

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|---------------------------------|---|------------------------------|
| REALTIME ADAPTIVE STREAMING |) | |
| LLC, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 17-1519 (VAC) (MPT) |
| |) | |
| BRIGHTCOVE INC., and BRIGHTCOVE |) | |
| HOLDINGS, INC., |) | |
| |) | |
| Defendants. |) | |

**REPLY BRIEF IN SUPPORT OF DEFENDANTS BRIGHTCOVE INC.
AND BRIGHTCOVE HOLDINGS, INC.’S MOTION TO DISMISS PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6)**

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I. REALTIME HAS NOT PLAUSIBLY ALLEGED INFRINGEMENT

Realtime admits that it has not matched any component of Brightcove’s products to any claim of any patent. It also admits that its sole basis for infringement is that Brightcove products are compliant with the H.264 and H.265 standards. So there is only one way that compliance with the standards creates a plausible basis for infringement: *if compliance necessarily requires practicing every element of at least one claim of each asserted patent*. If the standard doesn’t require infringement, there is no plausible basis to infer infringement. That is a matter of basic logic and common sense, and the case law agrees.

In our opening brief, we showed that the H.264 and H.265 standards do *not* require any specific type of compression—much less the specific type of compression required by the Fallon Patents and the ’462 patent—or the stereoscopic processing of the ’298 patent. The standards are black and white on these core facts, and not subject to interpretation. D.I. 16 at 6, 8. And in fact, Realtime does not address or refute Brightcove’s citation to the standards. Nor can it; again, they are expressly clear on these points. Thus, complying with the standard does not create a plausible basis for infringement.

Instead, Realtime’s primary approach is to claim that Brightcove argues something it does not, and attack that argument instead—a classic straw man. Realtime claims that Brightcove’s argument is that “the standard cannot be relied upon purportedly because it is about ‘decoding’ only.” See D.I. 21 at 5; *see also id.* at 4 (“Brightcove’s argument that the standard is solely about decoding is factually and legally flawed.”). It goes on to refute this claim by pointing out that the standards “provide details regarding compression” and, in the alternative, that encoding is implicit in decoding. *Id.* at 3–4.

Brightcove’s actual argument is that the H.264 and H.265 standards do not require what the claims do—that the standards expressly say that the compression scheme and stereoscopic

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