing damage to DVDs.

GFL/USPS-T4-14. Do you contend that DVDs designed, manufactured, handled and mailed in compliance with the standards and practices recommended on pages 3-14 of your testimony (USPS-T-4) would suffer no greater rates of breakage from automated letter processing than from manual processing? If your answer is anything but an unqualified no, please produce all studies, analyses, compilations of data, and other documents that support your position.

GFL/USPS-T4-15. By how much would adherence to the standards and procedures recommended on pages 3-14 of your testimony (USPS-T-4) lessen the DVD breakage that results from automated letter processing vis-à-vis manual processing? Please produce all studies, analyses, compilations of data, and other documents on which you rely.

GFL/USPS-T4-16. Please produce all studies, analyses, compilations of data, and other information quantifying the effect of manual vs. automated letter processing on the breakage rates of DVDs that have been designed, manufactured, handled and mailed in compliance with the recommendations on pages 3-14 of your testimony (USPS-T-4).

GFL/USPS-T4-17. This questions concerns the standards and practices described on pages 3-14 of your testimony (USPS-T-4):

(a) Please identify the DVD rental companies to which your company has recommended adoption of these standards and practices.

(b) For each DVD rental company identified in response to part (a), please specify the extent to which the company has adopted each of the recommended standards and practices.

(c) For each standard or practice that your company has recommended but the DVD rental company has *not* adopted, please explain why the DVD rental company chose not to adopt the standard or practice.

(d) Please produce documents sufficient to verify your responses to the previous parts of this question.

GFL/USPS-T4-18. Since receiving or applying your advice on how to reduce DVD breakage, has Netflix communicated to the Postal Service or ATR a willingness to have its DVD mailers receive less manual culling and processing from the Postal Service, and more automated letter processing? Please produce all communications to and from Netflix on this point, as well as all internal communications within the Postal Service and ATR on this point.

GFL/USPS-T4-19. Please identify each and every DVD rental company that, after learning of your advice on how to reduce DVD breakage, has communicated a willingness to have its DVD mailers receive less manual culling and processing by the Postal Service and more automated letter processing. Please produce all communications to and from the DVD rental company on this point, as well as all internal communications within the Postal Service on this point.

GFL/USPS-T4-20. On page 2, lines 1-2, of your testimony (USPS-T-4), you state: "However, all DVDs are not equal. A more fatigue-resistant DVD will not be affected the same. The second sentence seems to be missing one or more words. Did you mean "A more fatigue-resistant DVD will not be affected to the same extent as a less fatigue-resistant DVD," or other words to the same effect?"

GFL/USPS-T4-21. On page 2, lines 3-6, of your testimony (USPS-T-4), you state that "the types of DVDs mailed by GameFly and the methods Gamefly uses

to mail those DVDs may make the DVDs shipped by Gamefly more susceptible to damage than the DVDs shipped by Netflix, and perhaps by other mailers.”

(a) Why did you use the qualifier “may” instead of just omitting it or use the word “do” instead?

(b) Is the quoted statement, stripped of the qualifier “may,” a correct statement? Please explain fully any answer other than an unqualified yes.

(c) Please produce all studies, analyses, compilations of data, and other information quantifying the relative susceptibility to damage of “DVDs mailed by GameFly” versus “DVDs shipped by Netflix.”

(d) Please produce all studies, analyses, compilations of data, and other information quantifying the relative susceptibility to damage of “DVDs mailed by GameFly” versus DVDs shipped by other DVD rental companies.

(e) Please produce all studies, analyses, compilations of data, and other information quantifying the relative susceptibility to damage of DVDs mailed with GameFly’s shipping methods versus DVDs mailed with the shipping methods of Netflix.

(f) Please produce all studies, analyses, compilations of data, and other information quantifying the relative susceptibility to damage of DVDs mailed with GameFly’s shipping methods versus DVDs mailed with the shipping methods of other DVD rental companies.

GFL/USPS-T4-22. On page 2, lines 9-10, of your testimony (USPS-T-4), you state: “By way of contrast, Netflix has studied DVDs and their structure and composition.”

(a) Please provide copies of all such studies, whether performed by Netflix employees, outside vendors or consultants, or a combination of the two.

(b) If you obtained any of your information about the Netflix studies from written communications or documents other than the studies themselves, please produce the communications and documents.

(c) If you obtained any of your information about the Netflix studies from oral communications, please state the date(s) of the communications, summarize the communications, and identify the sources of and witnesses to in the communications by name, title and employer.

(d) Please discuss your role (if any) in each of the Netflix studies of “DVDs and their structure and composition.”

GFL/USPS-T4-23. On page 3, line 20, of your testimony (USPS-T-4), you state: “More recently, my firm was retained by Netflix to analyze DVD breakage.”

(a) Please provide the scope of work and period of performance for this project.

(b) Please produce the contract for this project.

(c) Please provide the budget for this project.

(d) Please provide copies of all reports, briefings, analyses, workpapers and other documents that you or your firm provided to Netflix.

(e) When did the Postal Service become aware that your firm had been retained by Netflix to analyze DVD breakage?

(f) How did your firm become aware that Netflix wanted to have a study performed to analyze DVD breakage?

