1 UNITED STATES INTERNATIONAL TRADE COMMISSION
2 Washington, D.C.
3 Before the Honorable David P. Shaw
4 Administrative Law Judge
5 --oo0oo--
6 In the Matter of)
) Video Deposition of:
7 CERTAIN FITNESS DEVICES,) DAVID ERICSON
STREAMING COMPONENTS)
8 THEREOF, AND SYSTEMS)
CONTAINING SAME,) Inv. No. 337-TA-1265
9)
)
10)
11
January 6, 2022
12 1:22 p.m.
13 LOCATION:
Regus
14 180 North University Avenue,
Suite 270
15 Provo, UT 84601
16
* * *
17
18 REPORTER:
Karen Christensen, RPR, RMR
19
20
21 Job:204542
22
23
24
25

DISH TECHNOLOGIES L.L.C., Exhibit 2063, p. 1
Aylo Freesites Ltd. v. Dish Technologies L.L.C., IPR2024-00046

A P P E A R A N C E S

FOR THE COMPLAINANT AND DISH NETWORKS:
G. Hopkins Guy, III, Esq.
Ali Dhanani, Esq.
Stephen Maule, Esq.
Jamie Lynn, Esq.
Jim Hanft (in-house counsel)
BAKER BOTTS L.L.P.
1001 Page Mill Road
Palo Alto, CA 94304

FOR PELOTON: (via Zoom)
Stuart Rosenberg, Esq.
GIBSON, DUNN & CRUTCHER LLP
1881 Page Mill Road
Palo Alto, CA 94304

FOR IFIT, INC.:
Jared Braithwaite, Esq.
FOLEY & LARDNER LLP
136 South Main Street,
Salt Lake City, UT 84101

FOR BYU:
Scott Halvorsen, Esq.
BRIGHAM YOUNG UNIVERSITY
A-343-ASB
Provo, UT 84602

FOR LULULEMON AND CURIOSER: (via Zoom)
Emily Terrell, Esq.
COOLEY LLP
1299 Pennsylvania Avenue,
Washington, D.C. 20004

FOR THE OFFICE OF UNFAIR IMPORT INVESTIGATIONS: (via Zoom)
Aaron Rauh, Esq.
OFFICE OF UNFAIR IMPORT INVESTIGATIONS
500 E. St. SW
Washington, D.C. 20436

VIDEOGRAPHER: Lance Harrison

I N D E X

EXAMINATION	PAGE
BY MR. GUY	6
BY MR. ROSENBERG	45
BY MR. BRAITHWAITE	63
BY MR. GUY (Further Examination)	67

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
Exhibit 1	Application for Subpoena Ad Testificandum to David Ericson	8
Exhibit 2	David Ericson's CV	9
Exhibit 3	Copy of Move Media website page	24
Exhibit 4	Move Networks FAQ page 1 of 2	30
Exhibit 5	BYU Television web page	33
Exhibit 6	Document entitled PreLoad, Stream Selection, Multiple Streams	40

January 6, 2022 1:22 p.m.

P R O C E E D I N G S

VIDEOGRAPHER: Okay. We're on record. My name is Lance Harrison; I'm the videographer. The court reporter is Karen Christensen. We represent TSG Reporting. The time and date indicated on the video is 1:22 p.m. Mountain Standard Time, January 6th, year 2022.

This is the case of -- in the matter of Certain Fitness Devices, Streaming Components Thereof, and System -- Systems Containing Same, No. 337-TA-2165 in the United States International Trade Commission, Washington, D.C.

Counsel will now please identify themselves. And if you're in Utah, state you're in Utah. If you're by Zoom, please state you're by Zoom.

MR. GUY: Hopkins Guy with Baker Botts for the complainant and DISH Networks. And I'm in Utah.

MR. HALVORSEN: Scott Halvorsen. I represent BYU. I'm in Utah.

Just to be clear on the record, I do not represent -- Dave is not represented by me in this deposition -- Dave Ericson, that is. And our position is that his statements don't bind BYU and that the scope of the testimony shouldn't include reference to BYU or statements about BYU, as David was not employed at BYU at

the time. So I believe that's consistent with what Ali and I had talked about previously.

But, again, Scott Halvorsen representing BYU in Utah.

