

EXHIBIT 1

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

REALTIME ADAPTIVE STREAMING, LLC

Plaintiff,

v.

SLING TV L.L.C., et al.

Defendants.

CIVIL ACTION NO. 1:17-CV-02097

PATENT CASE

**AFFIDAVIT IN SUPPORT OF
DEFENDANTS' MOTION TO FIND THIS CASE EXCEPTIONAL
UNDER 35 U.S.C § 285 AND FOR FEE SHIFTING OF ATTORNEYS' FEES**

I, Adam Shartzter, declare as follows:

Introduction

1. I am a principal of Fish & Richardson PC ("Fish"). Defendants Sling TV L.L.C., Sling Media L.L.C., Dish Technologies L.L.C., and Dish Network L.L.C. (collectively "Defendants") retained Fish in this patent infringement action brought by Realtime Adaptive Streaming LLC ("Realtime").

2. I am submitting this declaration in support of Defendants' Motion to Find This Case Exceptional Under 35 U.S.C § 285 and for Fee Shifting of Attorneys' Fees. I have personal knowledge of the facts contained in this declaration.

3. As discussed in the concurrently-filed motion, Defendants only seek to recover fees from after the Court lifted the stay on January 15, 2021.

4. For the period of January 15, 2021 through July 2021, Fish spent 7,439.4 hours defending Defendants from Realtime's allegations of patent infringement. This time amounts to \$4,971,532.50 in attorney's fees. An itemization of the services performed during this period is attached as Exhibit A to this declaration.¹

¹ By presenting an itemization of services, it is not my intention, nor the intention of Defendants, to waive the attorney-client privilege or protection provided by the work-product doctrine regarding any issue.

5. In my opinion, the fees described herein were reasonably and necessarily incurred in defending this case. I believe the fees were appropriate for the skill level of the attorneys involved, the complexity of the case, and the normal and customary fees charged for patent litigation. Further, I believe that Fish's fees were justified given that Defendants were ultimately able to fully prevail in the case, leading to no liability.

Fish & Richardson Overview

6. Fish is a law firm that specializes in intellectual property litigation with broad experience across every IP forum—from district courts to the PTAB to the ITC—and on appeal to the Federal Circuit and the United States Supreme Court. Between January 2017 and December 2020, Fish attorneys tried 48 IP cases to decision in 15 different venues. Fish is the most active national firm for patent litigation in United States district courts, with more appearances than any competitor in the last 10 years. We were Lead Counsel in one of every six ITC Section 337 matters filed in 2016–2020.

7. Fish is the first firm to reach 1,000 appearances before the PTAB—with more than 300 more appearances than our closest competitor. Fish's Post-Grant Group achieved this milestone by being the most active firm at the PTAB for the past three consecutive years. As of June 1, 2021, Fish had handled 1,286 IPR proceedings, 766 for the petitioner and 520 for the patent owner. Fish had also handled 85 covered business method matters and 25 post-grant review matters.

8. Recent accolades include:

- IP Practice Group of the Year, Law360, 2009, 2012–2016, 2018, 2020
- Band 1 Ranking for IP and ITC, Chambers Global, 2015–2021
- Top National Ranking—Patent Litigation, IAM Patent 1000, 2012–2021
- IP Boutique Firm of the Year, Managing Intellectual Property, 2021
- ITC Firm of the Year, Managing Intellectual Property, 2020–2021
- IP Firm of the Year and National Impact Case of the Year, Benchmark Litigation, 2019

- Hall of Fame, Corporate Counsel, 2019

Fish & Richardson Attorney and Support Staff Overview

9. Below is an explanation of the professional qualifications of the attorneys whose services appear in Exhibit A:

10. **Adam Shartzter**: My practice focuses on high-stakes patent litigation in district courts and at the ITC. I litigate cases across the country, including at the U.S. Court of Appeals for the Federal Circuit and the ITC. Additionally, I advise clients regarding post-grant review strategy and over the past several years have managed or assisted with over 65 *inter partes* review and *ex parte* reexamination matters at the PTO. My experience includes argument and taking witnesses at numerous trial and post-grant proceedings, appellate briefing and argument, all aspects of discovery and formulation of claim construction and litigation strategies. Prior to this case, I defended DISH's sister company EchoStar Corporation in the Eastern District of Texas against a case filed by Realtime Adaptive Streaming's parent company, Realtime Data LLC, who was represented by many of the same Russ August & Kabat attorneys that appeared in this case.

11. In 2020, I was selected nationally by Law360 as a "Rising Star" in Intellectual Property. In 2019, I was selected by the National Law Journal to its "40 Under 40 DC Rising Stars" list. I was also recognized as a Super Lawyers "Rising Star" each year from 2015–2020.

12. I was previously a judicial law clerk to the Honorable Sharon Prost of the Court of Appeals for the Federal Circuit (2010–2011). In addition, I served as a judicial intern to the Honorable Richard Linn of the Federal Circuit (2007–2008), as well as a judicial intern to the Honorable Robert L. Barton, Jr., of the ITC (2007). I graduated from George Washington University Law School in 2008 and obtained a B.S., Electrical Engineering and a Computer Science minor from the University of Virginia in 2003.

13. **Ruffin Cordell**: Mr. Cordell served as lead counsel in this case and has served as lead counsel in more than three dozen trials. He has also argued more than two dozen appeals at the Federal Circuit. In 2012, Mr. Cordell was elected a Fellow of the American College of Trial Lawyers in recognition of his exceptional career and remarkable success in the courtroom. Prior to this case, Mr. Cordell defended DISH's sister company Echostar Corporation in the Eastern District of Texas against a case filed by Realtime Adaptive Streaming's parent company, Realtime Data LLC.

14. Mr. Cordell's career highlights include:

- Representing a Fortune 50 consumer electronics manufacturer as lead counsel in its worldwide, multi-billion dollar dispute with Qualcomm.
- Obtaining a limited exclusion order and cease and desist order at the ITC for client Samsung. This gave Samsung a powerful marketplace advantage and negotiation advantage in its global dispute with Sharp Electronics. He also represented Samsung adverse to Ericsson in a series of highly publicized and hotly contested patent licensing disputes involving 24 mobile device patents in the Eastern District of Texas and at the ITC.
- Averting a \$1 billion in damages claim against client Marvell Semiconductor by obtaining a verdict of no infringement in the Eastern District of Texas.
- Influencing the creation of new law regarding the use of prospective royalties in patent cases—while also securing a significant jury verdict for an automotive manufacturing client in an Eastern District of Texas case involving hybrid vehicle technology.

15. Mr. Cordell graduated from Georgetown University Law Center in 1989. He obtained a B.S. in Electrical Engineering from Louisiana State University in 1985. Prior to joining Fish, Mr. Cordell served as a patent examiner in computer interface device technology at the PTO.

16. Prior to this case, Mr. Cordell defended DISH's sister company EchoStar Corporation in the Eastern District of Texas against a case filed by Realtime Adaptive Streaming's parent company, Realtime Data LLC, who was represented by many of the same Russ August & Kabat attorneys that appeared in this case.

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