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BUSINESS

21st Century Fox Sues Netflix for Poaching Employees

Tampering suit, a rarity in Hollywood, cites 'brazen campaign'; Netflix extols 'employee mobility'



The 21st Century Fox has had a conflicted relationship with streaming video giant Netflix. *PHOTO: REUTERS*


By **JOE FLINT**

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21st Century Fox on Friday filed a lawsuit against Netflix Inc., accusing the streaming-video giant of illegally hiring two of its executives who were under contract.

The suit, filed in California Superior Court in Los Angeles by Fox units Twentieth Century Fox Film Corp. and Fox 21 Inc., alleges that Netflix has run a “brazen campaign to unlawfully target, recruit, and poach valuable Fox executives by illegally inducing them to break their employment contracts with Fox to work at Netflix.”

The two executives are Tara Flynn, who was hired last week as a drama programming development executive from TV production unit Fox 21, where she was vice president of creative affairs; and Marcos Waltenberg, a Twentieth Century Fox Film promotion executive who took a similar role at Netflix in January.

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In both cases, Fox said, it warned Netflix that it was illegally tampering with executives under contract but the streaming company nevertheless hired the pair and indemnified them against potential charges of breach of contract, according to the suit.

“As a direct and proximate result of Netflix’s conduct, Fox has suffered great and irreparable harm,” the suit said. Fox is seeking a permanent injunction prohibiting Netflix from interfering with executives under contract as well as compensatory and punitive damages.

In a written statement, a Netflix spokesperson said: “We intend to defend this lawsuit vigorously. We do not believe Fox’s use of fixed-term employment contracts in this manner are enforceable. We believe in employee mobility and will fight for the right to hire great colleagues no matter where they work.”

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A tampering suit is rare in Hollywood. Industry leaders who compete with each other during the week often golf or play tennis together on the weekend or are involved in the same charities. In addition, executives frequently jump from one studio or network to another, often while still under contract. Usually some sort of accord is reached between the two companies to avoid ill will or legal action.

Sports broadcaster Al Michaels was famously released from his contract at Walt Disney Co.’s ESPN to join NBC Sports in return for the rights to a cartoon rabbit named Oswald that Walt Disney himself had created but belonged to NBC’s Universal Studios.

The lawsuit is the latest sign of how Netflix’s rise as an entertainment behemoth has created tensions within the entrenched Hollywood community.

On the one hand, Netflix’s appetite for licensing content and its willingness to spend heavily for it has provided a much-needed boost to the bottom lines of the major television and movies studios. On the other, Netflix has emerged as a major competitor to traditional broadcast and cable networks.

Besides becoming the one of the go-to places to catch up on network television, it produces a large slate of original programming such as “House of Cards” and “Orange is

the New Black.” Netflix received 54 Emmy nominations this past TV season, trailing only Time Warner Inc.’s HBO and Fox’s FX Network.

While Mr. Waltenberg and Ms. Flynn are the only two Fox employees under contract who jumped to Netflix, an additional 19 Fox executives without contracts have also joined the streaming service over the past two years, according to a person familiar with the matter.

Fox is hardly the only company from which Netflix has recruited talent. In building a production company that now makes scores of original shows, Netflix has hired executives from many major studios and networks.

The hiring of Ms. Flynn, who had one year left on her deal with an option for Fox to pick up two additional years, touched a nerve at Fox, the person familiar with the matter said. She had been with the company for many years, starting as the assistant to Bert Salke, the head of Fox 21.

Fox had a conflicted relationship with Netflix well before Friday’s suit. John Landgraf, the chief executive of Fox-owned cable unit FX Networks, has criticized Netflix in the past, comparing its spending to that of the New York Yankees.

At the semiannual Television Critics Association last month when asked about Netflix’s growing clout, Mr. Landgraf said, “I think it would be particularly bad for storytellers and for our culture if any one company, and I don’t care what company that is, were able to seize a 40% or 50% or 60% market share within storytelling.”

Mr. Landgraf has previously chastised Netflix for not releasing viewership data for its shows.

Netflix Chief Content Officer Ted Sarandos has typically dismissed such jabs as a sign of envy. “The only reason we have shock-and-awe spending...is because we get shock-and-awe viewing,” he said last January. Netflix has also said it doesn’t need to release ratings because it doesn’t sell advertising.

Despite the acrimony, Netflix is one of the biggest buyers of FX content. It spent around \$50 million for the rerun rights to the acclaimed miniseries “The People v. O.J. Simpson: American Crime Story,” people familiar with the deal said.

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