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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

BROADBAND ITV, INC.) Docket No. WA 19-CA-716 ADA
)
vs.) Waco, Texas
)
DISH NETWORK, LLC) August 31, 2020

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

BROADBAND ITV, INC.) Docket No. A 20-CA-717 ADA
)
vs.) Austin, Texas
)
AT&T SERVICES, INC.,)
AT&T COMMUNICATIONS, LLC,)
DIRECTV, LLC) August 31, 2020

TRANSCRIPT OF TELEPHONIC DISCOVERY HEARING
BEFORE THE HONORABLE ALAN D. ALBRIGHT

APPEARANCES:

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25 Proceedings reported by computerized stenography,
transcript produced by computer-aided transcription.

15:31:01 1 THE COURT: Good afternoon. It's Alan Albright.

15:31:03 2 Suzanne, would you call the case?

15:31:04 3 THE CLERK: Sure.

15:31:05 4 Telephonic conference in Civil Action

15:31:09 5 1:20-CV-717, styled, Broadband iTV, Incorporated vs. AT &

15:31:14 6 T Services, Incorporated, AT & T Communications, LLC and

15:31:17 7 DIRECTV, LLC; and telephonic conference in Civil Action

15:31:23 8 6:19-CV-716, styled, Broadband iTV, Incorporated vs. DISH

15:31:29 9 Network, LLC.

15:31:30 10 THE COURT: Good afternoon.

15:31:32 11 If I could hear first from plaintiff's counsel

15:31:34 12 and then, from counsel for the defendants.

15:31:38 13 MR. HILL: Good afternoon, your Honor.

15:31:39 14 Wesley Hill on behalf of the Plaintiff BBitV.

15:31:42 15 With me here on the phone this afternoon, your Honor, is

15:31:45 16 Robert Kramer, David Alberti and Andrea Fair. And we are

15:31:49 17 ready to proceed.

15:31:49 18 THE COURT: Thank you so much.

15:31:51 19 If I could hear from defense counsel for AT & T.

15:31:55 20 MR. FULGHUM: Good afternoon, Judge.

15:31:56 21 This is Roger Fulghum for the AT & T Defendants.

15:31:59 22 With me is Lon Outland, senior IP counsel for AT & T. And

15:32:02 23 also on the line are Tim Durst and Jeff Becker.

15:32:06 24 THE COURT: And for DISH.

15:32:12 25 MR. ROBERTS: Good afternoon, your Honor.

15:32:12 1 This is Clem Roberts with Orrick Herrington.
15:32:15 2 With me is my partner, Alyssa Caridis. And I believe that
15:32:18 3 Mr. Palmer is also on the line.

15:32:20 4 THE COURT: Very good.

15:32:23 5 A whole host of my favorite lawyers all across
15:32:25 6 America. Who could be any luckier than me to get to --
15:32:29 7 you all to invite me to get together with you this
15:32:31 8 afternoon.

15:32:32 9 So I am happy to hear -- a reminder of two
15:32:37 10 things. I think you all know this. One is, if any of you
15:32:39 11 are going to speak, please identify yourself for the
15:32:43 12 record so we could keep the record accurate. And number
15:32:46 13 two, if you are on a cellphone, please mute yourself when
15:32:51 14 you're not talking. Other than that, I am happy to hear
15:32:54 15 whatever it is you all would like to take up.

15:32:58 16 MR. FULGHUM: Well, thank you. Judge, this is
15:33:00 17 Roger Fulghum for AT & T.

15:33:01 18 And I think I'm the one who sent the first e-mail
15:33:04 19 that may have initiated this phone call. We have a claim
15:33:06 20 construction hearing in this case set for November 13th.
15:33:09 21 And our opening brief is September 10th, and that's a week
15:33:12 22 from Thursday. And we sent an e-mail to the Court asking
15:33:15 23 for permission to brief and have the Court construe a
15:33:19 24 total of 22 terms between our case, the AT & T case, and
15:33:25 25 the DISH case, and that breaks down like this.

15:33:27 1 AT & T is proposing that the Court construe 18
15:33:31 2 terms spread across five patents. DISH is proposing that
15:33:35 3 the Court construe 16 terms spread across four patents.
15:33:42 4 There are 12 terms in common between AT & T and DISH, and
15:33:48 5 of those 12 terms, AT & T and DISH agree on nine
15:33:53 6 constructions; and we have our differences on three
15:33:55 7 constructions, and that goes to the fact that AT & T and
15:33:58 8 DISH here are different parties, different products,
15:34:01 9 different systems.

15:34:01 10 We've worked independently of one another on
15:34:05 11 prior art issues, as well. This case involves five
15:34:10 12 patents, five patents asserted against AT & T, four of
15:34:15 13 those patents asserted against DISH. I realize that the
15:34:18 14 number of -- the number 12 is higher than the Court's
15:34:21 15 presumed limit, but we think there's good reason for that
15:34:24 16 in this particular case.

15:34:26 17 As I mentioned, five patents and against AT & T,
15:34:29 18 there are a total --

15:34:30 19 THE COURT: Mr. Fulghum, I am -- it's a
15:34:34 20 five-patent case, I am -- that number doesn't offend me
15:34:37 21 very much.

15:34:39 22 Let me hear from the plaintiff real quick. The
15:34:42 23 numbers you're giving me, while they are -- let me say
15:34:45 24 this. We may need to have more than one hearing just --
15:34:50 25 we'll see. It depends how it shakes out what the total

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