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Hughes Communications Inc.,
12 *Hughes Network Systems LLC,*
DISH Network Corporation,
13 *DISH Network L.L.C., and*
dishNET Satellite Broadband L.L.C.
14

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 The CALIFORNIA INSTITUTE OF
TECHNOLOGY,

18 Plaintiff,

19 vs.

20 HUGHES COMMUNICATIONS INC.,
21 HUGHES NETWORK SYSTEMS LLC,
DISH NETWORK CORPORATION,
22 DISH NETWORK L.L.C., and DISHNET
23 SATELLITE BROADBAND L.L.C.,

24 Defendants.

Case No. 2:13-cv-07245-MRP-JEM

**ANSWER, DEFENSES, AND
COUNTERCLAIMS OF
DEFENDANTS HUGHES
COMMUNICATIONS, HUGHES
NETWORK SYSTEMS, DISH
NETWORK CORPORATION,
DISH NETWORK L.L.C., AND
DISHNET TO PLAINTIFF'S
COMPLAINT**

JURY TRIAL DEMANDED

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26
27 HUGHES COMMUNICATIONS INC.,
28 HUGHES NETWORK SYSTEMS LLC,
DISH NETWORK CORPORATION,

CALTECH EXHIBIT 0005

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DISH NETWORK L.L.C., and DISHNET
SATELLITE BROADBAND L.L.C.,

Counter-Plaintiffs,

vs.

The CALIFORNIA INSTITUTE OF
TECHNOLOGY,

Counter-
Defendants.

1 Defendants Hughes Communications Inc. (“Hughes Communications”),
2 Hughes Network Systems LLC (“Hughes Network Systems”),¹ DISH Network
3 Corporation, DISH Network L.L.C., and dishNET Satellite Broadband L.L.C.
4 (“dishNET”) (collectively, “Defendants” or “Counterclaim-Plaintiffs”), by and
5 through their undersigned attorneys, hereby answer the Complaint for Patent
6 Infringement brought by the Plaintiff, the California Institute of Technology
7 (“Caltech” or “Plaintiff”), as follows, with each paragraph of the Answer below
8 responding to the corresponding numbered or lettered paragraph of the Complaint:

9 **ANSWER**

10 **NATURE OF THE ACTION**

11 1. Defendants admit that Caltech’s Complaint purports to state a cause of
12 action under the patent laws of the United States.

13 2. Defendants deny the allegation that Defendants infringe or infringed,
14 in any way, U.S. Patent No. 7,116,710, U.S. Patent No. 7,421,032, U.S. Patent No.
15 7,916,781, or U.S. Patent No. 8,284,833 (collectively, “the Asserted Patents”).
16 Defendants are without knowledge or information sufficient to form a belief as to
17 whether Caltech is the legal owner of the Asserted Patents, or whether the Asserted
18 Patents were duly and legally issued by the United States Patent and Trademark
19 Office (“Patent Office”), and therefore deny them. Defendants admit that
20 Caltech’s complaint purports to seek injunctive relief and monetary damages.

21 **THE PARTIES**

22 3. On information and belief, Defendants admit that Caltech is a non-
23 profit private university organized under the laws of the State of California.
24 Defendants are without knowledge or information sufficient to form a belief as to
25

26 _____
27 ¹ Caltech has defined Hughes Communications and Hughes Network Systems as
28 the “Hughes Defendants.” For purposes of clarity in responding to Caltech’s
complaint only, Defendants use the same term

1 the remainder of the allegations in paragraph 3 of the Complaint, and therefore
2 deny them.

3 4. Defendants admit the allegations in paragraph 4 of the Complaint.

4 5. Defendants admit the allegations in paragraph 5 of the Complaint.

5 6. Defendants admit the allegations in paragraph 6 of the Complaint.

6 7. Defendants admit the allegations in paragraph 7 of the Complaint,
7 except that DISH Network L.L.C is a wholly owned indirect subsidiary of DISH
8 Network Corporation.

9 8. Defendants admit the allegations in paragraph 8 of the Complaint,
10 except that dishNET is a wholly owned indirect subsidiary of DISH Network
11 Corporation.²

12 9. Defendants admit that EchoStar and DISH Network Corporation were
13 previously one company, and that in approximately January 2008, DISH
14 completed the distribution of its technology and set-top box business and certain
15 infrastructure assets (the “Spin-off”) into a separate publicly-traded company,
16 EchoStar Corporation (“EchoStar”).

17 10. Defendants admit that Charles W. Ergen serves as the Chairman of
18 both DISH Network Corporation and EchoStar, and that the Chairman, or certain
19 trusts established by the Chairman, beneficially owns a substantial majority of the
20 voting power of the shares of both DISH Network Corporation and EchoStar.
21 Defendants further admit that, in 2010, DISH Network Corporation accounted for
22 82.5% of EchoStar’s total revenue and in 2012, DISH Network Corporation
23 accounted for 49.5% of EchoStar’s total revenue. Defendants admit that in
24 October 2012, dishNET and Hughes Network Systems entered into a distribution
25 agreement relating to Hughes satellite internet service. Defendants are without

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27 ² Caltech has defined DISH Network Corporation, DISH Network L.L.C. and
28 dishNet as the “Dish Defendants.” For purposes of clarity in responding to
Caltech’s complaint only. Defendants use the same term

1 knowledge or information sufficient to form a belief as to the remaining allegations
2 of paragraph 10 of the Complaint, and therefore deny the same.

3 **JURISDICTION AND VENUE**

4 11. Defendants admit that this Court has subject matter jurisdiction of this
5 action under 28 U.S.C. §§ 1331 and 1338(a).

6 12. Paragraph 12 of the Complaint sets forth conclusions of law to which
7 no response is required. To the extent a response is deemed to be required,
8 however, Defendants deny the allegations of paragraph 12 of the Complaint,
9 except that Defendants admit that Hughes Network Systems conducts business in
10 the State of California, including in the Central District of California.

11 13. Paragraph 13 of the Complaint sets forth conclusions of law to which
12 no response is required. To the extent a response is deemed to be required,
13 however, Defendants deny the allegations of paragraph 13 of the Complaint,
14 except that Defendants admit that DISH Network L.L.C., and dishNET conduct
15 business in the State of California, including in the Central District of California.

16 14. Paragraph 14 of the Complaint sets forth conclusions of law to which
17 no response is required. To the extent a response is deemed to be required,
18 however, Defendants deny the allegations of paragraph 14 of the Complaint,
19 except that Defendants admit, for purposes of this action only, that venue is proper
20 in this Court under 28 U.S.C. §§ 1391 and 1400.

21 **CALTECH'S ASSERTED PATENTS**

22 15. Defendants admit that the Complaint purports to attach U.S. Patent No.
23 7,116,710 (the "710 Patent") as Exhibit A. Defendants also admit that the '710
24 Patent states on its face that it is titled "Serial Concatenation of Interleaved
25 Convolutional Codes Forming Turbo-Like Codes" and recites an issue date of
26 October 3, 2006. Defendants are without knowledge or information sufficient to
27 form a belief as to the remaining allegations in paragraph 15 of the Complaint, and
28 therefore deny them.

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