IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

REALTIME ADAPTIVE STREAMING LLC,	)	
Plaintiff,	)	
v.	)	C.A. No. 17-1692 (JFB) (SRF)
NETFLIX, INC. and NETFLIX STREAMING SERVICES, INC.,	)	
Defendants.	)	

DEFENDANTS' OPENING BRIEF IN SUPPORT OF THEIR MOTION TO DISMISS COMPLAINT

MORRIS, NICHOLS, ARSHT & TUNNELL LLP
Jack B. Blumenfeld (#1014)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@mnat.com

Attorneys for Defendants

OF COUNSEL:

Katherine Vidal
Matthew R. McCullough
Winston & Strawn LLP
275 Middlefield Road, Suite 205
Menlo Park, CA 94025
(650) 858-6500

Andrew B. Grossman
Winston & Strawn LLP
333 S. Grand Avenue
Los Angeles, CA 90071
(213) 615-1700

February 5, 2018

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes and Rules

NATURE AND STAGE OF THE PROCEEDING

Plaintiff Realtime Adaptive Streaming LLC ("Realtime") has sued Netflix, Inc. and Netflix Streaming Services, Inc. (collectively, "Netflix"), alleging infringement of U.S. Patent Nos. 8,934,535 ("the '535 patent"), 9,769,477 ("the '477 patent"), 9,762,907 ("the '907 patent"), 7,386,046 ("the '046 patent"), 8,634,462 ("the '462 patent"), and 9,578,298 ("the '298 patent") (the "asserted patents"). *See* D.I. 1. Netflix has moved to dismiss the Complaint for failure to state a claim upon which relief can be granted.

SUMMARY OF THE ARGUMENT

(1) The four substantially identical Fallon patents ('535, '477, '907, and '046 patents) asserted in this matter are all related purport to claim the concept of encoding and decoding data—acknowledged by the Federal Circuit as a concept as old as communication itself—and are unpatentable under 35 U.S.C. § 101. "Morse code, ordering food at a fast food restaurant via a numbering system, and Paul Revere's 'one if by land, two if by sea' signaling system all exemplify encoding at one end and decoding at the other end." *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1326 (Fed. Cir. 2017). The well-known techniques for encoding and decoding claimed in the Fallon patents are performed by conventional computers and network technology, so those elements do not save the claims under 35 U.S.C. § 101. *See, e.g.*, *Alice Corp. v. CLS Bank Int'l*, 134 S. Ct. 2347, 2356 (2014). The claims do not contain any inventive concept that transforms the claimed abstract idea—of selecting an encoder and then encoding the data—into patent-eligible subject matter.

(2) Realtime also fails to properly allege infringement for any of the six asserted patents. Instead, it accuses numerous different products, which the Complaint acknowledges operate differently, and fails to state a plausible claim that each of these various products infringes. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

DOCKET ALARM

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts

Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research

With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips

Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS
Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS
Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS
Sync your system to PACER to automate legal marketing.