MR. BRAITHWAITE: This is -- excuse me. This is Jared Braithwaite. I represent the respondents iFIT, Inc., formally known at ICON Health & Fitness, FreeMotion Fitness, and NordicTrack. I'm also in Utah.

MR. ROSENBERG: This is Stuart Rosenberg for respondent Peloton. I am appearing by Zoom.

MS. TERRELL: This is Emily Terrell for respondents Lululemon and Curioser. And I'm attending via Zoom.

MR. RAUH: This is Aaron Rauh of the Office of Unfair Import Investigations at the U.S. International Trade Commission. I am attending by Zoom.

MR. GUY: We also have, for complainants, Ali Dhanani, Steve Maule.

MR. ROSENBERG: Should we identify the other folks who are on by Zoom?

MR. GUY: Yes. I was going to identify them quickly. Ali Dhanani; Steve Maule; in-house counsel, Jim Hanft; and Jamie Lynn, all for complainant. I believe that covers everyone. All right.

DAVID ERICSON,
called as a witness by and on behalf of the complainant and DISH, having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. GUY:

Q. Will you state your full name for the record?
A. David Ray Ericson.
Q. Thank you, Mr. Ericson, for coming to today's deposition. I'll try to make this as quickly -- occur as quickly as possible.
Have you ever been deposed before?
A. I have.
Q. Do you know the basic procedures of the deposition, that we have a court reporter and your testimony is being recorded and also videotaped?
A. Generally, yes.
Q. All right. I'm going to ask you that you wait and listen to my question. There may be objections either on Zoom or in the room here. So, you know, please pause and make sure that you -- that we don't talk over one another.
A. Okay.
Q. All right. There may be objections; but, generally speaking, you'll still answer. And I believe

that's it for the ground rules.
Is there any reason that you can't give accurate testimony today?
A. No.
Q. Where do you currently reside?
A. Cedar Hills, Utah.
Q. And will you briefly give us your educational background?
A. Sure. I have an undergraduate degree from BYU in broadcast media management, communications.
Q. And when did you graduate or leave BYU?
A. I don't remember. Early '90s. I don't remember, candidly.
Q. Can you give us a general background with the type of work that you've done in the field?
A. Sure.
MR. ROSENBERG: Hop, I'm sorry to interrupt, but we're all, on Zoom, having a very hard time hearing particularly you and, a little bit, Mr. Ericson. Is there anything we could do to amp up the volume or move microphones?
VIDEOGRAPHER: That speaker is for them.
MR. GUY: Move that closer to you.
(A discussion was held off the record.)
MR. GUY: Stuart, can you hear me better?

MR. ROSENBERG: Yes, I can. Thank you.
(A discussion was held off the record.)
MR. ROSENBERG: So I'm hearing a delay now and an echo.
MR. GUY: Can you hear me now? How's that? Stuart?
MR. ROSENBERG: Can you say one more, maybe, complete sentence just to --
MR. GUY: Sure. Test, test, test. Can you hear me?
MR. ROSENBERG: It's coming in and out a lot, unfortunately, but when you had the headset on, it was crystal clear. I did hear a tiny echo in the back, but it was at least clear.
(A discussion was held off the record.)
VIDEOGRAPHER: Back on the record. The time is 1:30.
Q. (BY MR. GUY) All right. Have you generally worked in the computer field?
A. Yes.
Q. All right. Let me go and get you -- you've appeared here pursuant to a subpoena; is that correct?
A. Yes.
Q. And I'll show you what's been premarked as Ericson Exhibit 1. It is an Application for Subpoena to

you.
And do you recognize that subpoena?
A. Yes.
Q. And you're appearing pursuant to that subpoena today; is that correct?
A. Yes.
Q. Okay. Let me move on to Ericson Exhibit 2, if you would put that to the side.
Can you identify what has been premarked as Ericson Exhibit 2?
A. Yeah. It's my CV on LinkedIn.
Q. And with respect to Ericson Exhibit 2, is the information in there pertaining to your time at Move Networks, DISH, and briefly at EchoStar, accurate?
A. Yes, it is.
MR. ROSENBERG: Hop, I'm sorry to interrupt again. I am not seeing the exhibits posted to the link that was circulated. I only see an upload portal. Is there a separate place we're supposed to look to download the exhibits?
MR. GUY: Ali, can you download them?
MR. DHANANI: They're uploaded. Did you put the download link in the chat? I believe that's a separate link, right?
MR. GUY: Yeah. I have -- I've got the chat

