

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

VIDEOLABS, INC., and
VL COLLECTIVE IP LLC

Plaintiffs,

v.

NETFLIX, INC.

Defendant.

Civil Action No.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs VideoLabs, Inc. (“VL”) and VL Collective IP LLC (“VL IP”) (collectively “VideoLabs” or “Plaintiffs”) file this Complaint against Defendant Netflix Inc. (“Netflix” or “Defendant”), and in support thereof alleges as follows:

NATURE OF THE ACTION

1. Digital video has become fundamental to how society interacts, communicates, educates, and entertains. In fact, video consumption now accounts for more than 82% of all Internet traffic.¹ The ability to reliably provide high-quality video drives the growth of digital platforms that are increasingly integral to the global economy.

2. The advent of high-quality video as a staple of digital consumption did not happen instantaneously. As with any complex technology, digital video presented implementation challenges. Many companies spent many years and resources to develop new and innovative technologies that guide how video is created, streamed, secured, managed, and consumed.

¹ See Ex. 1, *The Sustainable Future of Video Entertainment*, INTERDIGITAL (Aug. 2020), https://www.interdigital.com/white_papers/the-sustainable-future-of-video-entertainment?submit_success=true (last visited Jan. 20, 2022).

3. Various inventions and technological advances have transformed digital video. Some of these technologies, such as techniques to efficiently compress video file size, address central challenges to storing and transmitting video. Others enable video content to be efficiently and securely streamed to the many user devices that exist today. Yet others involve managing and organizing videos to provide viewers easier access to content and address how they interact with content. Successful video streaming thus requires myriad technologies that necessarily coordinate with one another.

4. Because various companies played roles in developing the foundational technology for today's digital video, no single company can provide the high-quality video experiences that consumers have come to expect without using technology owned by other companies.

5. The founders of VideoLabs recognized this problem and understood that collective action was needed to address it. If the companies that developed critical video technologies worked together, everyone could benefit: innovators could receive fair compensation for their contributions, companies deploying video technology could respect the innovators' patents and license them on affordable and predictable terms, and consumers could experience better and more affordable video technology.

6. In 2019, with support from widely-recognized industry leaders, VideoLabs launched a platform to achieve these goals. VideoLabs spent millions of dollars and thousands of hours analyzing the video space and identifying the patents that reflect the innovations with the highest impact. VideoLabs then compiled a portfolio of these core patents, obtaining them from leading companies, including Hewlett Packard Enterprise, Alcatel-Lucent S.A., Siemens AG, Swisscom AG, 3Com, Panasonic, LG, and Nokia.

7. VideoLabs then opened-up membership on its platform to all willing companies.

In exchange for low-cost membership or licensing fees, VideoLabs provides access to its patent portfolio and a commitment to seek out the most important patents in the video industry and clear them. Many prominent companies recognized the benefits of the VideoLabs platform and worked with VideoLabs to efficiently and responsibly license its video technology patents.

8. Unfortunately, Netflix has not. Netflix is one of the world's largest users of video technologies and operates the world's most popular streaming TV service with over 213 million subscribers.² It is enmeshed in practically every aspect of video, from creation to processing, delivery, and display.³

9. VideoLabs contacted Netflix multiple times to offer Netflix the benefit of VideoLabs' platform and to alert it to its use of VideoLabs' patented technology. As an added incentive for engaging in good faith discussion, VideoLabs offered to conduct discussions with Netflix under an NDA that would eliminate any legal risk from participating in the discussions, including a 3-month mutual legal standstill which would provide sufficient time for full and open dialogue. After many months of ignoring VideoLabs' entreaties, Netflix finally responded. But Netflix foreclosed the possibility of good faith discussions by insisting that VideoLabs agree not

² See, e.g., Ex. 2 at 3, <https://www.cnbc.com/2021/11/10/disney-netflix-and-other-streaming-services-subs-arpu-q3-2021.html#:~:text=Netflix%20continues%20to%20outpace%20the,around%20paying%20customers%20and%20ARPU>; Ex. 3 at 6-7 <https://screenrant.com/ten-most-popular-streaming-services-ranked-subscriber-numbers/>; Ex. 4 at 3-4, <https://www.businessofapps.com/data/netflix-statistics/>.

