

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

DISH NETWORK L.L.C.,	§	Civil Action No. 4:15-cv-03394
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
DOES 1-5,	§	
	§	
Defendants.	§	

Plaintiff DISH Network’s Complaint

1. Plaintiff DISH Network L.L.C. (“DISH”) brings this action against Defendant Does 1-5 (collectively “Defendants”) for copyright infringement because they are unlawfully retransmitting certain television channels over the Internet in violation of DISH’s exclusive rights.

Parties

2. Plaintiff DISH Network L.L.C. is a limited liability company organized under the laws of the State of Colorado, with its principal place of business located at 9601 South Meridian Blvd., Englewood, Colorado 80112. DISH is the third largest pay-television provider in the United States, delivering copyrighted programming to millions of subscribers nationwide by means of satellite and over-the-top (“OTT”) services, whereby programming is delivered using a public Internet infrastructure. DISH’s subscribers enjoy access to hundreds of video and audio channels, including a diverse line-up of international channels.

3. DISH contracts for and purchases rights for most of the international channels distributed on its platform from network affiliates and their agents. Pursuant to written agreements, DISH has the exclusive right to distribute and publicly perform in the United States the works that air on the following channels, by means including satellite and Internet, including Internet protocol television (“IPTV”) and OTT: Al Jazeera Arabic News, MBC1, MBC Drama,

and MBC Kids also known as MBC3 (collectively, the “DISH Channels”). DISH owns copyrights in the television programs distributed on the DISH Channels.

4. Defendant Does 1-5 are identified by the Internet Protocol (“IP”) address of the computer server used to unlawfully retransmit the DISH Channels over the Internet throughout the United States. DISH believes that discovery, including requests for information directed to the companies hosting the servers, will lead to the identification of Defendants and potentially other responsible parties, and allow DISH to amend the complaint to list them by name.

Jurisdiction And Venue

5. DISH asserts claims under the Copyright Act, 17 U.S.C. § 101 *et seq.* This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

6. Upon information and belief, this Court has personal jurisdiction over Defendants. Defendants unlawfully retransmit the DISH Channels over the Internet to individuals who can access the retransmission using specially designed set-top boxes. The set-top boxes and their software applications have been marketed, made available and distributed to persons in this jurisdiction and Defendants’ unlawful retransmissions of the DISH Channels have been received in this jurisdiction. Exercising jurisdiction over Defendants is consistent with the Constitution and laws of the United States.

7. Venue is proper in this Court under 28 U.S.C. § 1392(b)(3) because Defendants are subject to personal jurisdiction in this district. Venue is also appropriate in this Court under 28 U.S.C. § 1400(a) because DISH asserts claims relating to the protection of copyrighted works. To the extent Defendants are not residents of the United States, venue is proper in this Court under 28 U.S.C. § 1391(c)(3) because nonresidents may be sued in any judicial district.

Defendants’ Wrongful Conduct

8. Defendants unlawfully retransmit the DISH channels over the Internet without authorization from DISH. Defendants retransmit these channels to individuals who have not been authorized to receive the television channels from DISH.

9. Upon information and belief, Defendants capture live broadcast signals of the DISH Channels, transcode these signals into a format useful for streaming over the Internet, and then upload the content to their computer servers.

10. Defendants use computer servers to unlawfully retransmit the DISH Channels in the United States. The DISH Channels were observed during testing of an unauthorized set-top box capable of receiving Defendants' unauthorized retransmissions. The DISH Channels are also identified in the user interface that viewers navigate when accessing content through the unauthorized set-top box and software applications. Examples of the copyrighted works that aired on the DISH Channels are identified in Exhibit 1.

IP Address 162.244.65.200

11. On October 6, 2015, Defendant Doe 1 unlawfully retransmitted the MBC1, MBC Drama, and MBC Kids/MBC3 channels in the United States via the computer server identified by IP address 162.244.65.200.

12. On October 12, 2015 and October 14, 2015, Defendant Doe 1 unlawfully retransmitted the MBC1 channel in the United States via the computer server identified by IP address 162.244.65.200.

IP Address 162.244.65.198

13. On October 12, 2015 and October 14, 2015, Defendant Doe 2 unlawfully retransmitted the MBC1, MBC Drama, and MBC Kids/MBC3 channels in the United States via the computer server identified by IP address 162.244.65.198.

