

December 19, 2019

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

CLERK, U.S. DISTRICT CLERK
WESTERN DISTRICT OF TEXAS
BY BriannaWinter
DEPUTY

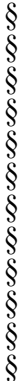
BROADBAND iTV, INC.,

Plaintiff,

v.

DISH NETWORK, L.L.C.,

Defendant.



Case No. 6:19-cv-716

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Broadband iTV, Inc. ("BBiTV"), by and through the undersigned counsel, hereby files this complaint ("Complaint") and makes the following allegations of patent infringement relating to U.S. Patent Nos. 10,028,026, 10,506,269, 9,998,791, and 9,648,388 against Defendant DISH Network, L.L.C. ("DISH") and alleges as follows upon actual knowledge with respect to itself and its own acts and upon information and belief as to all other matters:

NATURE OF THE ACTION

1. This is an action for patent infringement. BBiTV alleges that DISH infringes U.S. Patent Nos. 10,028,026 (the "'026 Patent"), 10,506,269 (the "'269 Patent"), 9,998,791 (the "'791 Patent"), and 9,648,388 (the "'388 Patent") copies of which are attached hereto as Exhibits A-D (collectively, "the Asserted Patents").

2. BBiTV alleges that DISH directly and indirectly infringes the Asserted Patents by making, using, offering for sale, selling and importing, among other things, set-top boxes ("STBs") and mobile device apps that provide certain novel video-on-demand ("VOD") functionalities. DISH also induces and contributes to the infringement of others, including its users, customers, agents, or other third parties. BBiTV seeks damages and other relief for

DISH's direct and indirect infringement of the Asserted Patents.

THE PARTIES

3. BBiTV is a Delaware corporation headquartered at 201 Merchant Street, Suite 1830, Honolulu, Hawaii 96813.

4. BBiTV holds all substantial rights, title and interest in and to the Asserted Patents.

5. 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. DISH Network L.L.C. can be served in Texas 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. Upon information and belief, Defendant DISH Network L.L.C. is a wholly owned subsidiary of DISH Network Corporation.

JURISDICTION AND VENUE

6. This action for patent infringement arises under the Patent Laws of the United States, 35 U.S.C. § 1 et. seq. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1338.

7. Venue in the Western District of Texas is proper pursuant to 28 U.S.C. §§ 1391(b), (c) and § 1400(b) because DISH has a regular and established place of business in this District; has committed acts within this District giving rise to this action; and DISH continues to conduct business in this District, including one or more acts of selling, using, importing, and/or offering for sale infringing products or providing support service to DISH's customers in this District. For example, DISH owns the following in this District: (1) "customer call center, warehouse, service, and remanufacturing center" in El Paso, Texas; (2) "micro digital broadcast operations center" in Mustang Ridge, Texas; (3) "regional digital broadcast operations center" in New Braunfels, Texas; and (4) property at 1285 Joe Battle Boulevard, El Paso, Texas. *See* DISH Annual Report for year ending December 31, 2018, at pp. 62, F-76.¹

¹ Available at <https://dish.gcs-web.com/static-files/1500d9f6-3b27-4e59-b4a0-d7f3257cb992>.

8. DISH 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 DISH'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, DISH has used the patented inventions thereby committing, and continuing to commit, acts of patent infringement alleged herein. In addition, DISH has derived revenues from its infringing acts occurring within the Western District of Texas. Further, DISH 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 in Texas and the Western District of Texas. Further, DISH is subject to the Court's personal jurisdiction at least due to its sale of products or services within Texas and the Western District of Texas. DISH has committed such purposeful acts or transactions in Texas such that they reasonably should know and expect that they could be haled into this Court because of such activity.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 10,028,026

9. The allegations of paragraphs 1-8 of this Complaint are incorporated by reference as though fully set forth herein.

10. The '026 Patent, titled "System for addressing on-demand TV program content on TV services platform of a digital TV services provider," issued on July 17, 2018. A copy of the '026 Patent is attached as Exhibit A.

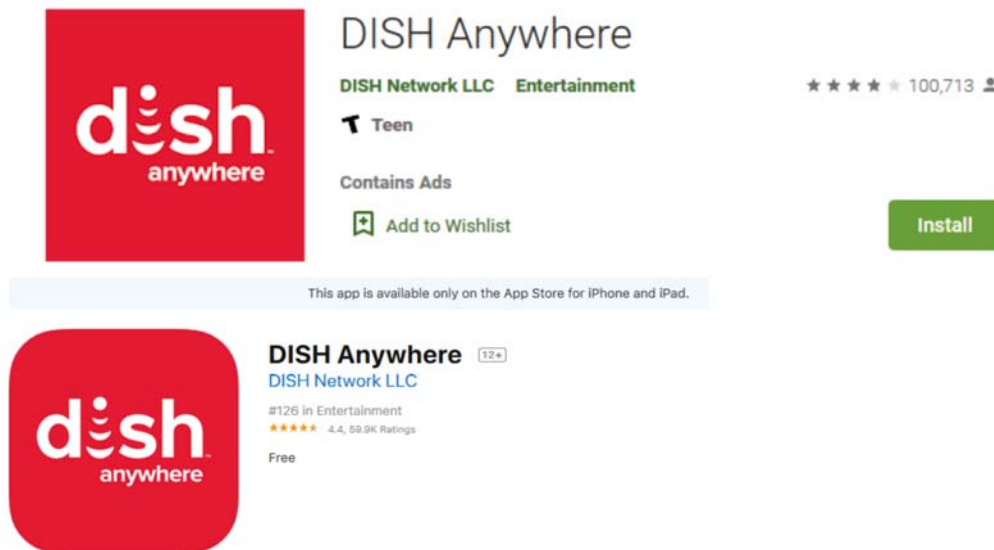
11. Pursuant to 35 U.S.C. § 282, the '026 Patent is presumed valid.

