

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

FASTVDO LLC,

Plaintiff,

v.

NETFLIX INC.,

Defendant.

Civil Action No.

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff FastVDO LLC (“FastVDO”) alleges as follows:

PARTIES

1. FastVDO is a Florida limited liability corporation with a principal place of business at 750 N. Atlantic Ave., Cocoa Beach, FL 32931.
2. On information and belief, Netflix Inc. (“Netflix”) is a Delaware corporation with a principal place of business at 100 Winchester Circle, Los Gatos, CA 95032.

JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*, including § 271. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).
4. This Court has personal jurisdiction over Netflix because, among other reasons, Netflix is incorporated under the laws of the State of Delaware, and Netflix has conducted and continues to conduct regular and ongoing business in Delaware. Additionally, on information and belief, Netflix has committed and continues to commit acts of direct and indirect infringement in this District by making, using, importing, offering for sale, and/or selling infringing products, and inducing others to perform method steps claimed by FastVDO’s patent in Delaware.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b)-(c) and 1400(b) because, among other reasons, Netflix is incorporated under the laws of the State of Delaware, and Netflix has conducted and continues to conduct regular and ongoing business in Delaware. Additionally, on information and belief, Netflix has committed and continues to commit acts of direct and indirect infringement in this District by making, using, importing, offering for sale, and/or selling infringing products, and inducing others to perform method steps claimed by FastVDO's patent in Delaware.

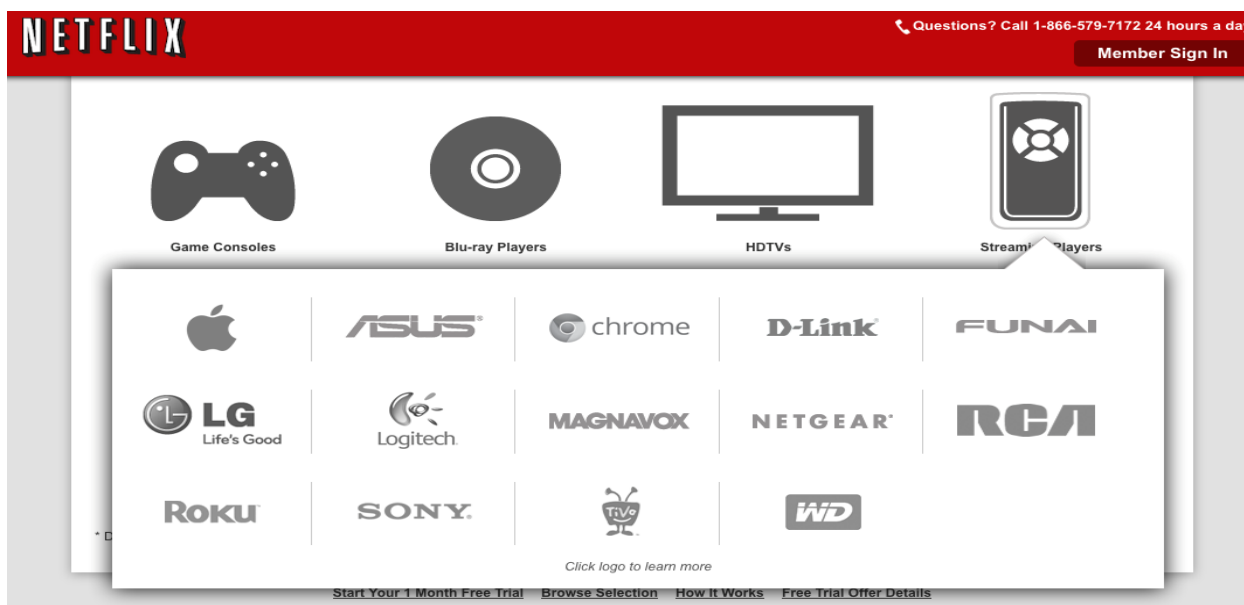
COUNT I

(Infringement of U.S. Patent No. RE 40,081)

6. FastVDO is the owner by assignment and merger of United States Patent No. RE 40,081 ("the '081 patent"), entitled "Fast Signal Transforms With Lifting Steps." The '081 patent reissued on February 19, 2008, based on an initial application filed December 16, 1998. A true and correct copy of the '081 patent is attached hereto as Exhibit A. The '081 patent enables digital video compression through the coding and decoding of blocks of digital image intensities with a block coder and transform coder that utilizes an invertible linear transform having a +/- butterfly step, a lifting step, and a scaling factor. International Telecommunications Union – Telecommunication Standardization Sector (ITU-T) H.264 (also known as MPEG-4 Part 10, Audio Video Coding or AVC) (herein "H.264") is a video compression standard that performs digital image compression by coding and decoding blocks of digital image intensities with a block coder and with a transform coder that includes an invertible linear transform, which is representable as a cascade using at least one +/-1 butterfly step, at least one lifting step, and at least one scaling factor. The FastVDO patent is essential to the H.264 standard, and it was properly identified to the International Telecommunications Union on May 14, 2003, before the promulgation of the H.264 standard in March 2005.

