

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

DIGITAL MEDIA TECHNOLOGIES, INC.

Plaintiff,

Civil Action No.

v.

JURY TRIAL DEMANDED

NETFLIX, INC.

Defendant.

---

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff, Digital Media Technologies, Inc., for its Complaint against Defendant, Netflix, Inc., alleges as follows:

**INTRODUCTION**

1. This is an action for patent infringement arising under the patent laws of the United States, Title 35, United States Code.

**THE PARTIES**

2. Plaintiff Digital Media Technologies, Inc. (hereinafter “Digital”) is a Florida Corporation with a principal place of business located at 2801 Chancellorsville Drive #1121, Tallahassee, Florida 32312.

3. On information and belief, Defendant Netflix, Inc. is a Delaware Corporation (“Defendant”) with an address at 100 Winchester Circle, Los Gatos, California 95032.

4. On information and belief, Defendant’s registered agent in the State of Florida is NRAI Services, Inc., 1200 South Pine Island Road, Plantation, Florida 33324.

5. On information and belief, Defendant does business as “Netflix” and operates a

national website and store at <http://www.netflix.com/>.

**JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction over all causes of action set forth herein pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, Title 35, United States Code, including 35 U.S.C. §271 *et seq.*

7. This Court has personal jurisdiction over Defendant as: (i) Defendant maintains regular and systematic business contacts with the State of Florida and within this judicial district and division; (ii) Defendant purposely, regularly, and continuously conducts business in the State of Florida and within this judicial district and division; (iii) Defendant purposefully directs its activities at residents of the State of Florida; (iv) the cause of action set forth herein arises out of or relates to the Defendant's activities in the State of Florida; and (v) the exercise of jurisdiction over Defendant will not offend traditional notions of fair play and substantial justice.

8. Venue is proper in this judicial district and division pursuant to 28 U.S.C. §1331, §1338(a), §1391, and §1400(b).

**COUNT ONE: PATENT INFRINGEMENT**  
**(U.S. Patent No. 8,964,764)**

9. Digital realleges and incorporates herein the preceding allegations of this Complaint as if fully set forth herein.

10. On February 24, 2015, the United States Patent and Trademark Office duly and legally issued United States Patent No. 8,964,764, entitled "Multimedia Network System With Content Importation, Content Exportation, And Integrated Content Management." A true and correct copy of U.S. Patent No. 8,964,764 is attached hereto as Exhibit "1."

11. Digital is the owner, by assignment, of all right, title, and interest in and to U.S. Patent No. 8,964,764 (hereinafter the “’764 Patent”), including the right to bring suit for past, present, and future patent infringement, and to collect past, present, and future damages.

12. Defendant has in the past and continues to infringe at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the ’764 Patent in violation of 35 U.S.C. §§271 (a), (b), and (c). Defendant’s direct infringing acts include, but are not necessarily limited to, Defendant’s use, offering for sale, and sale of Defendant’s Content Delivery Service and system (hereinafter “Defendant’s CDS”). Information from Defendant’s national website and store (<http://www.netflix.com/>), and additional publicly available information, which shows some representative examples of Defendant’s infringing CDS, is attached as Exhibit “2.” Defendant’s patrons and customers also directly infringe at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the ’764 Patent.

13. Defendant has in the past and continues to indirectly infringe at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the ’764 Patent in violation of 35 U.S.C. § 271(b) by actively, knowingly, and intentionally inducing direct infringement by other persons, including patrons, customers, and end users, by offering for sale and/or selling Defendant’s CDS in the United States without authority or license from Digital and in a manner understood and intended to infringe Digital’s ’764 Patent.

14. Digital provided Defendant with written notice of the ’764 Patent no later than on or about July 6, 2015. *See* Exhibit “3.” At the same time, Digital also told Defendant that Defendant had in the past and was continuing to infringe the ’764 Patent. As a result, Defendant had notice of its alleged infringement of the ’764 Patent.

