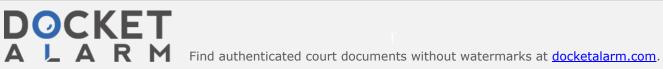
1	IN THE UNITED STATES DISTRICT COURT	
2	FOR THE WESTERN DISTRICT OF TEXAS	
3	WACO DIVISION	
4		
5		
6	BROADBAND iTV, INC.,	
7	Plaintiff,	
8	vs. No. 6:19-cv-716-ADA	
9	DISH NETWORK, L.L.C.,	
10	Defendant.	
	/	
11		
12		
	CONFIDENTIAL	
13		
14		
15	DEPOSITION OF MILTON DIAZ PEREZ	
16	Remote Zoom Proceeding	
17	Burlingame, California	
18	Monday, August 9, 2021	
19		
20		
21		
22		
23	REPORTED BY:	
24	LESLIE ROCKWOOD ROSAS, RPR, CSR 3462	
25	Pages 1 - 109 Job No. 4748809	
	Page 1	
	rage I	



	CONFIDENTIAL		
1	IN THE UNITED STATES DISTRICT COURT	1 INDEX	
2	FOR THE WESTERN DISTRICT OF TEXAS		
3	WACO DIVISION	3	
4		4 MONDAY, AUGUST 9, 2021	
5		5 5	
6	BROADBAND iTV, INC.,		
7	Plaintiff,	6 WITNESS EXAMINATION	
8	vs. No. 6:19-cv-716-ADA	7 MILTON DIAZ PEREZ	
9	DISH NETWORK, L.L.C.,	8	
10	Defendant.	9 BY MR. MELEHANI 6	
	/	10	
11		11	
12		12	
13	CONFIDENTIAL	13	
14		14 QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:	
15	Deposition of MILTON DIAZ PEREZ, taken on behalf	15 (NONE)	
16	of DISH Network, Remote Zoom Proceeding from Burlingame,	16	
	California, beginning at 9:17 a.m. Pacific Daylight Time	17	
	and ending at 1:27 p.m., on Monday, August 9, 2021,	18	
	before Leslie Rockwood Rosas, RPR, Certified Shorthand	19	
	Reporter No. 3462.	20	
21	•	21	
22		22	
23		23	
24		24	
25		25	
	Page 2	Page 4	
1	APPEARANCES:	1 DEPOSITION EXHIBITS	
2		2 MILTON DIAZ PEREZ	
	FOR THE PLAINTIFF:	3 NUMBER DESCRIPTION IDENTIFIED	
4		4 Exhibit 1 Declaration of Milton Diaz 18	
5		5 Perez, 05/10/21	
6		6 Exhibit 2 United States Patent No. 55	
7		7 10,028,026 B2, 07/17/18	
'	- · · · · · · · · · · · · · · · · · · ·		
8 9		8 Exhibit 3 Protective Order Material 67	
10	3	10	
11		11	
12		12	
	FOR THE DEFENDANT:	13	
14	,	14	
15	, ,	15	
16		16	
17	•	17	
18	` '	18	
19		19	
20		20	
21		21	
22	Also Present: Sean Morrissey, Concierge	22	
23		23	
24		24	
25		25	
	Page 3	Page 5	



2 (Pages 2 - 5)

1		
•	Burlingame, California; Monday, August 9, 2021	1 Q. Other than those two depositions, have you ever
2	9:17 a.m. Pacific Daylight Time	2 been deposed before?
3	oOo	3 A. No.
4	PROCEEDINGS	4 Q. Okay. Other than those two depositions, have
5		5 you ever submitted testimony, either in a declaration or 09:19:2
6	MILTON DIAZ PEREZ,	6 in actual court, in any proceeding before?
7	having been first duly sworn, was examined	7 A. We have this declaration that we're dealing with
8	and testified as follows:	8 today.