(g) Was any of the testing of materials for this study performed on equipment owned by the Postal Service? If so, please provide complete details.

GFL/USPS-T4-24. During the period when you were analyzing DVD breakage for Netflix, did your firm have any contracts with the Postal Service for analysis of DVD breakage? If so, please produce them.

GFL/USPS-T4-25. For any tasks or work related to DVD breakage that your firm has performed for the Postal Service, please provide the scope of work and the period of performance, and produce copies of any written deliverables.

GFL/USPS-T4-26. Please list all the contracts your firm has had with the Postal Service, the period of performance for each, whether or not the contract was competitively bid, and the amount of money your firm has invoiced and has collected.

GFL/USPS-T4-27. If you have ever participated in any study of DVD breakage for any client other than the Postal Service or Netflix, please provide the following information for each study:

- (a) The scope of the study.
- (b) The period of performance.
- (c) The name of the client(s).
- (d) Any reports, briefings and analyses delivered to the client.
- (e) Any workpapers underlying the documents responsive to part (d).

GFL/USPS-T4-28. This question concerns the “recommendations to Netflix” referenced on page 5, lines 7-9, of your testimony (USPS-T-4). Please identify the recommendations, produce any documents setting them forth, and describe the extent to which the recommendation were adopted by Netflix.

GFL/USPS-T4-29. On page 6, lines 16 and 17 of your testimony (USPS-T-4), you say “A clearer inside diameter hole results in more durability, reduced damage, and more accurate playing.” Please provide the basis of this assertion, including any quantitative analysis which supports the assertion, the data underlying the analysis, the analysis plan, the results of the analysis, and the report(s) setting forth the results.

GFL/USPS-T4-30. On page 6, line 21-22, of your testimony (USPS-T-4), you state that “it was evident that the center hole was a major concentration of stresses.” Do you mean that the area of the disk *surrounding* the center hole was a major concentration of stresses?

GFL/USPS-T4-31. On pages 7-8 of your testimony (USPS-T-4), you state with respect to UV curing that:

Testing results were difficult to validate with the number of parameters that cannot be controlled. However, the damage to plastics caused by UV exposure is commonly understood, and Netflix also understood the likely ramification from too much UV exposure. Netflix reviewed its printing techniques and the exposure levels at all steps of the fabrication process. (See appendix ATR 4 for a summary chart of the improved printing techniques.)

(a) Please identify and produce the referenced testing results, along with the underlying study design, data and workpapers.

(b) Please identify each of the referenced “parameters” and state whether it was controlled in the testing.

(c) What is the underlying chemical or physical mechanism that you contend causes UV exposure to make DVDs more brittle?

(d) Please produce copies of treatises or journal articles supporting your answer to part (c).

GFL/USPS-T4-32. This question concerns the following statement on page 7 of your testimony (USPS-T-4):

DVDs undergo a wide range of ultraviolet (UV) curing. A greater amount of UV curing causes a DVD to be more brittle and more susceptible to damage because exposure to UV radiation changes the mechanical properties of polycarbonate materials and makes them more brittle and susceptible to fatigue.”

(a) Please confirm that the phrase “more brittle and more susceptible to damage” appears before the word “before” in the second sentence.

(b) Please confirm that the phrase “more brittle and susceptible to fatigue” appears after the word “before.”

(c) Please confirm that the sentence as written is tautological.

(d) Please provide a non-tautological explanation of why, in your view, a “greater amount of UV curing causes a DVD to be more brittle and more susceptible to damage.”

(e) Please specify the function (including coefficients) that best describes the relationship between increased exposure to UV and decreased flexibility of DVDs?

(f) Please produce all data, studies and analyses that you rely on in support of the relationship identified in response to part (e).

GFL/USPS-T4-33. This question concerns page 10 of your study (USPS-T-4), in which you state that “ATR looked at impact failures as the predominant mechanism for the Blu-ray discs.”

(a) Do you mean “ATR looked at impact failure” *mechanisms*?

(b) Did ATR’s “look” at impact failure occur in a study or studies?

(c) If so, please identify the client and the period of performance, and produce the study and workpapers.

GFL/USPS-T4-34. You state on page 11, lines 2-3, of your testimony (USPS-T-4) that “It is my understanding that the Postal Service has made modifications to resolve these issues.”

- (a) What is the basis of your understanding?
- (b) What were the modifications?
- (c) What types of equipment had modifications?
- (d) For each type of equipment, what percentage of the universe received the modifications, and what percentage is still unmodified?
- (e) Please specify the reduction in breakage rate provided by each modification.
- (f) Please produce documents sufficient to verify your responses to the previous parts of this question.

GFL/USPS-T4-35. On page 11, lines 15-17, of your testimony (USPS-T-4), you state that “Many mailers have taken actions to reduce or even avoid the risks of damage described above without changing the type of mail processing they receive.”

- (a) Please identify each of the “many mailers” to whom you refer.
- (b) Please specify the “actions” taken by each such customer.

(c) Has the Postal Service offered any of the customers identified in response to part (a) the opportunity to receive manual culling and manual processing of DVD return mailers entered at letter rates? If so, please identify those customers.