14. On October 14, 2015, Defendant Doe 2 unlawfully retransmitted the Al Jazeera Arabic News channel in the United States via the computer server identified by IP address 162.244.65.198.

IP Address 69.64.78.141

15. On October 12, 2015 and October 14, 2015, Defendant Doe 3 unlawfully retransmitted the MBC1, MBC Drama, and MBC Kids/MBC3 channels in the United States via the computer server identified by IP address 69.64.78.141.

16. On October 14, 2015, Defendant Doe 3 unlawfully retransmitted the Al Jazeera Arabic News channel in the United States via the computer server identified by IP address 69.64.78.141.

IP Address 69.64.78.232

17. On October 12, 2015, Defendant Doe 4 unlawfully retransmitted the MBC Drama and MBC Kids/MBC3 channels in the United States via the computer server identified by IP address 69.64.78.232.

18. On October 14, 2015, Defendant Doe 4 unlawfully retransmitted the Al Jazeera Arabic News and MBC Kids/MBC3 channels in the United States via the computer server identified by IP address 69.64.78.232.

IP Address 72.21.81.253

19. On October 14, 2015, Defendant Doe 5 unlawfully retransmitted the Al Jazeera Arabic News channel in the United States via the computer server identified by IP address 72.21.81.253.

20. The IP addresses 162.244.65.200; 162.244.65.198; 69.64.78.141; and 69.64.78.232 are assigned to APH Inc. d/b/a Codero of Overland Park, Kansas. The IP address 72.21.81.253 is assigned to EdgeCast Networks, Inc. d/b/a Verizon Digital Media of Santa Monica, California. Defendant Does 1-5 are the customers of APH and EdgeCast Networks that are associated with, responsible for, and have control over the foregoing IP addresses distributing the DISH Channels.

21. Defendants are continuing to unlawfully retransmit the DISH Channels throughout the United States via the foregoing IP addresses, among others.

Claims For Relief

Count I

Direct Copyright Infringement Under 17 U.S.C. § 501

22. DISH repeats and realleges the allegations in paragraphs 1-21.

23. Under 17 U.S.C. § 106 and 201(d)(2), DISH owns or otherwise has the exclusive right to distribute and publicly perform in the United States, by means including satellite and Internet, including IPTV and OTT, the programs shown on the DISH Channels.

24. The programs that make up the DISH Channels are original motion pictures and other audiovisual works that are fixed in a tangible medium of expression, and are therefore copyrightable subject matter. DISH's copyrights in the programs arise under the laws of foreign nations that are parties to copyright treaties with the United States, including Qatar and the United Arab Emirates, where the programs were authored or first published. The programs constitute foreign works for purposes of 17 U.S.C. §§ 101, 411, and are protected by the Copyright Act, 17 U.S.C. § 104.

25. Defendants distribute and publicly perform copyrighted programs that air on the DISH Channels throughout the United States, in violation of DISH's exclusive rights under 17 U.S.C. § 106. DISH has not authorized Defendants to distribute, publicly perform, or reproduce these programs in any manner.

26. Defendants are directly infringing DISH's copyrights in violation of 17 U.S.C. § 501. The infringement of DISH's rights in each audiovisual work constitutes a separate and distinct act of copyright infringement.

27. Defendants' acts are willful, intentional, purposeful, and in disregard of and with indifference to the rights of DISH.

28. Unless enjoined by the Court, Defendants will continue to engage in acts causing substantial and irreparable injury to DISH that includes damage to their reputation, goodwill, and lost sales, for which there is no adequate remedy at law.

Prayer For Relief

Wherefore, DISH seeks judgment against Defendants as follows:

A. For permanent injunctive relief restraining and enjoining Defendants and their employees, agents, representatives, attorneys, and all persons that are acting in concert or in

participation with them, from distributing and publicly performing the programs that air on the DISH Channels, or otherwise infringing DISH's copyrights, as authorized by 17 U.S.C. § 502;

B. For DISH's actual damages and the profits of Defendants that are attributable to the violations alleged herein pursuant to 17 U.S.C. § 504(b);

C. For impoundment and disposition of all infringing articles under 17 U.S.C. § 503;

D. For pre- and post-judgment interest on all damages, from the earliest date permitted by law at the maximum rate permitted by law;

E. For such additional relief as the Court deems just and equitable.

Dated: November 18, 2015

Respectfully submitted,

Hagan Noll & Boyle, LLC

s/ Stephen M. Ferguson

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