A. Yes, we would have done that.
Q. And do you recall whether or not QVT or virtual timelines were available at that time?
A. That -- I don't recall if it was used for General Conference, but that's around the time that QVT was being tested for production use.
Q. Do you recall whether there was an October 2007 LDS General Conference?
A. Yes, there was.
Q. Do you know whether it was used at that time?
A. Likely.
Q. That's the QVT and virtual timeline?
A. Likely be used at that time.
Q. Were -- and you were still at the company when EchoStar purchased the assets of Move Networks?
A. I was.
Q. And did you receive any -- any payout of that -- as a result of that purchase?
A. No.
Q. Now, you've continued to work in the streaming field since leaving EchoStar; is that correct?
A. I have.
Q. In your experience and years with video streaming, do you have any view as to whether HLS uses the technology that was developed at Move?

MR. ROSENBERG: Objection. Beyond the scope. Calls for an expert conclusion.
Q. (BY MR. GUY) You can answer.
A. In my estimation, it is -- it is very similar to what Move had developed and was using as a proposed standard. It's a very similar proposed standard to what we developed. Let me put it that way.
Q. Do you have any understanding of an HL -- what is an HLS manifest file?
A. I do.
Q. And do you see any similarities between the HLS manifest file and the QVT file?
MR. ROSENBERG: Objection. Beyond the scope. Calls for an expert conclusion.
THE WITNESS: Depending on how you use a manifest file, it could be analogous or somewhat analogous to a QVT. The manifest file -- the first manifest file you would call an HLS would be more closely related to what I refer to as a QMX, the index of the segments underneath, a way of time indexing the video encoded segments. What we used to refer to as QSS is commonly referred to as a segmented transport stream today.
Q. (BY MR. GUY) Do you believe that the master manifest file described in the HLS standard is

essentially the same as a QVT file that was developed at Move Networks?
MR. ROSENBERG: Objection. Beyond the scope. Calls for an expert conclusion.
THE WITNESS: My answer would be in function, it's similar. It's a way of indexing multiple manifest files.
MR. GUY: Okay. Why don't we take our first break -- our first official nontechnical breakdown break, and I'll see if I have any further questions?
VIDEOGRAPHER: Going off record. The time is 2:34.
(A recess was taken.)
VIDEOGRAPHER: Back on the record. The time is 2:44.
Q. (BY MR. GUY) I'm going to hand you what has been premarked as Ericson Exhibit 7.
MR. ROSENBERG: Was there a six that I missed?
MR. HALVORSEN: There is no 6.
MR. GUY: There is no 6. I haven't put -- I haven't put 6 in.
MR. DHANANI: This is 6.
We can mark it 6, if you want, Hop.
MR. GUY: All right. Let's do 6. Let me

take this tab off.
THE WITNESS: Do you want me to take it off my copy too?
MR. GUY: I'll swap with you.
Q. (BY MR. GUY) All right. You have before you what has been marked as Ericson Exhibit 6. It's a document bearing Bates numbers DISH 337-TA-1265, No. 00108698 through 108712.
And I'll ask you whether or not you recognize this as the type of document that you received in your role as vice president of operations at Move regarding project status.
A. Yes.
Q. And in this particular case, is this a document dealing with the development of QVT?
MR. ROSENBERG: Objection. Leading.
THE WITNESS: Give me one second.
Yes. It looks like that.
Q. (BY MR. GUY) And the document is dated May 10th, 2006.
If you'll review the document, is this -- does this document, in your mind, reflect the status of the development of the QVT as of that date?
A. Yes, I believe it does. I have no reason to believe it doesn't. That was about the time we were

Would -- would the QMX files -- would a QVT take QMX files and put them together in sequence, or was -- was there ever a situation in which the QVT would jump back and forth between multiple QMX files in the middle of the QMX files?

MR. GUY: Objection. Speculation. Vague as to time.

