Infringement Contentions for U.S. Patent No. 10,028,026 vs. DISH

Plaintiff Broadband iTV, Inc. accuses Defendant DISH Network, L.L.C. ("DISH") of making, using, offering for sal and/or importing into the United States DISH's video-on-demand service, set-top boxes ("STBs"), including the Hop Sling, Hopper, Hopper Duo, Wally, 4K Joey, Wired Joey, Wireless Joey, Super Joey, device apps, such as DISH's "A App available for Apple and iOS devices (including the Apple TV, iPads, iPhones and iPod touch), Android devices and tablets), and Amazon Fire devices (including the Fire TV Stick, Cube, and Fire TV edition Smart TV), where su downloaded to subscribers' Internet-connected devices, and Xbox One and PlayStation 4 devices, (collectively, the 'Product(s)"), all of which provide subscribers with access to DISH's video-on-demand service via the Internet. The Products" includes the associated computer software and data, associated hardware, and processes and methods relat directly infringes U.S. Patent No. 10,028,026 (the "026 Patent") by making, using, offering for sale, selling in and/or the United States the Accused Products, which meet each and every limitation of the claims as shown in the charts be directly infringes the '026 patent by making, using, offering for sale, selling in and/or importing into the United State below. DISH is therefore liable for infringement of the '026 Patent under 35 U.S.C. § 271(a).

DISH induces infringement of the '026 Patent by providing to third parties including users, customers, agents and ot Products to utilize in an infringing manner, as charted below. DISH intends to cause infringement by such third parti instructs and/or controls and directs third parties to use the Accused Products in an infringing manner, including with instructing the users to operate DISH STB products. DISH manifests this intent by providing support services for th Products, including providing instructions, guides, online materials. See, e.g. STB feature and set up guides https://my.dish.com/support/products/hopper/how-to, https://my.dish.com/cms-files/support/products/hopper/joeywi joey3.pdf, other device setup instructions <u>https://my.dish.com/dish-anywhere/fire-tv</u>, <u>https://my.dish.com/support/services/tv/pay-per-view/how-to-order</u>, <u>https://www.dish.com/features/dish-anywhere/.</u> manifests this intent by providing technical support for the Accused Products, including providing instructions, guide materials and technical support. See, e.g., DISH support web page <u>https://my.dish.com/support.</u> Apple App Store list DISH Anywhere App, Google Play Store listing for the Android DISH Anywhere Apps. DISH is therefore liabli infringement of the '026 Patent under 35 U.S.C. § 271(b).

DOCKET

DISH contributes to infringement of the '026 patent by offering to commercially distribute, commercially distributin video-on-demand service and device apps to users, which in combination with a subscriber device, such as a smartph satisfy each and every limitation of the charted claims, as charted below. DISH provides device apps to users, who t apps on their devices, such as smartphones and tablets. The combination of the VOD service and the device apps cor portion of the invention and has no substantial non-infringing uses. DISH knows portions of the Accused Products to made or especially adapted for use in infringement of the '026 Patent, and not to be staple articles, and not to be commerce suitable for a substantial noninfringing use. To the extent DISH STBs are manufactured by third-party very contributes to infringement of the '026 Patent by providing material parts of the invention, including EPG software I STBs. The third-party vendor infringes claims of the '026 patent by making, using (e.g., testing), offering for sale, at United States STBs that use DISH's EPG software to access DISH's VOD platform, in violation of 35 U.S.C. § 271(the EPG software to be especially made or especially adapted for use in infringement of the '026 Patent, and not to b nor commodities of commerce suitable for substantial noninfringing use. DISH is thereby liable for infringement of the '026 Patent, and not to be nor commodities of commerce suitable for substantial noninfringing use. DISH is thereby liable for infringement of the '026 Patent, and not to be nor commodities of commerce suitable for substantial noninfringing use. DISH is thereby liable for infringement of the '026 Patent, and not to be nor commodities of commerce suitable for substantial noninfringing use. DISH is thereby liable for infringement of the under 35 U.S.C. § 271(c).

The asserted claims include elements that are implemented, at least in part, by proprietary and specialized electronics software in the Accused Products. The precise designs, processes, and algorithms used in them are held secret, at lean not publicly available in their entirety. An analysis of DISH's documentation and/or source code may be necessary to accurately describe all infringing features and functionality of the Accused Products and, accordingly, Plaintiffs rese supplement these contentions once such information is made available to Plaintiffs. Furthermore, Plaintiffs reserve these contentions, including as discovery in the case progresses, in view of any non-infringement arguments DISH m allege infringement under the doctrine of equivalents), in view of the Court's final claim construction in this action at with the provision of expert reports.