9		9 Q. Right. Yeah, obviously that one, yes. But
10	THE WITNESS: I do. 09:17:23	10 other than that one, too, is there any other time you've 09:19:49
11	THE REPORTER: Thank you, sir.	11 submitted a declaration in a Court before? I know you
12	Will you please introduce yourselves, Counsel.	12 have in connection with patent prosecution with the PTO,
13	MR. MELEHANI: Sure. This is Will Melehani with	13 but other than that, in like a litigation-type setting,
14 O	rrick Herrington & Sutcliffe on behalf of the	14 have you ever submitted testimony?
15 Pe	etitioner. 09:17:36	15 A. That I recall, no. 09:20:02
16	MR. TONKOVICH: This is Russell Tonkovich on	16 Q. Okay. Well, I know you probably are familiar
17 be	ehalf of BBiTV from Feinberg Day.	17 with the rules with how depositions work, given that
18	THE REPORTER: Thank you.	18 you've done it before, but just in case, I'll just go
19	You may proceed, Counsel.	19 over some basic ground rules. Especially because we're
20	MR. MELEHANI: All right. Thank you. 09:17:50	20 doing this by, you know, video conference, it really 09:20:22
21		21 helps if people are familiar.
22	EXAMINATION	So first and foremost, it's important that we
23 B	Y MR. MELEHANI:	23 don't talk over each other, both because the software
24	Q. Okay. So Mr. Perez Diaz or Diaz Perez, that's	24 doesn't handle it well and because the court reporter is
25 th	the first question is how should I refer to you? Because 09:17:58	25 trying to write down everything. 09:20:36 Page 8
	Page 6	1 age o
1 I'	ve seen it every which way and I'm not sure.	1 Do you understand?
2	A. I've given up. It's it's so formally it's	2 A. Yes.
3 N	Milton Diaz Perez, or Diaz Perez. Informally, it's Diaz.	3 Q. Okay. And after I ask a question, generally
		3 Q. Okay. And after rask a question, generally
4	Q. Okay. So it's never just Perez, which I think	4 your counsel has an opportunity to object, and then you
	s what I had been using. 09:18:20	4 your counsel has an opportunity to object, and then you
5 is	s what I had been using. 09:18:20 A. No. In terms of the Hispanic naming	4 your counsel has an opportunity to object, and then you
5 is 6 7 co	s what I had been using. 09:18:20 A. No. In terms of the Hispanic naming onventions, it's never Perez.	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 09:20:5
5 is 6 7 co 8	s what I had been using. 09:18:20 A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer.
5 is 6 7 co 8	s what I had been using. 09:18:20 A. No. In terms of the Hispanic naming onventions, it's never Perez.	 4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process?
5 is 6 7 co 8 9 do	s what I had been using. 09:18:20 A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. 09:18:29	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 09:20:5 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16
5 is 6 7 co 8 9 do 10	s what I had been using. 09:18:20 A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. 09:18:29 Q that I've had a role in that refer to you as	 4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any
5 is 6 7 co 8 9 do 10 11	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez.	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 09:20:5 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16
5 is 6 7 co 8 9 do 11 12 M	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any occuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries.	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 09:20:5 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16 11 issue, please let me know. I can try again or fix the
5 is 6 7 co 8 9 do 10 11 12 M 13	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice;	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair?
5 is 6 7 co 8 9 do 10 11 12 M 13 14 15 is	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; at that right? I mean 09:18:29 09:18:29 09:18:29	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 09:21:35
5 is 6 7 co 8 9 do 10 11 12 M 13 14 15 is 16	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; sthat right? I mean A. Yes.	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 09:21:35 16 Q. Okay. Now is there any reason why you would not
5 is 6 7 co 8 9 do 110 111 112 M 113 114 115 is 116 117	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; a that right? I mean A. Yes. Q. And at least you were deposed for, I guess, a	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like,
5 is 6 7 co 8 9 do 10 11 11 12 M 115 is 116 117 118 p	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; s that right? I mean A. Yes. Q. And at least you were deposed for, I guess, a partial deposition that's still to be continued in	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 19:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could
5 is 6 7 co 8 9 do 110 111 112 M 113 114 115 is 116 117 118 p 119 co 119	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; at that right? I mean A. Yes. Q. And at least you were deposed for, I guess, a partial deposition that's still to be continued in connection with the litigation in the BBiTV versus DISH	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 19:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could 19 interfere with your ability to testify?