THE WITNESS: So -- so based on how somebody would use a QVT once it was developed, it allowed various states of functionality. So it allowed in its file to reference multiple QMX files, and -- because it had multiple QMX files within its file, right? So it -- it was a file that contained these references, then there was various sets of logic that could be applied to move from one file to another file in sequence. And -- and you could programatically determine that sequence in the file itself.

That's what the QVT did, was let you programatically determine the sequence of how you wanted to call different QMX files.

MR. BRAITHWAITE: Understood. I believe that answers all of my questions. Thank you.

THE WITNESS: You're welcome.

MR. GUY: Anyone else?

MR. ROSENBERG: Aaron, you're on. I just

want to make sure you're aware.

MR. RAUH: Yeah. Sorry. No questions at the time pending any redirect.

MR. GUY: I just have one question, if I could, unless there's another respondent who wishes to ask questions.

Emily?

MS. TERRELL: No questions from here.

FURTHER EXAMINATION

BY MR. GUY:

Q. Going back to Exhibit 3, you referred to -- that's Ericson Exhibit 3 -- you referred to the small blue box that's in -- that's the series of thumbnails in that menu.

A. Um-hmm.

Q. Counsel repeatedly attempted to suggest to you that that was a playlist. I believe you repeatedly stated that that is a list of individual files. Is that correct?

A. Yes. Yes.

Q. And there was nothing in that blue box that you could click on that will play all of those items in that list; is that correct?

A. The standard technology at the time, as I recall, would have made that impossible.

MR. GUY: Okay. Thank you. No further questions.

MR. ROSENBERG: Nothing further from me.

MR. BRAITHWAITE: Nothing further from iFIT.

MR. RAUH: Nothing from us.

MR. GUY: All right.

THE WITNESS: Are we done?

VIDEOGRAPHER: Do you want to read and sign, or do you want to go off the record?

MR. GUY: Yeah.

You have the right to review your transcript and then add any corrections and then sign it at that time. I would recommend you do that, but it's up to you. I'm not your attorney.

THE WITNESS: Okay. All right.

VIDEOGRAPHER: This concludes the deposition. The time is 3:27.

MR. ROSENBERG: Thank you, Mr. Ericson.

THE WITNESS: Thank you.

(The deposition was concluded at 3:27 p.m.)

C E R T I F I C A T E

STATE OF UTAH)
:ss
COUNTY OF SALT LAKE)

THIS IS TO CERTIFY that the foregoing deposition was taken before me, KAREN CHRISTENSEN, Registered Professional Reporter, Registered Merit Reporter in and for the State of Utah.

That the said witness was by me, before examination, duly sworn to testify the truth, the whole truth and nothing but the truth in said cause.

That the testimony of said witness was reported by me in Stenotype and thereafter caused by me to be transcribed into typewriting, and that a full, true and correct transcription of said testimony so taken and transcribed is set forth in the foregoing pages and said witness deposed and said as in the foregoing annexed deposition.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND at Salt Lake City, Utah.
Date: January 7, 2022

Karen Christensen

KAREN CHRISTENSEN, RPR, RMR

1 Case: In the Matter of certain Fitness Devices
Case No: 337-TA-1265
2 Reported by: Karen Christensen, RPR, RMR
Date Taken: January 6, 2022
3

WITNESS CERTIFICATE

4

I, DAVID ERICSON, HEREBY DECLARE:
5 That I am the witness in the foregoing
transcript; that I have read the transcript and know the
6 contents thereof; that with these corrections I have
noted, this transcript truly and accurately reflects my
7 testimony.
8

PAGE/LINE CHANGE/CORRECTION REASON

9

__/__ _____ _____
10 __/__ _____ _____
__/__ _____ _____
11 __/__ _____ _____
__/__ _____ _____
12 __/__ _____ _____
__/__ _____ _____
13 __/__ _____ _____
__/__ _____ _____
14 __/__ _____ _____
__/__ _____ _____
15 __/__ _____ _____
16 I, DAVID ERICSON, deponent herein, do hereby
certify and declare under penalty of perjury the within
17 and foregoing transcription to be true and correct.
18

_____
DAVID ERICSON, Deponent

19
20 STATE OF _____)
:
21 COUNTY OF _____)
22

SUBSCRIBED and SWORN to by DAVID ERICSON
23 at_____ this_____day
of_____, 2022.
24

_____
25 Notary Public