

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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DISH NETWORK L.L.C.,  
Petitioner

v.

BROADBAND ITV, INC.,  
Patent Owner

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Case IPR2020-01267  
U.S. Patent No. 10,028,026

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**DECLARATION OF MICHAEL KUNKEL**

*Mail Stop "PATENT BOARD"*  
Patent Trial and Appeal Board  
U.S. Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, Michael Kunkel, declare and state as follows:

1. I am the Director of Investigative Services of Setec Security Technologies, Inc. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true. If called as a witness, I could and would competently testify to the matters stated herein. I submit this declaration in support of Broadband iTV, Inc.'s ("BBiTV") Patent Owner Response ("POR") in Case IPR2020-01267 pending before the Patent Trial and Appeal Board.

2. My job responsibilities as the Director of Investigative Services of Setec Security Technologies, Inc. entail providing litigation support to attorneys, as well as leading our computer forensic and electronic discovery specialists who work in our business unit, Setec Investigations, which specializes in the discovery, collection, investigation, and production of electronic information for investigating and handling computer-related crimes and misuse. In my role with Setec Investigations, I work with government entities, local, state, and federal law enforcement agencies, private attorneys, and corporations, and specialize specifically in managing computer forensic investigations and providing thorough litigation support solutions. I have been involved in over 3,000 computer forensic investigations and electronic discovery engagements surrounding theft of intellectual property, trade secret misappropriation, financial fraud, email and

Internet abuse, employee disputes, copyright infringement, industrial espionage, disputed dismissals, and software code reviews, spoliation, among other engagements.

3. Prior to my employment at Setec Security Technologies, Inc., I was a digital forensics examiner at Stroz Friedberg, LLC, where I led digital investigations and provided expert guidance in a multitude of different litigations. Prior to working at Stroz Friedberg, I was a Special Agent in the United States Air Force Office of Special Investigations. I was Chief of the Cyber Investigations and Operations at Yokota Air Base, Japan. I investigated countless incidents of computer crime and led the Air Force's cyber counter-intelligence gathering efforts throughout the Pacific region. I am a certified EnCase Examiner through Guidance Software as well as a Certified Information Systems Security Professional through ISC2. I have also been a Department of Defense certified Computer Crime Investigator as well as a member of various professional organizations related to computer forensics. My curriculum vitae is attached as **Exhibit A**.

4. Setec Security Technologies, Inc.'s billing rates for electronic discovery and forensic services are \$275 per hour and \$400 per hour for testimony with a 3 hour minimum per day of testimony, per person.

5. In 2021, Setec Investigations was retained by Feinberg Day Kramer Alberti Lim Tonkovich & Belloli LLP to provide data collection and electronic discovery services in support of BBiTV.
6. As part of our services, Setec Investigations has been asked to explain and interpret metadata, and specifically, date information associated with the following files:
- a. BBITV184330 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2110**.
  - b. BBITV184331 (Microsoft PowerPoint). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2111**.
  - c. BBITV184332 (Microsoft Word) I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2112**.
  - d. BBITV184333 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2113**.
  - e. BBITV184334 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2114**.
  - f. BBITV184335 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2115**.
  - g. BBITV184336 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2116**.
  - h. BBITV032983 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2067**.
  - i. BBITV032989 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2066**.

- j. BBITV032997 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2048**.
- k. BBITV033000 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2049**.
- l. BBITV035411 (Microsoft PowerPoint). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2072**.
- m. BBITV049500 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2150**.
- n. BBITV049516 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2070**.
- o. BBITV049702 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2093**.
- p. BBITV184276 (Microsoft Word). I understand that this file is being submitted in PDF format with BBiTV's POR as **EX2061**.

7. Metadata is a set of data that describes and gives information about other data. Microsoft Office files, such as Microsoft Word and Microsoft PowerPoint, contain embedded metadata within each file that is specific to each file regardless of the computer used to view the file.

8. Of particular importance in this matter are the "Created" and "Last Modified" date information within the "Related Dates" field in the embedded metadata that is associated with each file. This information is viewable within the Microsoft applications when viewing the "Properties" option under the "File" tab.

9. In addition to the review of the "Related Dates" information in the metadata embedded within each file, Setec also used Metadata Assistant, a

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