(d) Have any of the customers identified in response to part (c) waived the option of manual processing after taking the “actions” identified in response to part (b)? If so, please identify them.

(e) Please produce documents sufficient to verify your answers to the previous parts of this question.

GFL/USPS-T4-36. Pages 11-12 of your testimony (USPS-T-4) discuss reinforcement rings.

(a) What is the per-piece cost (including both materials and labor) of putting reinforcement rings on DVDs?

(b) What percentage of Netflix DVDs have reinforcement rings?

(c) What percentage of Blockbuster DVDs have reinforcement rings?

(d) If the answer to either part (b) or (c) is less than 100 percent, please explain why.

(e) Please produce documents sufficient to verify your answers to parts (a) through (d).

GFL/USPS-T4-37. On page 11, lines 24-25, of your testimony (USPS-T-4), you state: “ATR evaluated the use of reinforcement rings with an FEM study and later with actual destructive testing.”

- (a) For what client(s) did ATR perform these evaluations?
- (b) What was the period of performance?
- (c) Please produce the documents that defined the scope of the study or studies.
- (d) Please produce the report of the results of the study or studies, the study plan(s), the underlying data, and any analysis methods.
- (e) Whose equipment was used for the destructive testing?

GFL/USPS-T4-38. This question concerns the discussion of “DVD handling” on page 12, lines 4-17, of your testimony (USPS-T-4).

- (a) What handling method(s) do you understand that GameFly uses for its DVDs? What is your basis for this understanding?
- (b) Have you performed any FEM or destructive testing analysis on GameFly’s DVDs? If so, please produce the test data and results.
- (c) Do you have any information about the techniques GameFly uses to protect the quality of the inside diameter of its DVDs?
- (d) If so, please provide the information and identify its source.

GFL/USPS-T4-39. On page 12, lines 12-15, of your testimony (USPS-T-4), you state: “ATR...recommended that these spindles be inspected and the manufacturing process should avoid excessive handling by the inside diameter or the use of jewel cases.”

(a) To whom did ATR make these recommendations?

(b) If ATR memorialized the recommendations in any documents, please produce them.

(c) Please specify in quantitative terms how much handling is excessive?

(d) On what data is your answer to part (c) based? Please produce the data and any studies or reports from the data were obtained.

(e) Please explain the relationship between damage to DVDs and the use of jewel cases, and produce all studies, analyses and data on which your response is based.

(f) Do you contend that GameFly uses jewel cases for shipping or storing its DVDs? If your answer is anything but an unqualified no, please produce the information on which the answer is based.

GFL/USPS-T4-40. On page 13, lines 10-12, of your testimony (USPS-T-4), you state, “Netflix has succeeded in reducing the amount of handling by developing

automated internal handling processing and requiring minimal handling of its DVDs within the Postal Service processing network.”

(a) Please describe the specific methods of “automated internal handling processing” used by Netflix.

(b) When did Netflix implement the methods identified in response to part (a)?

(c) What is the incremental amount of DVD breakage that Netflix avoids by using the methods identified in response to part (a)?

(d) Please identify the information on which you rely to answer parts (a) through (c). If the information is recorded in documents, please produce copies.

GFL/USPS-T4-41. This question refers to page 14, lines 12-14, of your testimony (USPS-T-4), where you state: “Because GameFly enters its DVDs as flats . . . I cannot evaluate GameFly’s envelope in this category.”

(a) Please confirm that you have not performed any study of DVD breakage on flats sorting machines.

(b) If your answer to part (a) is anything but an unqualified confirmation, please produce all documents relating to the study or studies.

GFL/USPS-T4-42. This question refers to page 14, lines 19-21, of your testimony (USPS-T-4), where you state:

The use of stiffeners inside the envelope would be a promising strategy to minimize the severity of the bend for the DVD itself.

Are you aware of any stiffener that is stiff enough to reduce DVD breakage significantly but light enough to enable the resulting mailpiece to qualify as a one-ounce piece? If so, please identify and produce documentation of the stiffener design.

GFL/USPS-T4-43. On page 15 of your testimony (USPS-T-4), you state:

As explained above, Netflix and other DVD mailers mail DVDs with inherent characteristics that make DVDs more durable. They also take other actions that make their DVDs less vulnerable to damage, including the use of reinforcement rings, maintaining good cutters, maintaining spindle quality, and limiting the handling of their DVDs. GameFly mails DVDs that may be more susceptible to damage, since it does not take affirmative action to make its DVDs more fatigue resistant. GameFly appears to lack basic knowledge about DVDs, why they fail, and how to increase their fatigue life.

On page 17 of USPS-T-2, USPS witness Belair states: “Yes, I would say that low damage rates are common knowledge. Rates around one percent have been reported recently by Netflix, and more recently by GameFly.”

(a) Please reconcile the two quoted statements.

(b) Would Netflix continue to experience breakage rates “around one percent” if the company continued to follow the practices that you praise in the quoted passage, but the Postal Service processed Netflix return mailers predominantly on automated letter processing equipment?

(c) Please provide all studies, analyses, compilations of data, and other information on which your answer to part (b) relies.