

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

REALTIME ADAPTIVE STREAMING
LLC,

Plaintiff,

v.

NETFLIX, INC. AND NETFLIX
STREAMING SERVICES, INC.,

Defendants.

C.A. No. 1:17-cv-01692-JFB-SRF

REALTIME ADAPTIVE STREAMING
LLC,

Plaintiff,

v.

BRIGHTCOVE INC., AND
BRIGHTCOVE HOLDINGS, INC.,

Defendants.

C.A. No. 1:17-cv-01519-JFB-SRF

**PLAINTIFF REALTIME ADAPTIVE STREAMING LLC'S NOTICE OF
SUPPLEMENTAL AUTHORITY RE: DEFENDANTS' MOTIONS TO DISMISS**

Plaintiff Realtime Adaptive Streaming LLC ("Realtime") hereby provides notice that, on March 7, 2018, a court in Colorado denied a motion to dismiss and a motion for judgment on the pleadings under §101 of the asserted and related patent at issue here. (Ex. 1 ("[47] Motion to Dismiss is DENIED"; "[48] Motion for Judgment on the Pleadings is DENIED.")) The Colorado case involved the '535 patent asserted against Defendants Netflix and Brightcove here, as well as U.S. Pat. No. 8,867,610 ("'610 patent"), which is related to the '535 patent. The '535 patent (asserted against Netflix and Brightcove) is related to (and shares the same specification

as) the other Fallon patents¹ asserted against Netflix and Brightcove. The sole basis for the Colorado defendants' motion to dismiss and motion for judgment on the pleadings was their argument that the '535 and the '610 patents were patent ineligible under §101. (*See* Ex. 2-4.) After briefing and a hearing, the Colorado court denied both motions. (Ex. 1.) In denying the motions, the Colorado court considered and rejected some of the same arguments advanced by Netflix and Brightcove here, *e.g.*, that the '535 patent and the other related Fallon patents are patent ineligible under §101. Like the Colorado court has done, this Court should deny Netflix's and Brightcove's motions to dismiss. (D.I. 11 of Case No. 1:17-cv-01692-JFB-SRF; and D.I. 15 of Case No. 1:17-cv-01519-JFB-SRF.)

March 13, 2018

BAYARD, P.A.

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¹ The four Fallon patents asserted against Netflix are: U.S. Pat. Nos. 8,934,535; 9,769,477; 9,762,907; and 7,386,046. The patents asserted against Brightcove include the four Fallon patents asserted against Netflix, as well as the following additional Fallon patent: U.S. Pat. No. 8,929,442. Neither Netflix nor Brightcove has argued that the remaining two asserted patents, U.S. Pat. Nos. 8,634,462 and 9,578,298 are patent ineligible.