7. On information and belief, in violation of one or more provisions of 35 U.S.C. § 271, Netflix has infringed one or more claims of the '081 patent by making, using, importing,

selling, offering to sell, products or services that use H.264 to encode and decode digital images.¹ Additionally, Netflix has had knowledge of the '081 patent since at least November 8, 2012,² or alternatively since being served with this complaint, and Netflix has induced infringement of the '081 patent since this time by performing method steps claimed by the '081 patent and causing its customers to perform the remaining claim steps. For example, Netflix is encoding videos with H.264 and transmitting these videos to its customers for decoding with H.264 compliant devices and viewing. Additionally, Netflix encourages and assists its customers' performance of method steps claimed by the '081 patent with its marketing materials, advertising materials, manuals and customer support services. For example, Netflix advertises on its website, that its customers can connect to Netflix with a variety of devices that are H.264 compliant, such as Roku's streaming media player:



¹ See <http://www.fierceonlinevideo.com/story/startup-eyeio-comes-out-stealth-hits-ground-running-netflix-customer-no-1/2012-02-01> ("EyeIO ... came out of stealth mode this morning, announcing a new H.264 encoding technology that delivers HD-quality video at ultra-low bandwidth; it also trotted out a very short, but impressive customer list of one: Netflix (Nasdaq: NFLX). ... [EyeIO] has been working with Netflix since June, and said the streaming company selected it to do its encoding because of its ability to deliver a high-quality streaming experience using 20-50 percent less bandwidth. ... Neither Vargas [EyeIO Co-Founder, CEO, CTO] nor Steinberg [EyeIO Co-Founder & Chairman of the Board] could say how much video Netflix has encoded using eyeIO), because said Vargas, the company does not disclose that information. 'But I can tell you they have encoded a humongous amount,' he said.") (attached hereto as Exhibit B).

² See Exhibit C.

See https://signup.netflix.com/Watch?lnkce=nrd-o&lnkctr=nmf_nfrd&trkid=1256502 (attached hereto as Exhibit D). The specifications for Roku's streaming media players show that these devices decode videos with H.264:

Roku 2 XS Streaming Player Specifications

Networking

- 802.11n Wi-Fi (b/g/n compatible) with WEP, WPA and WPA2 support
- 10/100 Base-T Ethernet
- Bluetooth version 3.0 (currently enabled for use with Roku game remote only)

Audio Output

- Analog stereo (mini-jack to left/right /composite video RCA)
- Digital over HDMI (5.1 surround sound pass-through)

Storage Expansion

Power Input

- 5.2V – 1.5A power adapter

USB Media Formats

- Video: MP4 (H.264) MKV (H.264)
- Audio: AAC, MP3
- Image: JPG, PNG

See <http://www.roku.com/roku-products#3> (attached hereto as Exhibit E). By continuing the aforementioned activities with knowledge of the '081 patent and its essentiality to the H.264 standard, Netflix has known, or should have known, that it was inducing infringement by causing the method steps of the '081 patent to be performed.

PRAYER FOR RELIEF

FastVDO prays for the following relief:

1. A judgment that Netflix has directly infringed (either literally or under the doctrine of equivalents) one or more claims of the '081 patent;
2. A judgment that Netflix has induced the infringement of one or more claims of the '081 patent;
3. A permanent injunction enjoining Netflix and its officers, directors, agents, servants, affiliates, employees, divisions, branches, subsidiaries, parents, and all others acting in active concert or participation with them, from infringing each of the '081 patent;

4. An award of damages resulting from Netflix's acts of infringement in accordance with 35 U.S.C. § 284;

5. A judgment and order finding that this is an exceptional case within the meaning of 35 U.S.C. § 285 and awarding to FastVDO its reasonable attorneys' fees;

6. A judgment and order requiring Netflix to provide an accounting and to pay supplemental damages to FastVDO, including without limitation, pre-judgment and post-judgment interest; and

7. Any and all other relief to which FastVDO may show itself to be entitled.

DEMAND FOR JURY TRIAL

FastVDO demands a trial by jury on all issues so triable.

Dated: November 9, 2012

FARNAN LLP

/s/ Brian E. Farnan

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