

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SLING TV L.L.C., SLING MEDIA, L.L.C.,
DISH NETWORK L.L.C., DISH TECHNOLOGIES L.L.C.,
GOOGLE LLC, and COMCAST CABLE COMMUNICATIONS, LLC,
Petitioners,

v.

REALTIME ADAPTIVE STREAMING LLC,
Patent Owner.

Case IPR2018-01342¹
U.S. Patent No. 8,934,535

**DISH PETITIONERS' NOTICE OF APPEAL TO THE
UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT**

¹ GOOGLE LLC, who filed a petition in IPR2019-00748, and COMCAST CABLE COMMUNICATIONS, LLC, who filed a petition in IPR2019-00760, have been joined as petitioners in this proceeding, but are not parties to the appeal.

Pursuant to 37 C.F.R. § 90.2(a), 35 U.S.C. § 142, and Federal Circuit Rule 15(a)(1), Appellants Sling TV L.L.C., Sling Media, L.L.C., DISH Network L.L.C., and DISH Technologies L.L.C. (collectively “DISH”), respectfully give Notice that they hereby appeal to the United States Court of Appeals for the Federal Circuit the Patent Trial and Appeal Board’s (“Board”) Partial Termination Decision in IPR2018-01342 (Paper 45, attached hereto as Ex. A), and from all other underlying orders, decisions, rulings and opinions that are adverse to DISH. The Board entered its Partial Termination Decision on January 17, 2020, and thus, this petition is timely filed within the 63-day period allowed by 37 C.F.R. § 90.3(a)(1).

For the limited purpose of providing the Director with the information requested in 37 C.F.R. § 90.2(a)(3)(ii), issues in DISH’s appeal may include, without limitation, that: (1) the Board’s determination that DISH’s petition was time barred by 35 U.S.C. § 315(b), and any findings the Board made to support this determination; (2) the Board’s application of the legally erroneous Precedential Opinion Panel decision in *GoPro, Inc. v. 360Heros, Inc.*, IPR2018-01754, Paper 38 (Aug. 23, 2019); (3) the Board’s retroactive application of precedent in contravention of the PTAB Standard Operating Procedure 2, which permits precedent be applied only to a “subsequent matter,” 5 U.S.C. § 551(4), and 35 U.S.C. §§ 2, 316; (4) the Board’s failure to adhere to the law of the case doctrine

by terminating this proceeding under 35 U.S.C. § 315(b) after deciding in its Institution Decision that DISH's petition satisfied § 315(b)'s requirements; (5) the impropriety and unenforceability of the Precedential Opinion Panel's adjudicatory rulemaking, including in *GoPro, Inc. v. 360Heros, Inc.*, IPR2018-01754, Paper 38 (Aug. 23, 2019), under at least the Administrative Procedures Act, 5 U.S.C. §§ 553, 706(2)(A)–(D), 35 U.S.C. § 316, and the Due Process Clause of U.S. Const. amend. V; (6) the Board's findings that conflict with the evidence of record, are not supported by substantial evidence, and/or are arbitrary, capricious, an abuse of discretion, or not otherwise in accord with law; and (7) any other issues decided adversely to DISH in any orders, decisions, rulings and opinions.

Concurrent with this submission, a copy of this Notice of Appeal is being filed with the Board. In addition, a copy of this Notice of Appeal, along with the required docketing fees, are being filed electronically with the Clerk's Office for the United States Court of Appeals for the Federal Circuit.

Respectfully submitted,

Date: March 16, 2020_____

/Adam R. Shartzter/_____
Adam R. Shartzter, Reg. No. 57,264
FISH & RICHARDSON P.C.
3200 RBC Plaza
60 South Sixth Street
Minneapolis, MN 55402
Tel: (202) 783-5070
Fax: (877) 769-7945
shartzter@fr.com

*Counsel for Appellants
Sling TV L.L.C.,
Sling Media, L.L.C.,
DISH Network L.L.C., and
DISH Technologies L.L.C.*

CERTIFICATE OF SERVICE

In accordance with 37 CFR § 90.2(a)(1) and § 104.2, I hereby certify that on March 16, 2020, in addition to being filed electronically through the Board's E2E System, the original version of the foregoing, Petitioners' Notice of Appeal was filed by hand on the Director of the United States Patent and Trademark Office, at the following address:

Director of the United States Patent and Trademark Office
c/o Office of the General Counsel
Madison Building East, 10B20
600 Dulany Street
Alexandria, VA 22314-5793

CERTIFICATE OF SERVICE

I hereby certify that on March 16, 2020, a true and correct copy of the foregoing, Petitioners' Notice of Appeal, along with a copy of the Termination Decision, was filed electronically with the Clerk's Office of the United States Court of Appeals for the Federal Circuit, at the following address:

United States Court of Appeals for the Federal Circuit
717 Madison Place, N.W., Suite 401
Washington, DC 20005

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.