15. Defendant never responded to Digital regarding the July 6, 2015 notice letter (Exhibit “3”).

16. On information and belief, as Defendant deliberately avoided confirming its high probability of wrongdoing, Defendant has and continues to infringe, and induce the direct infringement of, at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the '764 Patent, with willful blindness.

17. Defendant also has in the past and continues to indirectly infringe at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the '764 Patent in violation of 35 U.S.C. § 271(c) by actively, knowingly, and intentionally contributing to an underlying direct infringement by other persons, such as Defendant's patrons, customers, and end users, by offering for sale and/or selling Defendant's CDS in the United States without authority or license from Digital and in a manner understood and intended to infringe Digital's '764 Patent.

18. Defendant's CDS is (i) a component and material part of the inventions claimed in at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the '764 Patent, (ii) knowingly and especially designed for use in infringing at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the '764 Patent, (iii) are intended to be used to infringe at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the '764 Patent, and (iv) not a staple item of commerce suitable for substantial non-infringing use.

19. On information and belief, as Defendant deliberately avoided confirming its high probability of wrongdoing, Defendant has and continues to act, and contribute to the direct infringement of at least claims 1-3, 5-8, 11-18, 20-21, 23, 28, 30-33, and 36-37 of the '764 Patent, with willful blindness.

20. Customers who reside in the State of Florida, including the Northern District of Florida, may use, subscribe to, and purchase Defendant's CDS from Defendant via the Internet.

21. Defendant's infringement of the '764 Patent has been, and continues to be, objectively reckless, willful and deliberate, entitling Digital to increased damages pursuant to 35 U.S.C. §284 and to attorneys' fees pursuant to 35 U.S.C. §285.

22. Digital has and continues to suffer damages as a direct and proximate result of Defendant's infringement of the '764 Patent and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Digital has no adequate remedy at law.

23. Digital is entitled to: (i) damages adequate to compensate it for Defendant's infringement of the '764 Patent, which amounts to, at a minimum, a reasonable royalty; (ii) treble damages; (iii) attorneys' fees; (iv) costs; (v) interest; and (vi) a preliminary and thereafter permanent injunction.

**COUNT TWO: PATENT INFRINGEMENT**  
**(U.S. Patent No. 9,300,657)**

24. Digital realleges and incorporates herein the preceding allegations of this Complaint as if fully set forth herein.

25. On March 29, 2016, the United States Patent and Trademark Office duly and legally issued United States Patent No. 9,300,657, entitled "Multimedia Network System With Content Importation, Content Exportation, And Integrated Content Management." A true and correct copy of U.S. Patent No. 9,300,657 is attached hereto as Exhibit "4."

26. Digital is the owner, by assignment, of all right, title, and interest in and to U.S. Patent No. 9,300,657 (hereinafter the “’657 Patent”), including the right to bring suit for past, present, and future patent infringement, and to collect past, present, and future damages.

27. Defendant has in the past and continues to infringe at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the ’657 Patent in violation of 35 U.S.C. §§271 (a), (b), and (c). Defendant’s direct infringing acts include, but are not necessarily limited to, Defendant’s use, offering for sale, and sale of Defendant’s Content Delivery Service and system (hereinafter “Defendant’s CDS”). Information from Defendant’s national website and store (<http://www.netflix.com/>), and additional publicly available information, which shows some representative examples of Defendant’s infringing CDS, is attached as Exhibit “2.” Defendant’s patrons and customers also directly infringe at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the ’657 Patent.

28. Defendant has in the past and continues to indirectly infringe at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the ’657 Patent in violation of 35 U.S.C. § 271(b) by actively, knowingly, and intentionally inducing direct infringement by other persons, including patrons, customers, and end users, by offering for sale and/or selling Defendant’s CDS in the United States without authority or license from Digital and in a manner understood and intended to infringe Digital’s ’657 Patent.

29. Digital provided Defendant with written notice of the ’657 Patent no later than on or about the filing date of this Complaint. At the same time, Digital also told Defendant that Defendant had in the past and was continuing to infringe the ’657 Patent. As a result, Defendant had notice of its alleged infringement of the ’657 Patent.

