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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MG Freesites LTD,

Plaintiff,

v.

DISH Technologies L.L.C and Sling TV L.L.C.,

Defendants.

Case No.: 3:23-cv-03674-EMC

DISCLOSURE OF ASSERTED CLAIMS AND INFRINGEMENT CONTENTIONS (PATENT LR 3-1) WITH ACCOMPANYING DOCUMENT PRODUCTION (PATENT LR 3-2)

Judge: Hon. Edward M. Chen
Courtroom: 5, 17th Floor

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PRELIMINARY STATEMENT

Pursuant to Patent L.R. 3-1 and 3-2, Defendants DISH Technologies L.L.C. and Sling TV L.L.C. (collectively "Defendants" or "DISH"), provide the following Disclosure of Asserted Claims and Infringement Contentions ("Disclosure") to Plaintiffs MG Freesites Ltd n/k/a Aylo Freesites Ltd ("MG Freesites"), MG Premium Ltd n/k/a Aylo Premium Ltd ("MG Premium"), and MG Billing Limited n/k/a Aylo Billing Limited ("MG Billing") (collectively "Plaintiffs").[1]

This Disclosure of Asserted Claims and Infringement Contentions is based on preliminary information reasonably available to DISH at this time. This Disclosure is based on DISH's current knowledge, understanding, and beliefs. Recognizing that discovery is in its early stages and DISH has not yet completed its investigation, collection of information, or analysis of Plaintiffs' conduct relevant to the Patents-in-Suit, DISH reserves its right to amend, revise, and/or supplement any part of this Disclosure and/or any accompanying exhibits in accordance with this Court's Scheduling Order, Patent L.R. 3-6, and/or the Federal Rules of Civil Procedure, as additional documents and information become available and as discovery and investigation proceed.

This Disclosure does not represent, and should not be understood as describing, DISH's position regarding the construction of any claim language in the asserted claims of the Patents-in-Suit. Moreover, this Disclosure is made without prejudice to any position that DISH may take with respect to claim construction. DISH further reserves the right to supplement this Disclosure following any claim construction order from this Court or for other good cause, and reserves the right to introduce and use such supplemental materials at trial.

Furthermore, DISH makes this Disclosure without waiving its right to object to the production of any document, data compilation, or tangible thing disclosed on the basis of any privilege, work product, relevancy, undue burden, or other valid objection.

[1] The parties currently dispute who the plaintiffs are in this action. DISH disagrees that MindGeek properly added MG Premium and MG Billing as plaintiffs. Thus, this Disclosure may refer to "Plaintiff" or "Plaintiffs," without prejudice to the parties' rights.

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Patent L.R. 3-1(a) Asserted Claims

Based on the information currently available to DISH and pursuant to Patent L.R. 3-1(a), DISH asserts that Plaintiffs infringe at least the following asserted claims ("Asserted Claims") from each of the patents identified below (the "Asserted Patents" or "Patents-in-Suit"):

U.S. Pat. No.	Asserted Claims	Applicable Statutory Subsection(s)
10,469,555	1, 3-5, 7, 10-11, 13-15, 18-21, and 26-27	35 U.S.C. §§271(a), (b), (c) and/or (f)
10,757,156	1-2, 4, 7-10, 12-17	35 U.S.C. §§271(a), (b), (c) and/or (f)
8,868,772	1-4, 6-9, 14, and 20	35 U.S.C. §§271(a), (b), (c) and/or (f)
11,470,138	1-4, 7, 13-17, 21-26, 28-30	35 U.S.C. §§271(a), (b), (c) and/or (f)
10,469,554	1-3, 5, 15-20 and 25-30	35 U.S.C. §§271(a), (b), (c) and/or (f)
11,677,798	1, 10-13, 16, and 22-25	35 U.S.C. §§271(a), (b), (c) and/or (f)
9,407,564	1-2, 4-5, 8-9, 11, 15	35 U.S.C. §§271(a), (b), (c) and/or (f)
10,951,680	1-6, 10-22, and 24-29	35 U.S.C. §§271(a), (b), (c) and/or (f)

DISH's Disclosure is based on information currently available and is without prejudice to its right to supplement its response during the course of litigation.

