

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' REPLY BRIEF IN SUPPORT OF THEIR
MOTION TO DISMISS COMPLAINT**

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I. INTRODUCTION

Realtime's opposition fails to demonstrate how the claims of the asserted Fallon patents meet the requirements for subject-matter eligibility. At *Alice* step 1, Realtime admits that its claims "are directed to digital data compression" (Opp. at 1), which is "widely used to reduce the amount of data required to process, transmit, or store a given quantity of information" and is, therefore, abstract. '535 patent at 2:44-46. At *Alice* step 2, Realtime does not point to any *claim limitations* reciting any improvements to a computer system; instead, it claims arrangements of general-purpose computer components employing well-understood, conventional, and routine techniques. Its rhetoric aside, Realtime's opposition does not identify any inventive component in any claim. Indeed, the patent specifications confirm that all the claimed hardware and compression mechanisms were conventional, and there is nothing inventive about their ordered combination.

Realtime's deficient infringement allegations fare no better. Realtime does not dispute that its complaint lacks factual allegations supporting a plausible claim of infringement for each accused product. Instead, Realtime argues that the sheer volume of allegations in the complaint should exempt it from its obligations under Rule 8. Similarly, Realtime does not dispute that it failed to sufficiently plead standards-based infringement for the '462 and '298 patents. Here again, Realtime focuses on the volume of allegations to distract from the lack of relevant facts supporting its claims of infringement. There are no facts to support any "reasonable inference" about how Netflix encoding technology works, let alone how it allegedly infringes the '462 patent. And Realtime conflates the evidentiary and pleading requirements for alleging standards-based infringement in hopes of avoiding its obligations to provide facts showing how Netflix allegedly uses "tile" functionality in a manner that allegedly infringes the '298 patent. Finally, Realtime's opposition concedes that it has not pleaded sufficient facts to plausibly allege pre-suit

indirect infringement. For all these reasons, the Court should find the Fallon patents ineligible under § 101 and dismiss Realtime's direct and indirect infringement claims.

II. THE FALLON PATENT CLAIMS ARE ABSTRACT UNDER ALICE STEP ONE

It is undisputed that the Fallon claims are directed toward data compression (*e.g.*, Opp. at 1), a type of “encoding and decoding” data, which the Federal Circuit has stated is “an abstract concept long utilized to transmit information” and is thus patent-ineligible. *RecogniCorp, LLC v. Nintendo Co.*, 855 F.3d 1322, 1326 (Fed. Cir. 2017).¹ Realtime argues that, notwithstanding *RecogniCorp*'s clear and unambiguous holding, its patents should survive because they are “technological solutions to technological problems.” Opp. at 2. Not so.

Realtime focuses on problems in the prior art identified in the specification. But it fails to explain how those problems were solved by the Fallon patents, or how that solution is captured in the claim language. It is well settled that the “*claim*—as opposed to something purportedly described in the specification” must satisfy the eligibility test. *Two-Way Media Ltd. v. Comcast Cable Commc'ns, LLC*, 874 F.3d 1329, 1338-39 (Fed. Cir. 2017).

Despite repeated reference to “novel digital data compression” purportedly recited in the Fallon patent claims, Realtime does not identify a single one out of the 114 claims of the Fallon patents reciting a new, non-abstract type of “digital data compression” or unconventional computer components not well-understood in the prior art.² Opp. at 3. Instead, Realtime points to the recitation in the claims of “asymmetrical” compression, which is nothing more than a term defined by the inventors to broadly categorize a class of well-understood, conventional algorithms (contrasted with “symmetrical” compression algorithms). *See* '535 patent at 9:60-66;

¹ Realtime argues that Netflix “mischaracterizes” the claims, but describes the patent as directed to essentially the same abstract idea identified by Netflix. *E.g.*, Motion at 8.

² Realtime's opposition does not cite to a single claim reciting “digital data compression.”

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