5 is 6 7 cc 8 9 dc 110 111 112 M 113 114 115 is 116 117 118 pp 119 cc 220 ar	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; at that right? I mean A. Yes. Q. And at least you were deposed for, I guess, a cartial deposition that's still to be continued in onnection with the litigation in the BBiTV versus DISH and DirecTV matters; is that right?	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 09:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could 19 interfere with your ability to testify? 20 A. No. 09:21:55
5 is 6 7 cc 8 9 dc 110 111 112 M 113 114 115 is 116 117 118 pc 119 cc 220 at 21	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as of the Hispanic naming onventions, it's never Perez. A. No worries. Q that I've had a role in that refer to you as of the Hispanic name of the	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 09:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could 19 interfere with your ability to testify? 20 A. No. 09:21:55 21 Q. Now I want to talk with you a bit about the
5 is 6 7 cc 8 9 dc 110 111 112 M 113 114 115 is 116 117 119 cc 20 at 21 222	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; sthat right? I mean A. Yes. Q. And at least you were deposed for, I guess, a artial deposition that's still to be continued in onnection with the litigation in the BBiTV versus DISH and DirecTV matters; is that right? A. That's correct. Q. And then I know you've also been deposed in	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 09:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could 19 interfere with your ability to testify? 20 A. No. 09:21:55 21 Q. Now I want to talk with you a bit about the 22 prior deposition, or I guess it's sort of a half
5 is 6 7 cc 8 9 dd 10 11 12 M 13 14 15 is 16 17 18 p 19 cc 20 at 21 22 23 cc 23 cc 24 25 cc 25 25 cc 25 25 cc 25 25 cc 25 25 25 25 25 25 25 25 25 25 25 25 25	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; at that right? I mean A. Yes. Q. And at least you were deposed for, I guess, a partial deposition that's still to be continued in onnection with the litigation in the BBiTV versus DISH and DirecTV matters; is that right? A. That's correct. Q. And then I know you've also been deposed in onnection with the litigation several years back against	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 09:21:16 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 09:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could 19 interfere with your ability to testify? 20 A. No. 09:21:55 21 Q. Now I want to talk with you a bit about the 22 prior deposition, or I guess it's sort of a half 23 deposition that you gave in connection with the
5 is 6 7 co 8 9 dd 10 11 12 M 13 14 15 is 16 17 18 p 19 co 20 at 21 22 23 co 22 23 c	A. No. In terms of the Hispanic naming onventions, it's never Perez. Q. Okay. Well, I apologize if you've read any ocuments A. No worries. Q that I've had a role in that refer to you as Mr. Perez. A. No worries. Q. So you've been deposed before, at least twice; sthat right? I mean A. Yes. Q. And at least you were deposed for, I guess, a artial deposition that's still to be continued in onnection with the litigation in the BBiTV versus DISH and DirecTV matters; is that right? A. That's correct. Q. And then I know you've also been deposed in	4 your counsel has an opportunity to object, and then you 5 have to answer unless your counsel instructs you not to 6 answer. 7 Are you familiar with that process? 8 A. I was waiting for him to object. Okay. Yes. 9 Q. Okay. And if you can't understand me for any 10 reason, if I slur or mumble or if there's a technical 11 issue, please let me know. I can try again or fix the 12 problem, and I will assume that if you don't let me know, 13 that there is no issue and you've understood me properly; 14 is that fair? 15 A. Yes. 109:21:35 16 Q. Okay. Now is there any reason why you would not 17 be able to fully and truthfully testify here today, like, 18 for example, medications or some other issue that could 19 interfere with your ability to testify? 20 A. No. 19:21:55 21 Q. Now I want to talk with you a bit about the 22 prior deposition, or I guess it's sort of a half

3 (Pages 6 - 9)



