

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

BLUE SPIKE LLC;
BLUE SPIKE INTERNATIONAL LTD.;
WISTARIA TRADING LTD.,

Plaintiffs,

v.

DISH NETWORK CORPORATION,
DISH NETWORK L.L.C., AND DISH
NETWORK SERVICE L.L.C.,

Defendants.

Civil Action No. 1:19-cv-00160-LPS-CJB

JURY TRIAL DEMANDED

FIRST AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blue Spike LLC (“Blue Spike LLC”), Plaintiff Blue Spike International Ltd. (“Blue Spike Int.”), and Plaintiff Wistaria Trading Ltd. (“Wistaria”) (collectively, “Plaintiffs”), for their First Amended Complaint against Defendants Dish Network Corporation, Dish Network L.L.C., and Dish Network Service L.L.C. (referred to collectively herein as “Dish” or “Defendant”), allege the following:

NATURE OF THE ACTION

1. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 1 *et seq.*

THE PARTIES

2. Plaintiff Blue Spike LLC is a limited liability company organized under the laws of the State of Texas with a place of business at 1820 Shiloh Road, Suite 1201-C, Tyler, Texas 75703.

3. Plaintiff Blue Spike Int. is a limited liability company established in Ireland with a place of business at Unit 6, Bond House, Bridge Street, Dublin 8, Ireland. Blue Spike Int. was recently acquired by Blue Spike Inc., a Florida corporation. Blue Spike Inc. has no right, title, or interest in the patents in suit, nor any licensing rights to the patents in suit, nor any enforcement rights in the patents in suit.

4. Plaintiff Wistaria Trading Ltd. is a Bermuda corporation with a place of business at Clarendon House, 2 Church St., Hamilton HM 11, Bermuda.

5. Upon information and belief, Defendant Dish Network Corporation is a corporation established under the laws of the State of Nevada, with a principal place of business at 9601 S. Meridian Boulevard, Englewood, Colorado 80112. Defendant can be served through its registered agent, CSC Services of Nevada, Inc., located at 2215-B Renaissance Drive, Las Vegas, Nevada 89119.

6. Upon information and belief Defendant Dish Network L.L.C. is established under the laws of the State of Colorado, with a principal place of business at 9601 S. Meridian Boulevard, Englewood, Colorado 80112. Defendant can be served through its registered agent, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, located at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

7. Upon information and belief Defendant Dish Network Service L.L.C. established under the laws of the State of Colorado, with a principal place of business at 9601 S. Meridian Boulevard, Englewood, Colorado 80112. Defendant can be served through its registered agent, Corporation Service Company d/b/a CSC – Lawyers Incorporating Service Company, located at 211 E. 7th Street, Suite 620, Austin, Texas 78701.

8. Upon information and belief, Dish sells, offers to sell, and/or uses products and services throughout the United States, including in this judicial district, and introduces infringing products and services into the stream of commerce knowing that they would be sold and/or used in this judicial district and elsewhere in the United States.

JURISDICTION AND VENUE

9. This is an action for patent infringement arising under the Patent Laws of the United States, Title 35 of the United States Code.

10. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

11. Venue is proper in this judicial district under 28 U.S.C. § 1400(b). Defendants previously agreed to accept the propriety of venue in this district.

12. This Court has personal jurisdiction over Dish under the laws of the State of Delaware, due at least to their substantial business in Delaware and in this judicial district, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in the State of Delaware.

BACKGROUND

The Inventions

13. Scott A. Moskowitz and Michael Berry are the inventors of U.S. Patent Nos. 7,475,246 (“the ‘246 patent”). A true and correct copy of the ‘246 patent is attached as Exhibit A.

14. Scott A. Moskowitz and Michael Berry are the inventors of U.S. Patent Nos. 8,739,295 (“the ‘295 patent”). A true and correct copy of the ‘295 patent is attached as Exhibit B.

15. Scott A. Moskowitz and Michael Berry are the inventors of U.S. Patent No. 9,934,408 (the ‘408 patent’). A true and correct copy of the ‘408 patent is attached to Exhibit C.

16. Scott A. Moskowitz and Marc Cooperman are the inventors of U.S. Patent No. 9,021,602 (“the ‘602 patent”). A true and correct copy of the ‘602 patent is attached as Exhibit F.

17. Scott A. Moskowitz is the inventor of U.S. Patent No. 9,104,842 (“the ‘842 patent”). A true and correct copy of the ‘842 patent is attached as Exhibit G.

18. The ‘246 patent, the ‘295 patent, the ‘408 patent, the ‘602 patent, and the ‘842 patent (collectively, “the patents in suit”) all cover pioneering technologies for rights management and content security.

19. The patents in suit are all assigned to and owned by Wistaria. Blue Spike LLC is the exclusive licensee of the patents in suit. Blue Spike LLC’s exclusive license to the patents in suit includes the right to assert infringement under 35 U.S.C. §271 and grant sub-licenses to the patents in suit.

20. Blue Spike Int. is a prior exclusive licensee of the patents in suit, which license was revoked upon the grant of the exclusive license to Blue Spike LLC; however, Blue Spike Int. retains the right to receive all revenues from Blue Spike LLC’s licensing of the patents in suit.

21. Blue Spike LLC, Blue Spike Int., and Wistaria are each exclusively and entirely owned and controlled by Scott Moskowitz.

22. The ‘246, ‘295, and ‘408 patents (collectively, “the Secure Server patents”) all resulted from the pioneering efforts of the named inventors in the area of secure distribution of digitized value-added information, or media content, while preserving the ability of publishers to make available unsecured versions of the same value-added information, or media content,

without adverse effect to the systems security. These efforts resulted in the secure personal content server memorialized in mid-2000. At the time of these pioneering efforts, the most widely implemented technology used to address unauthorized copying and distribution of digital content was focused solely on cryptography. Content could be encrypted, but there was no association between the encryption and the actual content. This meant that there could be no efficient and openly accessible market for tradable information. The Inventors conceived of the inventions claimed in the Secure Server patents as a way to separate transactions from authentication in the sale of digitized data.

23. For example, the Inventors developed methods and systems which enable secure, paid exchange of value-added information, while separating transaction protocols. The methods and systems improve on existing means for distribution control by relying on authentication, verification and authorization that may be flexibly determined by both buyers and sellers. These determinations may not need to be predetermined, although pricing matrix and variable access to the information opens additional advantages over the prior art. The present invention offers methods and protocols for ensuring value-added information distribution can be used to facilitate trust in a large or relatively anonymous marketplace (such as the Internet's World Wide Web).

24. The '602 patent and the '842 patent (collectively, the "Watermarking patents") resulted from the pioneering efforts of the Inventor and Marc Cooperman ("Cooperman") in the area of protection of digital information. These efforts resulted in the development of systems, methods, and devices for data protection memorialized in the mid-2000s. At the time of these pioneering efforts, the most widely implemented technology used to address the difficulty of protecting intellectual property was copy protection. However, in that type of system the cost of developing such protection was not justified considering the level of piracy that occurred despite

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