Patent L.R. 3-1(b) Accused Instrumentalities

Based on the information currently available to DISH, the Accused Instrumentalities are all of the websites owned or operated by Plaintiffs ("Accused Websites"), including without limitation:

1. Pornhub (pornhub.com)
2. Pornhub Premium (pornhubpremium.com)
3. RedTube (redtube.com)
4. RedTube Premium (redtubepremium.com)

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5. YouPorn (youporn.com)
6. YouPorn Gay (youporngay.com)
7. YouPorn Premium (youpornpremium.com)
8. Tube8 (tube8.com)
9. GayTube (gaytube.com)
10. Brazzers (brazzers.com)
11. Live at Brazzers (liveatbrazzers.com)
12. Digital Playground (digitalplayground.com)
13. Men.com (men.com)
14. Babes.com (babes.com)
15. SeanCody (seancody.com)
16. TransAngels (transangels.com)
17. Reality Kings (realitykings.com)
18. MOFOS (mofos.com)
19. Twistys (twistys.com)
20. Whynotbi (whynotbi.com)
21. FAKEhub (fakehub.com)
22. FAKETAXI (faketaxicom)
23. lesbea (lesbea.com)
24. Dane Jones (danejones.com)
25. SEXYhub (sexyhub.com)
26. I Know That Girl (iknowthatgirl.com)
27. mile high (milehighmedia.com)
28. Bang Bros (bangbros.com)
29. Hentai Pros (hentaipros.com)
30. Erito (erito.com)
31. TransHarder (transharder.com)

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32. MetroHD (metrohd.com)

33. Squirted (squirted.com)

34. Property Sex (propertysex.com)

35. TransSensual (transsensual.com)

36. Bromo (bromo.com)

37. BigStr (czechhunter.com)

38. TrueAmateurs (trueamateurs.com)

39. Massagerooms.com (sexyhub.com/massagerooms.com)

40. MyGF (mgf.com)

41. Deviante (deviante.com)

42. Public Agent (publicagent.com)

43. Fake Hostel (fakehostel.com)

44. Fake Driving School (fakehub.com/fakedrivingschool)

45. VR Temptation (vrtemptation.com)

46. BiEmpire (biempire.com)

47. Milfed (milfed.com)

48. Family Hook Ups (familyhookups.com)

49. Reality Dudes (realitydudes.com)

50. Gilfed (gilfed.com)

51. Dilfed (dilfed.com)

52. NoirMale (noirmale.com)

53. Icon Male (iconmale.com)

54. Girl Grind (girlgrind.com)

55. Kinky Spa (kinkyspa.com)

The Accused Instrumentalities include all systems, components, hardware, software, websites, applications, software development kits, and infrastructure associated with the Accused Websites (e.g., connections, servers, and other back-end hardware or software operated by

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Plaintiffs or other parties).

Patent L.R. 3-1(c) Claim Charts

DISH provides the infringement claim charts attached as Exhibits A1-H3, which explain how the Accused Websites infringe the Asserted Claims.

Exhibit Numbers	U.S. Pat. No.	Asserted Claims
Exhibits A1-A3	10,469,555	1, 3-5, 7, 10-11, 13-15, 18-21, and 26-27
Exhibits B1-B3	10,757,156	1-2, 4, 7-10, 12-17
Exhibits C1-C3	8,868,772	1-4, 6-9, 14, 20
Exhibits D1-D3	11,470,138	1-4, 7, 13-17, 21-26, 28-30
Exhibits E1-E3	10,469,554	1-3, 5, 15-20 and 25-30
Exhibits F1-F3	11,677,798	1, 10-13, 16, and 22-25
Exhibits G1-G3	9,407,564	1-2, 4-5, 8-9, 11, 15
Exhibits H1-H3	10,951,680	1-6, 10-22, and 24-29

Additionally, although the claim charts attached as Exhibits A1-H3 only address Pornhub.com, Brazzers.com, and LiveatBrazzers.com, these charts are representative of the remaining Accused Websites for purposes of the infringement contentions. Upon DISH's information and belief, all of the Accused Websites use the same or similarly infringing streaming technology as the exemplary websites used in the charts for purposes of infringement. This is shown, for example, by Plaintiffs' use of the same or similarly infringing streaming technology across all of the Accused Websites it operates.

