

# EXHIBIT 2

**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

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

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I, Hugh Gottschalk, declare as follows:

1. I am a partner of Wheeler Trigg O'Donnell LLP ("WTO"). 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 WTO in mid-April 2021 as co-counsel 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 Attorney's 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 April 2021 through July 2021, WTO spent 163.3 hours defending Defendants from Realtime's allegations of patent infringement, and preparing to present Defendants' witnesses and evidence at trial regarding damages. This time amounts to \$103,986.50 in attorney's fees. Under its fee arrangement with Defendants in this case, WTO charged its usual and customary fixed hourly rates.

5. WTO has a standard practice of tracking attorney time charges associated with a case in an electronic database. To compile the information submitted with this declaration, I obtained a printout from that database of the final time charges and costs associated with this case.

This itemization of the services performed during this period is attached as Exhibit A to this declaration.<sup>1</sup>

6. The below table summarizes the billing rates charged by WTO:

Timekeeper	Hourly Rate
Hugh Q. Gottschalk (Partner)	\$685
CiCi Cheng (Associate)	\$445
Sharon A. Gottesfeld (Paralegal)	\$220

7. Through my practice and experience, I am familiar with the normal and customary fees charged for legal services in the District of Colorado considering the time expended, the amount in controversy, the complexity of the case, the experience, reputation, ability, and billing rates of the attorneys and staff involved, and the expertise involved. I am also aware of the various court opinions issued by the United States District Court for the District of Colorado and the United States Court of Appeals for the Federal Circuit. I am knowledgeable of the fees and work required to litigate a case such as this.

8. In my opinion, the fees and rates described herein were reasonably and necessarily incurred in defending this case. I believe that the total amount of fees were extremely reasonable for a case of this nature considering all of the unique and time-consuming legal issues and briefing that was required. The fees and rates are also appropriate for the skill level of the attorneys involved, the complexity of the case, and the normal and customary fees and rates charged for patent litigation in the District of Colorado. Further, I believe that WTO's fees and rates were justified given that Defendants were ultimately able to fully prevail in the case, leading to no liability.

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<sup>1</sup> 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. As such, we have only redacted from the invoices information that we believe is protected and is not necessary for the Court to consider an award of attorney's fees.

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

10. **Hugh Gottschalk**: I have taken more than 75 trials to verdict and over 20 arbitrations to award. I represent companies and individuals across diverse industries in complex commercial, torts, and intellectual property lawsuits. I am a Fellow and past Colorado State Chair of the American College of Trial Lawyers, and am ranked in Band 1 in Chambers USA. For three straight years, Super Lawyers has ranked me in the Top 10 lawyers in Colorado. I have represented clients in numerous disputes involving alleged breaches of contracts, fraud and misrepresentation, securities, franchise matters, and intellectual property infringements. I have served as national or regional trial counsel to several large and well-known companies in industries as diverse as oil and gas, automotive, information technology, manufacturing, and consumer and professional services. Chambers USA ranks me among the top commercial litigators in Colorado. I have also been selected for inclusion in Benchmark Litigation, Best Lawyers, and The Legal 500 U.S. I graduated from the University of Colorado Law School in 1979 and graduated from Northwestern University in 1975 with a B.S. in Biochemistry.

11. **Chuan (Cici) Cheng**: Ms. Cheng is an associate at WTO. She has handled cases involving trade secrets, antitrust and unfair competition, shareholder derivative and securities class actions, and other business issues. Previously, she was a law clerk to the Honorable R. Brooke Jackson; Judicial Intern to Chief Justice Nancy E. Rice, Colorado Supreme Court; and Judicial Intern to the Honorable Christine M. Arguello, U.S. District Court for the District of Colorado. Ms. Cheng graduated from the University of Colorado Law School in 2012 where she was an Associate Editor on the Colorado Law Review. Ms. Cheng graduated from the University of Georgia in 2009 with a B.S. in Biochemistry & Molecular Biology and a B.A. in Political Science.

12. **Sharon A. Gottesfeld**: Ms. Gottesfeld is a paralegal at WTO. She has more than 30 years of experience assisting in complex litigation, including intellectual property disputes. Ms. Gottesfeld and Mr. Gottschalk have worked together for more than 20 years.

I declare under penalty of perjury that the foregoing is true and correct.

Date: August 13, 2021

Respectfully submitted,

*/s/ Hugh Q. Gottschalk*

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