

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MULTIMEDIA CONTENT
MANAGEMENT LLC,

Plaintiff

v.

DISH NETWORK
CORPORATION,

Defendant.

Civil Action No.: 6:18-cv-207

JURY TRIAL DEMANDED

PATENT CASE

PLAINTIFF'S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Multimedia Content Management LLC (“MCM” or “Plaintiff”), files this Complaint against DISH Network Corporation seeking damages and other relief for patent infringement, and alleges with knowledge to its own acts, and on information and belief as to other matters, as follows:

PARTIES

1. Plaintiff is a limited liability company organized and existing under the laws of the State of Texas, having its principal place of business at 5068 West Plano Parkway, Suite 300, Plano, Texas 75093.

2. Defendant DISH Network Corporation (“DISH” or “Defendant”) is a Nevada corporation with regular and established physical places of business within this judicial district, and its principal place of business at 9601 South Meridian Boulevard, Englewood, Colorado. DISH is registered for the right to transact business in Texas and has a Texas taxpayer number (18803369976).

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §101, *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. §§1331 and 1338(a).

4. Venue is proper in this judicial district under 28 U.S.C. §1400(b). DISH maintains regular and established physical places of business within this judicial district, including but not limited to: (i) a Customer call center, warehouse, service, and remanufacturing center located at 1285 Joe Battle Blvd., Suite A, El Paso, Texas; (ii) a micro digital broadcast operations center near Mustang Ridge, Texas; and (iii) a regional digital broadcast operations center near New Braunfels, Texas. (DISH Annual Report for year ending 12/31/2017 at p. 58, available at <http://www.annualreports.com/Company/dish-network-corp>). On information and belief, from and within this District, DISH has committed acts of infringement at issue in this case.

5. Defendant is subject to this Court's specific and general personal jurisdiction pursuant to due process or the Texas Long Arm Statute, due at least to Defendant's substantial business in this forum, including: (i) business related to infringing acts as alleged herein; or (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct, or deriving substantial revenue from goods and services provided to individuals in Texas and in this district. Within this state, Defendant has committed, and continues to commit, acts of patent infringement as alleged herein. In addition, Defendant has derived revenues from

its infringing acts occurring within the Western District of Texas. Further, Defendant is subject to the Court's general jurisdiction, including from regularly doing or soliciting business, engaging in other persistent courses of conduct, and deriving substantial revenue from goods and services provided to persons or entities within Texas and within the Western District of Texas. Further, Defendant is subject to the Court's personal jurisdiction at least due to its sale of products or services within Texas and within the Western District of Texas. Defendant has committed such purposeful acts or transactions in Texas such that it reasonably should know and expect that it could be haled into this Court because of such activity.

THE PATENTS IN SUIT

6. The United States Patent and Trademark Office ("USPTO") duly and legally issued United States Patent No. 8,799,468 ("the '468 Patent") entitled "System for Regulating Access to and Distributing Content in a Network" to Robert M. Burke II and David Z. Carman on August 5, 2014. The '468 Patent claims priority from United States Patent Application No. 10/989,023, now United States Patent No. 8,122,128, and claims priority to United States Provisional Application No. 60/523,057 filed on November 18, 2003. A true and correct copy of the '468 Patent is attached hereto as Exhibit A.

7. The USPTO, and technology leaders including Apple Computer, Inc., Time Warner Cable, and Sony Computer Entertainment, have cited the '468 Patent over 130 times. See <https://patents.google.com/patent/US8799468B2/en?q=8%2c799%2c468+#citedBy> (last accessed July 2, 2018).

8. On August 11, 2017, Unified Patents Inc. filed a 105-page Petition (with 14 exhibits) before the United States Patent Trial and Appeal Board (“PTAB”) pursuant to 35 U.S.C. §§311–319 seeking to institute an inter partes review of Claims 1–5, 9, 11–13, 19, 23–27, and 32–34 of the ’468 Patent. Unified Patents argued that the claims were obvious and therefore invalid under 35 USC §103. Applying the standard set forth in 35 U.S.C. § 314(a), which requires that Petitioner demonstrate a reasonable likelihood that it would prevail with respect to at least one challenged claim, the Board denied the Petition. See Exhibit E attached (Decision Denying Institution of *Inter Partes* Review in IPR2017-01934, March 5, 2018). “We also conclude Petitioner has not demonstrated a reasonable likelihood of prevailing. . . .” *Id.* at 15.

9. The USPTO duly and legally issued United States Patent No. 9,465,925 (“the ’925 Patent”) entitled “System for Regulating Access to and Distributing Content in a Network” to Robert M. Burke II and David Z. Carman on October 11, 2016. The ’925 Patent claims priority to U.S. Patent App. No. 13/369,174 (now the ’468 Patent), and claims priority to United States Provisional Application No. 60/523,057 filed on November 18, 2003. A true and correct copy of the ’925 Patent is attached hereto as Exhibit B.

10. The USPTO, and technology leaders including Time Warner Cable and Sony Computer Entertainment, have cited the ’925 Patent over 130 times. See <https://patents.google.com/patent/US9465925#citedBy> (last accessed March 3, 2018).

11. MCM is the assignee of all right, title, and interest to both the '468 Patent and the '925 Patent (“the Patents-in-suit”). Accordingly, MCM has standing to bring the instant suit to enforce its rights under the patent laws of the United States, including the right to collect damages for past infringement.

12. MCM has not practiced any claimed invention of the Patents-in-suit.

13. The Patents-in-suit describe and claim systems and methods for regulating access to a service provider network.

14. The Patents-in-suit describe systems and methods to rapidly and efficiently deliver content, such as music, video, games, broadband data, real-time audio or voice applications, and software, to subscribers while respecting the rights of the owners of the intellectual property that protect such content. '468 Patent, at 1:24–51; '925 Patent, at 1:30–59.

15. The specifications of the Patents-in-suit recount the reluctance of the owners of proprietary content, including those in the motion picture industry, to provide their content over the internet “having seen the negative impact that piracy has already had on the Music Recording Industry.” '468 Patent, 1:60–62; '925 Patent, 2:1–3.

16. To avoid a similar fate, service providers—like cable TV providers and content providers—like the motion picture industry—needed some assurance that their “intellectual property (music, video, games, software, etc.) will be secure from illegal downloading and transmission over the [otherwise insecure] Internet.” '468 Patent, 1:60–63; '925 Patent, 2:1–3.

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