In accordance with the practices and rules of this District, it should be understood that although DISH's claim charts, attached as Exhibits A1-H3, cite supporting evidence, such as published support, advertising materials, and testing files, the included evidence supporting DISH's contention is not meant to be exhaustive. DISH has provided narrative descriptions and representative excerpts of such information sufficient to demonstrate how respective limitations

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are met. DISH reserves the right to support its contentions with additional evidence, such as evidence to be produced by Plaintiffs and/or third parties regarding the implementation and operation of the Accused Websites. DISH reserves the right to seek leave of the Court to add, delete, supplement, or modify these contentions should further discovery, the Court's Claim Construction, or other circumstances merit.

Patent L.R. 3-1(d) Direct and Indirect Infringement

Pursuant to Patent L.R. 3-1(d), DISH asserts that Plaintiffs infringe the Asserted Claims as set forth in the claim charts attached as Exhibits A1-H3. In addition to directly infringing the Asserted Claims, Plaintiffs have previously and continue to induce infringement of the Asserted Claims in conjunction with telecommunications carriers, network operators, service providers, retailers, end users, and other third parties who make, offer, use, or provide the Accused Websites. For example, the Accused Websites are offered to Plaintiffs' end users and subscribers, who then use the Accused Websites. Plaintiffs induce infringement of the Asserted Claims by these third parties by implementing, operating, and/or otherwise providing support for the Accused Websites as used and/or offered to these third parties. Plaintiffs configure the Accused Websites to operate in a manner that Plaintiffs know to infringe the Asserted Claims and encourage end users to use the Accused Websites in a manner that Plaintiffs know to infringe the Asserted Claims. For example, MG Freesites' technical support page encourages the streaming of videos on end user devices. *See, e.g.,* https://help.pornhub.com/hc/en-us/articles/6954469475347-How-can-I-watch-Pornhub-on-my-TV- ("Use a browser on your smart TV to use Pornhub.com. Our site is TV compatible, and you may enjoy all the standard Pornhub features"); *see also* https://support.brazzers.com/technical/; *see also* https://help.pornhub.com/hc/en-us/categories/4419836205203-F-A-Qs; *see also* https://liveatbrazzers.com/support/faq.

Plaintiffs have also contributed and continue to contribute to the infringement of the Asserted Claims in conjunction with telecommunications carriers, network operators, service providers, and other third parties who make, sell, offer for sale, import and/or use the Accused Websites in the normal and customary way. For example, Plaintiffs contribute to the infringement

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of the Asserted Claims by offering the Accused Websites to third parties, such as end users, who practice the Asserted Claims of the Asserted Patents.

As for direct infringement based on joint acts of multiple parties, Plaintiffs may also direct or control other parties to perform the infringing elements described in Exhibits A1-H3 through contractual requirements, by conditioning participation in an activity or receipt of a benefit upon the parties' performance of one or more steps of the patented method and establishing the manner or timing of that performance, and/or by forming a joint enterprise with those parties. Additional discovery is needed to confirm which elements are performed by Plaintiffs and which elements may be performed by telecommunication carriers, network operators, service providers, retailers, end users, or other third parties, and DISH reserves the right to support its contentions with additional evidence should further discovery, the Court's Claim Construction, or other circumstances so merit.

DISH reserves the right to seek leave of the Court to add, delete, supplement, or modify these contentions should further discovery, the Court's Claim Construction, or other circumstances so merit.

Patent L.R. 3-1(e) Literal Infringement and the Doctrine of Equivalents

Pursuant to Patent L.R. 3-1(e), based on the information currently available to DISH, and as further detailed in the charts in the attached Exhibits, DISH asserts that, under the proper construction of the Asserted Claims and their claim terms, every limitation of each Asserted Claim is literally present through use of each of Plaintiffs' Accused Websites. To the extent any limitation is found to be not literally present, DISH asserts that any differences found to exist between the claim elements and the accused instrumentalities are insubstantial, and any such limitation is present under the Doctrine of Equivalents in the Accused Websites, as explained in Exhibits A1-H3.