6 A. Yes. 7 Q. And did you have an opportunity, prior to that depo, to review the testimony that you gave? I'm sorry, 9 let me scratch that and rephrase. 10 Prior to this deposition, did you have an 09:22:50 11 opportunity to review the testimony you gave in 12 connection with the District Court deposition that you 13 gave in June? 14 MR. TONKOVICH: Objection. Scope. 15 THE WITNESS: Yes. 16 Q. BY MR. MELEIANI: Okay. And do you stand by the 17 testimony that you gave in June as correct and accurate 18 and truthful? 19 MR. TONKOVICH: Objection. Scope. 20 THE WITNESS: I believe it was accurate, 09:23:23 21 Q. BY MR. MELEIANI: Okay. Are you aware of the 25 fact that the parties have an agreement that your 23 testimony from that deposition can be used in connection with the 18 proceeding, and that testimony from this 25 IPR proceeding can be used in connection with the 19 page 10 to 11 litigation; are you aware of that agreement? 2 A. I personally am not aware of that agreement? 3 Q. Okay. How didy you —just generally — I don't 4 needlike specific communications. True crainally not 5 looking for anything privileged, but how did you 09:24:20 4 needlike specific communications. True crainally not 5 looking for anything privileged, but how did you 09:24:20 4 A. I reviewed the exhibitis. 12 Q. BY MR. MELEHANI: Okay. Are you aware of the 18 deposition today? 5 Looking for anything privileged, but how did you 09:24:20 11 declaration and reviewed the exhibitis. 12 Q. BY MR. MELEHANI: Did you reviewed all the 18 action of the exhibitis? 12 Q. BY MR. MELEHANI: Did you review all the 13 exhibits or a subset of the exhibitis. 12 Q. BY MR. MELEHANI: Claution the witness not to 13 exhibits or a subset of the exhibitis. 14 A. I reviewed the exhibitis that were referenced in 15 my declaration. 30 (Page 24:20) 4 A. I think there were two to 19:26:22 5 Unification of the proceeding and that testimony from this 20:26:27 5 A. Perhaps an hour and a half, two hours. 30:26:22 6 Q. BY MR. MELEHANI: Okay. So when you reviewed 22 witness no	0 01 (1 1	
3 A. Yes. 4 Q. Okay. Now prior to that depo, you were sworn in 5 and gave an oath to testify truthfully; right? 6 A. Yes. 7 Q. And did you have an opportunity, prior to that 8 depo, to review the testimony that you gave? I'm sorry, 9 let me scratch that and rephrase. 10 Prior to this deposition, did you have an 11 connection with the District Court deposition that you 12 gave in June? 13 gave in June? 14 MR. TONKOVICH: Objection. Scope. 15 THE WITNESS: Yes. 16 Q. BY MR MELEHANI: Okay. And do you have and truthful? 18 and truthful? 19 MR. TONKOVICH: Objection. Scope. 20 THE WITNESS: I'believe it was accurate. 21 Q. BY MR. MELEHANI: Okay. And you aware of the 17 testimony from that deposition can be used in connection with the ST Fifth of the service of that agreement that your 23 testimony from that deposition can be used in connection with the ST Fifth of that agreement? 24 A. I personally am not aware of that agreement? 25 I'R proceeding, and that testimony from this 26 Jik provided in a more aware of that agreement? 27 A. I personally am not aware of that agreement? 28 MR. TONKOVICH: Just caution the witness not to 99:26:53 29 MR. TONKOVICH: Just caution the witness not to 99:26:40 31 Q. Days How did you pays is presently — I don't declaration and eshabits. 32 Q. BY MR. MELEHANI: Day on reviewed all the past? 33 Condware consumed part of that process of reviews and the same and a land	1 A. From June?	1 Q. Did you have and I'm just looking for a "yes"
4 Q. Okay. Now prior to that depo, you were sworn in 5 and gave an oath to testify truthfully; right? 09:22:29 6 A. Yes. 7 Q. And did you have an opportunity, prior to that 8 depo, to review the testimony that you gave? I'm sorry, 10 Prior to this deposition, did you have an 11 Opportunity to review the testimony you gave in 12 connection with the District Court deposition that you 13 gave in June? 14 MR. TONKOVICH: Objection. Scope. 15 THE WITNESS: Yes. 16 Q. BY MR. MELEHANI: Okay. And do you stand by the 17 testimony that you gave in June as correct and accurate 18 and truthful? 19 MR. TONKOVICH: Objection. Scope. 20 THE WITNESS: I befleve it was accurate. 21 Q. BY MR. MELEHANI: Okay. And do you stand by the 22 fact that the parties have an agreement that your 23 testimony from that deposition can be used in connection 24 with this IPR proceeding, and that testimony from this 25 IPR proceeding can be used in connection with the 26 fact may be a substitute of the process of every any according to the process of every any according to the process of every any according to the declaration and exhibits? 2 A. I personally an not aware of that agreement? 2 A. I personally an not aware of that agreement? 3 Q. Okay. How did you — just generally — I don't deposition can be used in connection with the 3 proceeding can be used in connection with the 4 page 10 1 Intigation; are you aware of that agreement? 2 A. I personally an not aware of that agreement? 3 Q. Okay. How did you — just generally — I don't deposition and the winters not to 3 preval any attorney-client communications. To certainly not 4 for anything privileges, but how did you 4 page 10 1 Intigation; are you aware of that agreement? 2 A. I see the proceeding and not aware of that agreement? 3 Q. BY MR. MELEHANI: Computed the calabition of a process? 4 A. A. Fortieved the exhibits. 4 A. I reviewed the exhibits. 5 Q. BY MR. MELEHANI: Well provided to methems not to 5 looking for anything privileges, but how did you 6 Q. And was counsel part of that process?	2 Q. Yeah, recent, yeah.	2 or "no" here. Did you have any conversations with