30. On information and belief, as Defendant deliberately avoided confirming its high probability of wrongdoing, Defendant has and continues to infringe, and induce the direct infringement of, at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the '657 Patent, with willful blindness.

31. Defendant also has in the past and continues to indirectly infringe at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the '657 Patent in violation of 35 U.S.C. § 271(c) by actively, knowingly, and intentionally contributing to an underlying direct infringement by other persons, such as Defendant's patrons, customers, and end users, by offering for sale and/or selling Defendant's CDS in the United States without authority or license from Digital and in a manner understood and intended to infringe Digital's '657 Patent.

32. Defendant's CDS is (i) a component and material part of the inventions claimed in at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the '657 Patent, (ii) knowingly and especially designed for use in infringing at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the '657 Patent, (iii) are intended to be used to infringe at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the '657 Patent, and (iv) not a staple item of commerce suitable for substantial non-infringing use.

33. On information and belief, as Defendant deliberately avoided confirming its high probability of wrongdoing, Defendant has and continues to act, and contribute to the direct infringement of at least claims 1-5, 7, 13-15, 18-34, 36-37, 43-45, and 48-55 of the '657 Patent, with willful blindness.

34. Customers who reside in the State of Florida, including the Northern District of Florida, may use, subscribe to, and purchase Defendant's CDS from Defendant via the Internet.

35. Defendant's infringement of the '657 Patent has been, and continues to be, objectively reckless, willful and deliberate, entitling Digital to increased damages pursuant to 35 U.S.C. §284 and to attorneys' fees pursuant to 35 U.S.C. §285.

36. Digital has and continues to suffer damages as a direct and proximate result of Defendant's infringement of the '657 Patent and will suffer additional and irreparable damages unless Defendant is permanently enjoined by this Court from continuing its infringement. Digital has no adequate remedy at law.

37. Digital is entitled to: (i) damages adequate to compensate it for Defendant's infringement of the '657 Patent, which amounts to, at a minimum, a reasonable royalty; (ii) treble damages; (iii) attorneys' fees; (iv) costs; (v) interest; and (vi) a preliminary and thereafter permanent injunction.

#### **PRAYER FOR RELIEF**

WHEREFORE, Digital seeks the following relief:

- a. That Defendant be enjoined from further infringement of the '764 Patent and the '657 Patent pursuant to 35 U.S.C. §283;
- b. That Defendant be ordered to pay damages adequate to compensate Digital for Defendant's infringement of the '764 Patent and the '657 Patent pursuant to 35 U.S.C. §284;
- c. That Defendant be ordered to pay Digital treble damages pursuant to 35 U.S.C. §284;
- d. That Defendant be ordered to pay prejudgment interest pursuant to 35 U.S.C. §284;
- e. That Defendant be ordered to pay all costs associated with this action pursuant to 35 U.S.C. §284;



- f. That Defendant be ordered to pay Digital's attorneys' fees pursuant to 35 U.S.C. §285;
- g. That Digital be granted such other and additional relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38(b), Digital demands a trial by jury of all issues triable of right by a jury.

Respectfully submitted, this 25th day of April, 2016.

*/s/ Robert N. Clarke, Jr.*

Robert N. Clarke, Jr.  
Florida Bar No. 592900  
Telephone: (850) 425-5456  
Email: rclarke@ausley.com  
Martin B. Sipple  
Florida Bar No. 0135399  
Telephone: (850) 425-5334  
Email: msipple@ausley.com

**AUSLEY MCMULLEN**  
123 South Calhoun Street  
Tallahassee, Florida 32302

Stephen R. Risley  
Telephone: (404) 585-2101  
Email: steverisley@kentrisley.com  
Daniel A. Kent  
Telephone: (404) 585-4214  
Email: dankent@kentrisley.com

**KENT & RISLEY LLC**  
555 North Point Center East, Suite 400  
Alpharetta, Georgia 30022  
Facsimile: (678) 389-9402