Patent L.R. 3-1(f) Priority Date

DISH identifies in the chart below (1) the Asserted Patents that claim priority to an earlier application; and (2) the priority date to which each asserted claim is entitled based upon priority

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to the earlier application. DISH has produced documents that establish an earlier conception date for the Asserted Patents than the below-listed priority dates. DISH reserves the right to claim actual priority to different dates based on, for example, conception and diligence, based on these conception documents as well as any other documents that become available as the case progresses.

Asserted Patent	Earlier Application	Priority Date Based on Earlier Application
U.S. Patent No. 10,469,555	Provisional Application No. 60/566,831	April 30, 2004
U.S. Patent No. 10,757,156	Provisional Application No. 60/566,831	April 30, 2004
U.S. Patent No. 8,868,772	Provisional Application No. 60/566,831	April 30, 2004
U.S. Patent No. 11,470,138	Provisional Application No. 60/566,831	April 30, 2004
U.S. Patent No. 10,469,554	Provisional Application No. 60/566,831	April 30, 2004[2]
U.S. Patent No. 11,677,798	Provisional Application No. 60/566,831	April 30, 2004
U.S. Patent No. 9,407,564	Provisional Application No. 60/566,831	April 30, 2004
U.S. Patent No. 10,951,680	Provisional Application No. 60/566,831	February 9, 2007

Patent L.R. 3-1(g) Products Relied On By DISH That Practice The Claimed Invention

DISH identifies DISH TV brand Internet-enabled set-top boxes and client devices running Sling TV Applications as Instrumentalities that practice each Asserted Claim. Each of the below Instrumentalities, either alone or in combination, practices the Asserted Claims. DISH reserves the right to amend these disclosures (e.g., to add or remove products) as appropriate as the case progresses.

[2] Asserted claim 25 of U.S. Patent No. 10,469,554 is entitled to a priority date of no later than February 9, 2007. DISH reserves the right to change the priority date as appropriate as the case progresses.

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Patent L.R. 3-1(h) Timing of First Infringement

Pursuant to Patent L.R. 3-1(h), DISH contends that Plaintiffs have directly infringed, contributed to infringement by others, and has had knowledge that its actions induce infringement since the first Accused Websites or predecessor website was first released, at least six years prior to the complaint, and has continued to infringe since then. DISH believes the Plaintiffs continue to infringe the Asserted Patents through entry of final judgment until expiration of the Asserted Patents.

Patent L.R. 3-1(i) "Willful Infringement"

Plaintiffs have been aware of the Asserted Patents prior to the filing of this complaint as evidenced by the letter(s) putting Plaintiffs on notice that they were infringing the Asserted Patents. Plaintiffs' infringement has been willful and deliberate, and Plaintiffs failed to conduct an investigation after learning of the Asserted Patents. As will likely be shown after a reasonable opportunity for further investigation or discovery, Plaintiffs failed to take any remedial actions upon learning of the Asserted Patents. Accordingly, Plaintiffs' infringement of at least the Asserted Patents has been deliberate, flagrant, wanton, and constitutes willful infringement.

Patent L.R. 3-2 Document Production

Pursuant to Patent L.R. 3-2, DISH is producing nonprivileged documents concurrently herewith. DISH's document production is based on its investigation to date and DISH reserves the right to supplement its production to the extent its investigation reveals any additional relevant documents required to be produced under Patent L.R. 3-2. The required production ranges are as follows:

(a) DNABR_00000001 - DNABR_00097218

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Date: November 21, 2023

Respectfully submitted,

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DISH TECHNOLOGIES L.L.C. AND SLING TV L.L.C.

CERTIFICATE OF SERVICE

I hereby declare that, on November 21, 2023, I caused a true and correct copy of the foregoing Defendants' Disclosure of Asserted Claims and Infringement Contentions and Infringement Charts to be served on counsel of record.

/s/ *G. Hopkins Guy, III*
G. Hopkins Guy, III

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