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7 THE WITNESS: Yes. 8 depo, to review the testimony that you gave? I'm sorry, 9 let me scratch that and rephrase. 10 Prior to this deposition, did you have an 09:22:50 11 Opportunity to review the testimony you gave in 12 connection with the District Court deposition that you 13 gave in June? 14 MR. TONKOVICH: Objection. Scope. 15 THE WITNESS: Yes. 16 Q. BY MR. MELEHANE: Okay. And do you stand by the 17 testimony that you gave in June as correct and accurate 18 and truthful? 19 MR. TONKOVICH: Objection. Scope. 20 THE WITNESS: I believe it was accurate. 21 Q. BY MR. MELEHANE: Okay. Are you aware of the 22 fact that the parties have an agreement that your 23 testimony from that deposition can be used in connection 24 with this I'PR proceeding, and that testimony from this 25 I'PR proceeding can be used in connection with the 26 List proceeding can be used in connection 27 With this I'PR proceeding can be used in connection 28 with this I'PR proceeding can be used in connection 29 With this I'PR proceeding can be used in connection 20 With this I'PR proceeding can be used in connection 21 With this I'PR proceeding can be used in connection 22 A I personally an not aware of that agreement? 23 A I personally an not aware of that agreement? 24 A I personally an not aware of that agreement? 25 I'PR proceeding can be used in connection with the objection to adopt the exhibits and a ware proceeding can be used in connection with the objection to adopt the exhibits and a ware of that agreement? 26 A I personally an not aware of that agreement? 27 A I personally an not aware of that agreement? 28 A I personally an not aware of that agreement? 29 A I proceeding can be used in connection with the objection to adopt the exhibits and a ware proceeding can be used in connection with the objection to adopt the exhibits and a ware proceeding can be used in connection with the objection to adopt the exhibits and a ware of that agreement? 20 A I personally an not aware of that agreement? 21 A About the same and balf, two hours of	5 and gave an oath to testify truthfully; right? 09:22:29	5 not to reveal any communications with attorneys. You can 09:25:41
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10 Prior to this deposition, did you have an 09:22:50 11 opportunity to review the testimony you gave in 11 Q. Okay. And how many conversations did you have? 12 connection with the District Court deposition that you 13 gave in June? 12 W. A. I think there were two. 13 Q. Approximately how long was the first 14 conversation? 14 MR. TONKOVICH: Objection. Scope. 15 THE WITNESS: Yes. 09:23:11 16 Q. BY MR. MELEHANI: Okay. And do you stand by the 17 testimony that you gave in June as correct and accurate 18 and truthful? 18 Q. And did those conversations take place before 19 you reviewed the declaration and exhibits? 19 MR. TONKOVICH: Objection. Scope. 21 Q. BY MR. MELEHANI: Okay. Are you aware of the 22 fact that the parties have an agreement that your 22 statimony from that deposition can be used in connection with the 192.3444 Page 10 11 lidgation; are you aware of that agreement? 2 A. I personally an not aware of that agreement? 3 Q. Okay. How did you — just generally—I don't 4 need like specific communications. The certainly not 5 hooking for anything privileged, but how did you 09:24:07 decommunications. The certainly not 5 hooking for anything privileged, but how did you 09:24:07 decommunication and reviewed the exhibits. 12 Q. BY MR. MELEHANI: Did you review all the 13 exhibits or a subset of the exhibits? 10 Q. And was counsel part of that process? 17 MR. TONKOVICH: Caution the witness not to 18 reveal any attorney-client communications. You can 14 answer "yes" or "no." 19 Is the — was your review of DISH's IPR petition 20 done in connection with your preparation for this 09:23:04 per provided the materials. 09:25:04 21 I conducted the review. So the answer is "yes" in that 22 they provided the materials. 09:25:04 22 they prov	8 depo, to review the testimony that you gave? I'm sorry,	8 Q. BY MR. MELEHANI: Okay. And about when did you
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24 materials, is that something you did on your own: 24 Q. DT MR. MELETIAM. THI SOITY, did you say no?		
25 A. Yes. 09:25:30 25 A. No. 09:28:15		

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4 (Pages 10 - 13)

1 (Interruption in proceedings.)	1 A. Yes.
