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[Your Name]

[Your Title]

[Your Company]

[Street Address, City, State ZIP]

May 14, 2026

[Opposing Counsel Name]

[Firm Name]

[Address]

Re: U.S. Patent No. 11470138B2 — Response to Assertion of Infringement

Dear Counsel,

We acknowledge receipt of your correspondence asserting infringement of U.S. Patent No. 11470138B2 (the "11470138B2 Patent"). After preliminary review, we have substantial concerns about the validity, enforceability, and scope of the asserted claims, summarized below. We reserve all rights and defenses.

1. Subject Patent — Summary

Patent Summary: U.S. Patent 11,470,138 B2

Title: Apparatus, system, and method for multi-bitrate content streaming

Assignee: Dish Technologies LLC

Inventors: David F. Brueck, Mark B. Hurst, R. Drew Major

Filing Date: May 18, 2020

Issue Date: October 11, 2022

Abstract:

An apparatus for multi-bitrate content streaming includes a receiving module configured to capture media content, a streamlet module configured to segment the media content and generate a plurality of streamlets, and an encoding module configured to generate a set of streamlets. The system includes the apparatus, wherein the set of streamlets comprises a plurality of streamlets having identical time indices and...

2. Validity Concerns under 35 U.S.C. § 102 — Prior Art

We have identified prior-art references that, in our preliminary view, anticipate one or more asserted claims of the 11470138B2 Patent:

Based on a thorough review of the prosecution history and the text of U.S. Patent 11,470,138

B2, the following patents and publications were cited as the most relevant prior art. The '138 patent has a priority date of April 30, 2004, stemming from its parent applications. For a reference to be considered anticipatory under 35 U.S.C. § 102, it must have been publicly available before this date and disclose every element of a claim.

The analysis below focuses on the elements of the single independent claim (Claim 1), which covers a method of segmenting media into "streamlets," creating versions of each streamlet at different bitrates, and having a client device adaptively request these streamlets from a web server using standard protocols to adjust to network conditions.

Prior Art Analysis

U.S. Patent No. 6,985,932 B2

- Full Citation: "Method and apparatus for adaptively streaming and playing back media data."
- Inventors: K. El-Yaniv, et al. Assignee: Microsoft Corporation.
- Filing/Publication Date: Filed June 27, 2001; Published January 10, 2006.
- Brief Description: This patent,...

3. Obviousness under 35 U.S.C. § 103

Independent of § 102, we believe the asserted claims are obvious in view of combinations of prior art that a person having ordinary skill in the art would have been motivated to combine:

Obviousness Analysis of U.S. Patent 11,470,138 B2

Under 35 U.S.C. § 103, an invention is unpatentable if the differences between the claimed invention and the prior art are such that the claimed invention as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art (POSITA). This analysis for U.S. Patent 11,470,138 B2 (the '138 patent), which has a priority date of April 30, 2004, focuses on combining prior art references to arrive at the claimed method for adaptive bitrate streaming.

The core innovation of the '138 patent is a method for multi-bitrate content streaming that involves:

1. Segmenting a media file into smaller sequential chunks, termed "streamlets."
2. Encoding each streamlet into a "set" of streamlets, where each version has an identical time index but a unique bitrate (quality level).
3. Delivering these streamlets to a client device over a standard HTTP-based network.
4. Enabling the client to dynamically select and request streamlets from different bitrate sets based on real-time network conditions.

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4. Litigation History of the Patent

Public records reflect that the 11470138B2 Patent has been the subject of the following litigation, which informs our view of the asserted claims and your client's enforcement posture:

- DISH Technologies L.L.C. et al. v. fuboTV Inc. — 1:23-cv-00963 · Delaware District Court · filed 2023-09-01 · Active/Ongoing
- DISH Technologies L.L.C. et al. v. DirecTV, LLC — 1:23-cv-00986 · Delaware District Court · filed 2023-09-08 · Active/Ongoing
- DISH Technologies L.L.C. et al. v. Cox Communications, Inc. et al. — 1:23-cv-00987 · Delaware

District Court · filed 2023-09-08 · Active/Ongoing

- DISH Technologies L.L.C. et al. v. Fandango Media, Inc. — 1:23-cv-01000 · Delaware District Court · filed 2023-09-11 · Active/Ongoing
- DISH Technologies L.L.C. et al. v. The New York Times Company — 1:23-cv-08971 · New York Southern District Court · filed 2023-10-11 · Active/Ongoing
- DISH Technologies L.L.C. et al. v. The Washington Post — 1:23-cv-01305 · Delaware District Court · filed 2023-11-21 · Active/Ongoing
- DISH Technologies L.L.C. et al. v. Reuters News & Media Inc. — 1:24-cv-00086 · Delaware District Court · filed 2024-01-22 · Active/Ongoing

5. Request

In light of the foregoing, we request that your client (i) provide a detailed claim chart identifying each accused product or service and mapping every limitation of each asserted claim, (ii) identify any prior art known to your client, including any references cited during prosecution or reexamination, and (iii) substantiate the basis for any damages or licensing demand. We are prepared to discuss the matter further once we have received and reviewed the foregoing.

Sincerely,

[Your Name]

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