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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. 8868772 — Response to Assertion of Infringement

Dear Counsel,

We acknowledge receipt of your correspondence asserting infringement of U.S. Patent No. 8868772 (the "8868772 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

An analysis of United States Patent 8,868,772 reveals a foundational technology in the field of adaptive bitrate streaming, which has been the subject of multiple patent infringement lawsuits. Title: Apparatus, system, and method for adaptive-rate shifting of streaming content
Assignee: The current assignee of the patent is DISH Technologies LLC. The original assignee was EchoStar Technologies LLC. The patent was also previously assigned to Move Networks, Inc.

Inventors: The inventors listed on the patent are R. Drew Major and Mark B. Hurst.

Filing Date: The application for this patent was filed on April 28, 2005. It claims the benefit of a provisional application filed on April 30,...

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 8868772 Patent:

Here is a technical analysis of the most relevant prior art cited in US Patent 8,868,772. This analysis focuses on references that describe client-side adaptive bitrate streaming and their potential to anticipate the patent's claims under 35 U.S.C. § 102.

Analysis of Prior Art for US Patent 8,868,772

The core invention of US Patent 8,868,772 ("the '772 patent"), as defined in its independent Claim 1, is a method for a media player to adapt a video stream's quality based on network conditions. The key steps are: simultaneously requesting multiple small video segments ("streamlets"), continuously monitoring the success and speed of these requests, and using this data to selectively request subsequent streamlets from either higher or lower quality pre-encoded streams.

The following cited references are highly relevant to this inventive concept.

1. US 6,985,949 B1 ("Kaplan")

• Full Citation:

Patent Number: US 6,985,949 B1

Title: Method and system for client-side control of streaming media

Inventor: Shalom Kaplan

Assignee: Mar-go Planet, Inc.

Filing Date: July 26, 2000...

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:

Here is a technical analysis of the obviousness of US patent 8,868,772 based on the provided prior art.

Obviousness Analysis under 35 U.S.C. § 103

Under United States patent law, a claim is invalid as obvious under 35 U.S.C. § 103 if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art (PHOSITA). This analysis considers the scope and content of the prior art, the differences between the prior art and the claims at issue, and the level of ordinary skill in the pertinent art.

At the time of the invention (c. 2004), a PHOSITA in the field of internet media streaming would typically have a Bachelor's degree in Computer Science or Electrical Engineering, along with several years of experience in network protocol design, video compression technologies, and client-server software development.

Based on the cited references, the independent claims of US Patent 8,868,772 would have been obvious to a PHOSITA....

4. Litigation History of the Patent

Public records reflect that the 8868772 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-00986 · U.S. District Court for the District of Delaware · filed 2023-09-06 · Active

• DISH Technologies L.L.C. et al. v. BritBox LLC — 1:23-cv-08971 · U.S. District Court for the Southern District of New York · filed 2023-10-11 · Active

• DISH Technologies L.L.C. et al. v. A Parent Media Co. Inc. et al. — 1:23-cv-01000 · U.S. District

Court for the District of Delaware · filed 2023-09-08 · Dismissed

- DISH Technologies L.L.C. et al. v. Vidgo, Inc. — 2:23-cv-00552 · U.S. District Court for the District of Utah · Active
- DISH Technologies L.L.C. et al. v. MBB Ventures LLC — U.S. District Court for the District of Delaware · Recently filed

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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