

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

BLUE SPIKE, LLC,

Plaintiff,

v.

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

Defendants.

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Case 6:18-cv-333

JURY TRIAL DEMANDED

ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Blue Spike, LLC (“Blue Spike” or “Plaintiff”) files this complaint against the above-named Defendants (collectively “Defendant” or “DISH”), alleging 17 counts of infringement of the following 12 Patents-in-Suit:

1. Reissued U.S. Patent RE44,222E1, titled “Methods, systems and devices for packet watermarking and efficient provisioning of bandwidth,” (the ’222 Patent).
2. Reissued U.S. Patent RE44,307, titled “Methods, systems and devices for packet watermarking and efficient provisioning of bandwidth,” (the ’307 Patent).
3. U.S. Patent 7,287,275B2, titled “Methods, systems and devices for packet watermarking and efficient provisioning of bandwidth” (the ’275 Patent).
4. U.S. Patent 8,473,746, titled “Methods, systems and devices for packet watermarking and efficient provisioning of bandwidth” (the ’746 Patent).
5. U.S. Patent 8,224,705, titled “Methods, systems and devices for packet watermarking and efficient provisioning of bandwidth” (the ’705 Patent).
6. U.S. Patent 7,475,246, titled “Secure personal content server” (the ’246 Patent).
7. U.S. Patent 8,739,295B2, titled “Secure personal content server” (the ’295 Patent).
8. U.S. Patent 9,021,602, titled “Data Protection and Device” (the ’602 Patent).

9. U.S. Patent 9,104,842, titled “Data Protection and Device” (the ’842 Patent).
10. U.S. Patent 9,934,408, titled “Secure personal content server” (the ’408 Patent).
11. U.S. Patent 7,159,116B2, titled “Systems, methods and devices for trusted transactions” (the ’116 Patent).
12. U.S. Patent 8,538,011B2, titled “Systems, methods and devices for trusted transactions” (the ’011 Patent).

See Exhibits 2–13.

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Plaintiff Blue Spike, LLC is a Texas limited liability company and has its headquarters and principal place of business at 1820 Shiloh Road, Suite 1201-C, Tyler, Texas 75703. Blue Spike, LLC is the assignee of the exclusive license of the Patents-in-Suit, and has ownership of all substantial rights in the Patents-in-Suit, including the rights to grant sublicenses, to exclude others from using it, and to sue and obtain damages and other relief for past and future acts of patent infringement.

3. On 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.

4. On 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.

5. On information and belief, Defendant Dish Network Service 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.

JURISDICTION AND VENUE

6. This lawsuit is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq.* The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1332, 1338(a), and 1367.

7. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(b)–(c) and 1400(b) because Defendant has a regular and established place of business in this District. *See*, 28 U.S.C § 1400 (b); *TC Heartland LLC v. Kraft Foods Group Brands LLC*, 137 S. Ct. 1514, 1521 (2017); *In re Cray Inc.*, 871 F.3d 1355, 1360–4 (Fed. Cir. 2017).

8. The Court has personal jurisdiction over Defendant and venue is proper for the following reasons: (1) Defendant has committed acts of patent infringement and contributed to and induced acts of patent infringement by others in this District by its offering of infringing products and services and providing infringing products and services in the homes and businesses in this District; (2) Defendant regularly does business or solicits business in this District by its offering of infringing products and services and providing infringing products and services in the homes and businesses, thereby creating a physical, geographical location in the district from which the business

of Defendant is carried out, including its preferred retailers in this District, including Single Source Satellite located in Plano, Texas and Solis Satellite and Communications in Longview, Texas; (3) Defendant engages in other persistent courses of conduct and derives substantial revenue by its offering of infringing products and services and providing infringing products and services in the homes and businesses of this District; and (4) Defendant has purposefully established substantial, systematic, and continuous contacts with this District and should reasonably expect to be haled into court here by its offering of infringing products and services and providing infringing products and services in the homes and businesses in this District. *See* Exhibit 1 (screen shot of Defendant offering “DISH TV In Tyler, Texas” for Tyler, Texas); Exhibits A and B (screen shots of retail locations in Plano and Longview, Texas).

FACTUAL BACKGROUND

9. Protection of intellectual property is a prime concern for creators and publishers of digitized copies of copyrightable works, such as musical recordings, movies, video games, and computer software. Blue Spike founder Scott Moskowitz pioneered—and continues to invent—technology that makes such protection possible.

10. Blue Spike is a company focused on innovation with research and development. Blue Spike does not make a service that competes directly with Defendant, but Blue Spike has licensed its pioneering patents to competitors of Defendant.

11. Blue Spike is a practicing entity, just not in the same field as Defendant. For instance, Blue Spike provides pre-release tracking technology for audio, like new music artists’ singles, that may be sent to various radio stations for promotional purposes. This type of tracking helps an artist know whether a radio station improperly posts the song

for sale rather than simply playing it as a “demo only.” Blue Spike also has other service offerings at bluesspike.com.

12. Moskowitz is a senior member of the Institute of Electrical and Electronics Engineers (IEEE), a member of the Association for Computing Machinery, and the International Society for Optics and Photonics (SPIE). As a senior member of the IEEE, Moskowitz has peer-reviewed numerous conference papers and has submitted his own publications.

13. Moskowitz is an inventor on more than 110 patents, including forensic watermarking, signal abstracts, data security, software watermarks, service license keys, deep packet inspection, license code for authorized software and bandwidth securitization.

14. The National Security Agency (NSA) even took interest in his work after he filed one of his early patent applications. The NSA marked the application “classified” under a “secrecy order” while it investigated his pioneering innovations and their impact on national security.

15. As an industry trailblazer, Moskowitz has been a public figure and an active author on technologies related to protecting and identifying software and multimedia content. A 1995 *New York Times* article—titled “TECHNOLOGY: DIGITAL COMMERCE; 2 plans for watermarks, which can bind proof of authorship to electronic works”—recognized Moskowitz’s company as one of two leading software start-ups in this newly created field. *Forbes* also interviewed Moskowitz as an expert for “Cops Versus Robbers in Cyberspace,” a September 9, 1996 article about the emergence of

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