

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

REALTIME ADAPTIVE STREAMING)	
LLC,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 17-1693 (JFB) (SRF)
)	
SONY ELECTRONICS INC. and)	
SONY CORPORATION,)	
)	
Defendants.)	

**SONY’S OPENING BRIEF IN SUPPORT OF ITS
MOTION TO DISMISS FOR PATENT INELIGIBILITY**

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I. NATURE AND STAGE OF THE PROCEEDINGS

On November 21, 2017, Plaintiff Realtime Adaptive Streaming LLC (“Realtime”) filed a complaint against Sony Electronics Inc. and Sony Corporation. (D.I. 1.) On December 26, 2017, the parties filed a Stipulation of Dismissal of Sony Corporation. (D.I. 9.) On February 5, 2018, Sony Electronics Inc. (“Sony”) filed a motion for a definite statement under Fed. R. Civ. P. 12(e) as to all asserted counts (Counts I-VII) on the grounds that Realtime’s allegations were so vague and ambiguous that Sony could not reasonably understand how Realtime was asserting infringement, and of what particular products. (D.I. 13, 14.)

By this motion, Sony challenges the patentability under 35 U.S.C. § 101 of five related Realtime patents asserted in Counts I, III, IV, VI, and VII; namely, U.S. Patent Nos. 7,386,046 (“the ’046 Patent”) (Count I); 8,929,442 (“the ’442 Patent”) (Count III); 8,934,535 (“the ’535 Patent”) (Count IV); 9,762,907 (“the ’907 Patent”) (Count VI); and 9,769,477 (“the ’477 Patent”) (Count VII) (collectively the “Fallon Patents”).

Similar § 101 challenges to these same Fallon Patents are being simultaneously raised by other defendants both in this Court and in three other judicial districts.¹

II. SUMMARY OF THE ARGUMENT

1. The claims of the Fallon Patents are invalid under 35 U.S.C. § 101 and the two-part test articulated by the Supreme Court in *Alice Corp. Pty. Ltd. v. CLS Bank Int’l*, 134 S. Ct. 2347, 2356 (2014). As to *Alice* step one, the claims are all directed to the same abstract

¹ *Realtime Adaptive Streaming LLC v. Brightcove Inc.*, C.A. No. 17-1519-JFB-SRF (D. Del.) (§ 101 motion filed 1/26/18); *Realtime Adaptive Streaming LLC v. Netflix, Inc.*, C.A. No. 17-1692-JFB-SRF (D. Del.) (§ 101 motion filed 2/5/18); *Realtime Adaptive Streaming LLC v. Sling TV LLC*, No. 1:17-cv-02097 (D. Colo.) (§ 101 motion filed 12/6/17); *Realtime Adaptive Streaming LLC v. Hulu, LLC*, No. 2:17-cv-07611 (C.D. Cal.) (§ 101 motion filed 1/12/18); *Realtime Adaptive Streaming LLC v. Cisco Systems, Inc.*, No. 6:17-cv-00591 (E.D. Tex.) (§ 101 motion filed 1/19/18).

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