12. Upon information and belief, DISH makes, uses, offers for sale, and/or sells in the United States and/or imports into the United States products and services that provide DISH's subscribers with video on-demand ("VOD") services using set-top boxes ("STBs") and mobile device apps (collectively the "Accused '026 Patent Products"). Specifically, DISH, by and through its various operator subsidiaries, provides such Internet-connected STBs, such as Hopper

2 and 3 for receiving, via the Internet, video content to be viewed by VOD system subscribers. Likewise, DISH provides such mobile device apps, such the DISH Anywhere App available for iOS devices on Apple's App Store and for Android devices on Google Play that are downloaded to subscribers' Internet-connected devices—including smartphones and tablets—for receiving, via the Internet, video content to be viewed by VOD system subscribers. See

<https://apps.apple.com/us/app/dish-anywhere/id327125649>;

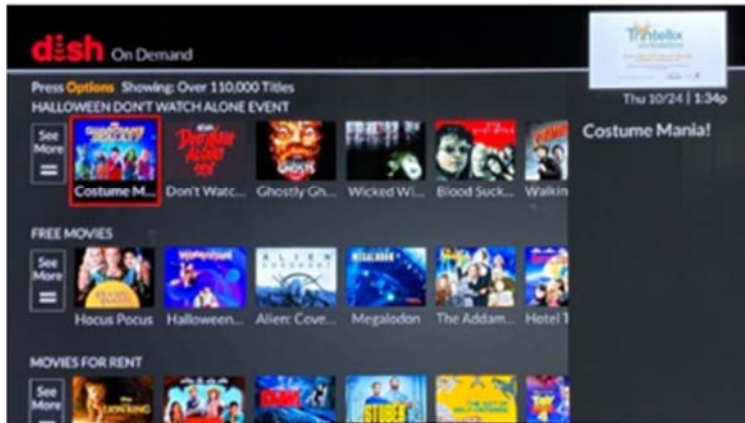
<https://play.google.com/store/apps/details?id=com.sm.SlingGuide.Dish>.



13. Upon information and belief, the Accused '026 Patent Products infringe at least claims 1, 3, 5, 8, and 11 of the '026 Patent in the exemplary manner described below.

14. As to claim 1, DISH provides an Internet-connected digital device, including a set-top box for receiving, via the Internet, video content to be viewed by a subscriber of a video-on-demand system. DISH additionally provides software (*e.g.*, the DISH Anywhere iOS and Android mobile device apps) for which a third-party Internet-connected device (*e.g.*, a smartphone or tablet) receives, via the Internet, video content to be viewed by a subscriber of a video-on-demand system.

Dish STB EPG:

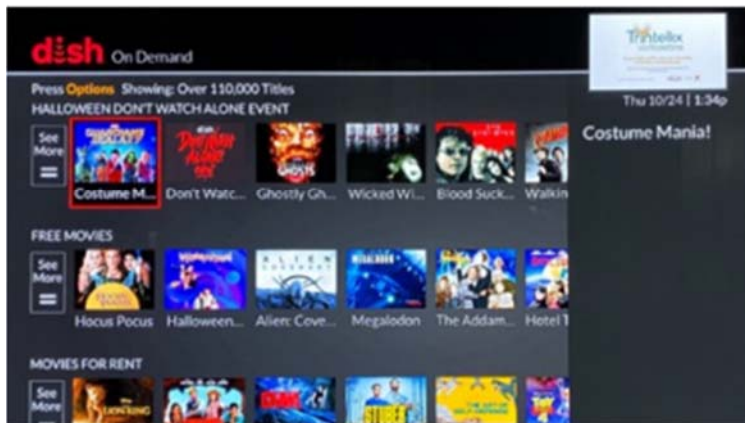


Dish Anywhere App EPG:



15. In both cases, DISH provides an electronic program guide (EPG) as a templated video-on-demand display, which uses at least one of a plurality of different display templates to which the Internet-connected digital device has access, to enable a subscriber using the Internet-connected digital device to navigate in a drill-down manner through titles by category information in order to locate a particular one of the titles whose associated video content is desired for viewing on the Internet-connected digital device.

Dish STB EPG:



Dish Anywhere App EPG:



16. The EPGs on the Accused '026 Patent Products are used by subscribers to select VOD content. The EPGs include a templated VOD display having a first layer that includes at least one of a basic color, logo, or graphical theme to display. For example, the EPGs include a background screen to provide a black background, digital clock, and graphical theme.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.