2 Q. BY MR. MELEHANI: So approximately when did you	2 Q. Are you familiar with the arguments that BBiTV
3 review the '026 IPR petition?	3 is making on issues unrelated to conception and reduction
4 A. I think it was shortly after it was filed.	4 to practice, such as arguments to distinguish the prior
5 Q. Did you review the declaration of Dr. Sam Russ 09:29:00	5 art? 09:31:58
6 that was submitted with that petition?	6 MR. TONKOVICH: Objection. Scope.
7 A. Not that I recall.	7 THE WITNESS: I'm more prepared on the
8 Q. Did you review any of the prior art that was	8 declaration than anything else.
9 submitted with that petition? And just to help you, we	9 Q. BY MR. MELEHANI: Okay. And I'm not I'm not,
10 call them, Gonder, Son, and Kelts. 09:29:30	10 you know I'm not trying to quiz you. I'm just 09:32:12
11 A. Yes.	11 wondering if you're familiar with the arguments that
12 Q. I guess I'll take it one at a time.	12 BBiTV's making in the broader IPR, separate and apart
13 So you read the Gonder reference; is that	13 from conception and reduction to practice?
14 accurate?	14 MR. TONKOVICH: Objection. Scope.
15 A. I yes, in part at least. 09:29:43	15 THE WITNESS: Oh, sorry. 09:32:27
16 Q. Okay. And did you read the Son reference?	16 MR. TONKOVICH: Go ahead.
17 A. Yes, in part.	17 THE WITNESS: My apologies.
18 Q. Is the same true for the Kelts reference?	18 In some aspects, but really I contributed on
`	
19 A. Yes, again, in part.	19 the declaration. That's my focus. 20 O. BY MR. MELEHANI: Okay. Are you aware that 09:32:45
20 Q. Okay. Now BBiTV submitted two responses, and I 09:30:05	, ,
21 think there's technical terminology for them, and I'm	21 Dr. Michael Shamos has submitted a declaration alongside
22 just going to mess it up. So I'll just try to describe	22 your declaration in BBiTV's response?
23 them otherwise.	23 A. Yes.
They submitted one response before the IPR was	24 Q. Have you read his declaration?
25 instituted sort of arguing against institution, and then 09:30:23 Page 14	25 A. I have not. 09:33:07 Page 16
1 after it was instituted, they submitted a second	1 Q. Have you ever met with Dr. Shamos?
2 response.	2 A. I have not.
3 Did you review either of those two responses?	3 Q. So let me be more specific. Have you spoken to
4 A. I believe I in part.	4 Dr. Shamos at any point?
5 Q. Did you review the response that which is the 09:30:48	5 A. I have not. 09:33:24
6 one I just referred to as the second response, for which	6 Q. Are you aware that he's already been deposed in
7 your declaration was submitted?	7 connection with the IPR proceedings?
8 MR. TONKOVICH: Objection. Form.	8 A. No.
9 THE WITNESS: I'm sorry, could you repeat the	9 Q. And I guess I can assume this, but I'll ask it
10 question. 09:31:01	10 anyway: Have you reviewed the transcript of his 09:33:42
11 Q. BY MR. MELEHANI: So I'm asking specifically	11 deposition in connection with the IPR proceedings?
12 about the second response, which is the one that your	12 A. No.
13 declaration came with.	13 MR. MELEHANI: So I was hoping we might get to
14 A. Uh-huh.	14 the technical resolution before we hit this point, but it
15 Q. Did you review that response? 09:31:10	15 doesn't look like it. So I'll go ahead and introduce the 09:33:59
16 A. At least in part.	16 first exhibit. It's just going to be your declaration.
17 Q. Are you familiar with the arguments that BBiTV	17 So if you guys want to pull it up, you can. But I'll go
18 is making in connection with the IPR proceeding?	18 through the process of doing it formally here. So just
19 A. At least some of them, yes.	19 give me one second to
20 Q. So I know your declaration is largely concerning 09:31:30	20 THE WITNESS: If I can interrupt, I thought I 09:34:12
21 the topic of conception and reduction to practice.	21 saw an email come in.
22 A. (Nods head.)	22 MR. MELEHANI: Okay.
23 Q. There are other arguments that BBiTV makes, you	23 THE WITNESS: But would that have been related
041 4 12 114 1 4 114 4	
24 know, to distinguish the prior art and whatnot.	24 to this?
24 know, to distinguish the prior art and whathot. 25 Are you aware of that? 09:31:43	



5 (Pages 14 - 17)

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