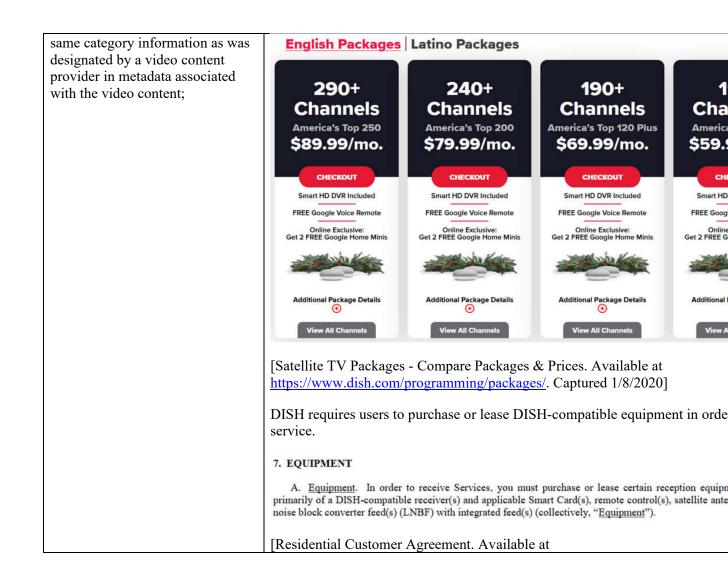
DOCKET

Claim Language ¹	Evidence of Infringement by DISH
1. An Internet-connected digital	To the extent that the preamble is limiting, the Accused Products include an Ir
device for receiving, via the	connected digital device for receiving, via the Internet, video content to be vie
Internet, video content to be	
	subscriber of a video-on-demand system using a hierarchically arranged electr
viewed by a subscriber of a video-	program guide, the Internet-connected digital device being configured to obtain
on-demand system using a	present to the subscriber an electronic program guide as a templatized video-o
hierarchically arranged electronic	display, which uses at least one of a plurality of different display templates to
program guide, the Internet-	Internet-connected digital device has access, to enable a subscriber using the I
connected digital device being	connected digital device to navigate in a drill-down manner through titles by d
configured to obtain and present to	information in order to locate a particular one of the titles whose associated vi
the subscriber an electronic	is desired for viewing on the Internet-connected digital device using the same
program guide as a templatized	information as was designated by a video content provider in metadata associa
video-on-demand display, which	video content.
uses at least one of a plurality of	
different display templates to	DISH STBs
which the Internet-connected	DIGH
digital device has access, to enable	DISH provides subscribers with Set-Top-Boxes ("STBs") as part of its T
a subscriber using the Internet-	For example, in each of DISH's packages, it advertises a "Smart HD DVR Inc
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 using the	

¹ Words in bold were changed by certificates of correction.

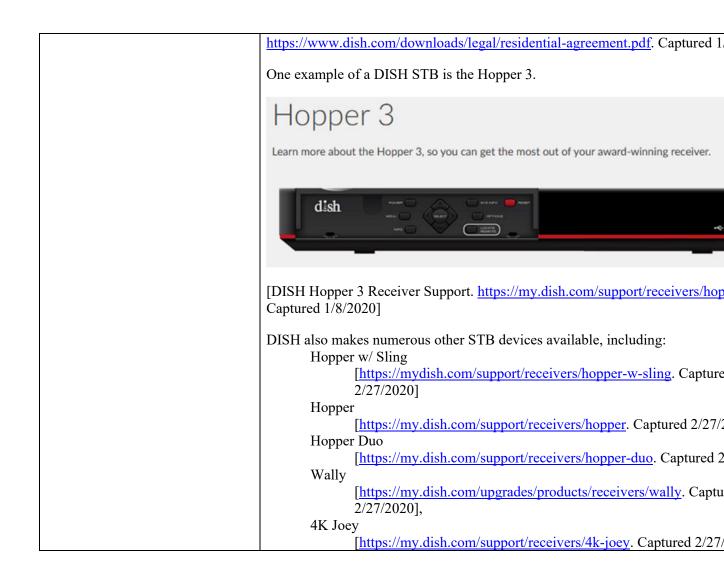
DOCKET A L A R M

Find authenticated court documents without watermarks at docketalarm.com.



DOCKET

Δ



Find authenticated court documents without watermarks at docketalarm.com.

DOCKE

DOCKET A L A R M



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.