

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

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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).

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