³ See, e.g., Ex. 5 at 1, <https://www.statista.com/statistics/883491/netflix-original-content-titles/>; Ex. 6 at 1-3, <https://netflixtechblog.com/high-quality-video-encoding-at-scale-d159db052746/>; Ex. 7 at 1-9, <https://www.comparitech.com/blog/vpn-privacy/netflix-statistics-facts-figures/>; Ex. 8 at 1-9, <https://netflixtechblog.com/ava-the-art-and-science-of-image-discovery-at-netflix-a442f163af6/>; Ex. 9 at 1-6, <https://www.webdesignerdepot.com/2020/02/3-lessons-ux-designers-can-take-from-netflix/>; Ex. 10 at 1-4, <https://uxmag.com/articles/how-netflix-uses-psychology-to-perfect-their-customer-experience>; Ex. 11 at 1-12, <https://uxplanet.org/the-netflix-conundrum-overcoming-the-paradox-of-choice-a-ux-case-study-95b19acdc28c>.

to enforce its patent rights against Netflix for an indefinite period of time. When VideoLabs declined this demand, Netflix ceased responding to any of VideoLabs' communications.

10. Faced with this Hobson's choice, VideoLabs feels that it has no recourse but to file this action to stop Netflix's unauthorized use of VideoLabs' patents. Failure to take action would undermine the viability of VideoLabs' platform and permit further free-riding by Netflix of the significant innovations of VideoLabs' patents.

11. This case is ultimately about ensuring the integrity of the patent system and compensating patent owners for their protected innovations. Respect for intellectual property, as the law requires, is essential to incentivize innovation and promote technological progress. Accordingly, VideoLabs brings this action under the patent laws, 35 U.S.C. § 1 *et seq.*, in order to stop Netflix's willful infringement of U.S. Patent Nos. 8,139,878, 7,440,559, and 7,233,790 (collectively, "patents-in-suit").

THE PARTIES

12. VL was founded in 2018 as part of an industry-sponsored and -funded effort to reduce the cost and risk of technological gridlock associated with diverse patent ownership. VL's leadership has decades of experience in intellectual property licensing, during which they have completed over 1,000 intellectual property transactions worldwide and drawn more than \$6 billion in revenue.

13. VL is a corporation organized under the laws of the State of Delaware, with its principal place of business in Palo Alto, California.

14. VL IP was founded in 2019 as a subsidiary of VideoLabs, Inc.

15. VL IP is a corporation organized under the laws of the State of Delaware, with its principal place of business in Palo Alto, California.

16. On information and belief, Netflix is a publicly traded corporation organized and

existing under the laws of the State of Delaware and is registered to do business in the State of Delaware. Netflix's headquarters are located at 100 Winchester Circle, Los Gatos, California 95032.

JURISDICTION AND VENUE

17. This is an action for patent infringement arising under the patent laws of the United States. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. §§ 1331 and 1338(a), 15 U.S.C. § 1121, and 28 U.S.C. § 1367(a).

18. This Court has personal jurisdiction over Netflix because, on information and belief, Netflix conducts business in and has committed acts of patent infringement in this District, and has established minimum contacts with this forum state such that the exercise of jurisdiction over Netflix would not offend traditional notions of fair play and substantial justice. Netflix is incorporated in this District. On information and belief, Netflix offers products and/or services, including those accused herein of infringement, to customers and potential customers located in this District.

19. Venue is proper in this Court under 28 U.S.C. §§ 1391 and 1400(b). Netflix resides in this District. Netflix has chosen to incorporate in the state of Delaware, thereby receiving the benefits offered to Delaware corporations. Netflix must accordingly assume responsibilities to Delaware and its citizens.

20. Further, on information and belief, Netflix has offered and sold, and continues to offer and sell, its infringing products and services in this District. On information and belief, Netflix designs, uses, distributes, sells, and/or offers to sell the infringing products and services to consumers and businesses in this District.

21. On information and belief, Netflix is a corporation with global reach and annual revenue in the billions of dollars. Netflix accordingly cannot reasonably claim it would be

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