

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

REALTIME ADAPTIVE STREAMING LLC,

Plaintiff,

v.

SLING TV, L.L.C.,
SLING MEDIA, INC.,
SLING MEDIA, L.L.C.,
ECHOSTAR TECHNOLOGIES L.L.C.,
DISH NETWORK L.L.C., and
ARRIS GROUP, INC.,

Defendants.

Civil Action No. 1:17-cv-02097-RBJ

LEAD CASE

REALTIME ADAPTIVE STREAMING LLC,

Plaintiff,

v.

APPLE INC.,

Defendant.

Civil Action No. 1:17-cv-02869-RBJ

CONSOLIDATED CASE

APPLE INC.'S MOTION TO LIMIT THE NUMBER OF ASSERTED CLAIMS

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I. INTRODUCTION

Plaintiff Realtime Adaptive Streaming LLC (“Realtime”) asserts ninety-three patent claims in this case against Apple Inc. (“Apple”) and has ignored all of Apple’s attempts to get Realtime to voluntarily reduce the number of claims to a reasonable “handful” as this Court instructed. Realtime has no legitimate need to assert so many claims at this stage. And while Realtime has continued to drag its feet on Apple’s repeated requests that it get down to a more realistic number, costs and prejudice to Apple continue to accrue.

In November 2017, Realtime filed its original complaint against Apple alleging infringement of six patents and identifying one claim of each patent as allegedly infringed. (Dkt. No. 1 ¶¶ 6–12, 15, 33, 56, 75, 92, 110.) The Asserted Patents, four of which belong to the same patent family, are related to compressing electronic data to smaller chunks for transmission or storage and coding digital video signals. During the March 7, 2018 Case Management Conference, this Court emphasized the importance of narrowing the asserted claims to a manageable number. Yet just three weeks later, Realtime served its infringement contentions and increased the number of claims asserted from six to ninety-three. Since then, Realtime has ignored repeated requests from Apple to limit the number of claims as this Court instructed.

Apple hereby moves the Court for an order requiring Realtime to reduce the number of asserted claims to a reasonable, manageable number for purposes of claim construction, fact discovery, and expert discovery. Because Realtime repeatedly failed to respond to Apple’s attempts to resolve this dispute in the early weeks of this case, Apple has already expended a bone-crushing effort to prepare invalidity contentions against the ninety-three asserted claims.

Since putting Apple to that effort and expense, Realtime has had several weeks to digest those contentions and is thus well positioned to reduce the claims asserted.

The claim reduction process should begin now, to prevent Apple from expending more resources analyzing, conducting discovery on, and responding to dozens of claims that will eventually be dropped from this action. Accordingly, Apple respectfully requests that the Court order Realtime to reduce the number of asserted claims so the parties may proceed with the exchange of claim terms to be construed and present a manageable number of claims for the Court to construe. Otherwise avoidable costs will compound as the parties brief, and the Court decides, claim construction and discovery issues for claims that Realtime will elect not to pursue.¹ Given the redundancy of the claims asserted, Realtime should be limited to twenty-four total claims—at most twelve claims total from the four related patents and six claims each from the other two patents.

II. FACTUAL BACKGROUND

A. The Asserted Patents

In its Complaint against Apple, Realtime alleges infringement of six U.S. patents (“Asserted Patents”): Nos. 7,386,046 (the “’046 Patent”); 8,929,442 (the “’442 Patent”); 8,934,535 (the “’535 Patent”); 9,769,477 (the “’477 Patent”); 8,634,462 (the “’462 Patent”); and 9,578,298 (the “’298 Patent”). The Asserted Patents are generally directed to electronic data compression and decompression technologies and video coding. Four of the six patents—the ’046, ’535, ’442, and ’477 Patents—belong to the same patent family and all name James Fallon and Stephen McErlain as inventors (the “Fallon Patents”). The Fallon Patents claim priority to

¹ The parties are currently scheduled to exchange a list of claim terms to be construed on July 25, 2018.

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