

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

ONSTREAM MEDIA CORPORATION,

Plaintiff,

v.

DACAST, INC.,

Defendant.

Case No.

Jury Trial Demanded

**COMPLAINT FOR PATENT INFRINGEMENT**

Plaintiff Onstream Media Corporation (“Onstream”) files this Complaint against Dacast, Inc. (“Dacast”) for patent infringement of United States Patent Nos. 9,161,068; 9,467,728; 10,038,930; 10,200,648; 10,674,109; 10,694,142; and 10,848,707 (the “patents-in-suit”) (Exhibits 1-7) and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for patent infringement arising under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

**THE PARTIES**

2. Plaintiff Onstream Media Corporation is a corporation organized under laws of the State of Florida with its principal place of business at 1451 W. Cypress Creek Rd., No. 204, Ft. Lauderdale, FL 33309.

3. On information and belief, Defendant Dacast, Inc. is incorporated under the laws of the State of Delaware with its principal place of business at 1175 Folsom St, San Francisco, CA 94103.

4. Dacast may be served with process through its registered agent Corpomax Inc., 2915 Ogletown Rd., Newark, DE 19713.

### **JURISDICTION AND VENUE**

5. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because this action arises under the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*

6. This Court has personal jurisdiction over Dacast in accordance with due process and/or the Delaware Long Arm Statute because, in part, over because it committed and continues to commit acts of infringement in this state in violation of at least 35 U.S.C. §§ 271(a). In particular, on information and belief, Dacast has made, used, offered to sell and/or sold infringing products, services and/or systems in this state.

7. On information and belief, Dacast is subject to the Court's jurisdiction because it regularly markets, conducts and solicits business, or otherwise engages in other persistent courses of conduct in this state, and/or derives substantial revenue from the sale and distribution of goods and services provided to individuals and businesses in this state including the infringing Dacast Live Streaming & Video Hosting Platform.

8. On information and belief, the accused products and services, including but not limited to Dacast Live Streaming & Video Hosting Platform, that Dacast uses, makes, markets, distributes, offers to sell, and sells to consumers throughout the United States, including in this State, infringe one or more of the claims of the patents-in-suit.

9. On information and belief, Dacast derives substantial revenue within the state from the offer of infringing services, including but not limited to Dacast Live Streaming & Video Hosting Platform. On information and belief, Dacast users who reside in this state regularly use

the accused Dacast Live Streaming & Video Hosting Platform and services while they are present in this state.

10. Venue is proper pursuant to 28 U.S.C. §§ 1391(b), (c), (d) and/or 1400(b), at least because Dacast is a Delaware corporation and, therefore, resides in this district.

**United States Patent No. 9,161,068**

11. On October 13, 2015, the United States Patent and Trademark Office (“USPTO”) duly and legally issued United States Patent No. 9,161,068 (“the ’068 patent”) entitled “Remotely Accessed Virtual Recording Room” to inventor Gregory Duane Ellis. A true and correct copy of the ’068 patent is attached as Exhibit 1.

12. The ’068 patent is presumed valid under 35 U.S.C. § 282.

13. Onstream owns all rights, title, and interest in the ’068 patent.

14. Onstream has not granted Dacast a license to the rights under the ’068 patent.

15. The ’068 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

16. The claimed invention(s) of the ’068 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. For example, the ’068 patent states:

Unfortunately, new systems and methods for increasing the capabilities of online business-related communications and transactions often result in increased intellectual complexity and/or increased computer system requirements. This tendency is undesirable because another main avenue for increasing the productivity of online business-related communications and transactions is to increase the number of people who are participating in these online business-related transactions.

*See* ’068 Specification at col. 1, ll. 31-39.

17. The ’068 patent then states:

Accordingly, it would be highly valuable if any new systems and methods for increasing the capabilities of online business-related communications and transactions also could be simple enough to help attract new users to the online business market and also not have extensive computer system requirements.

*See* '068 Specification at col. 1, ll. 39-44.

18. The '068 patent then also states:

Accordingly, there has been a long existing need for a system that improves the level of communication possible with respect to online business-related transactions. Further, there is a continuing need for an improved system and/or method that is simple, efficient, and does not have extensive computer system requirements. Accordingly, those skilled in the art have long recognized the need for a system and method that addresses these and other issues.

*See* '068 Specification at col. 1, ll. 45-52.

19. The invention(s) claimed in the '068 patent solves various technological problems inherent in the then-existing audio and video recording, storage, and delivery systems and enables audio and video recording, storage, and delivery systems to, among other things, (1) function more efficiently, (2) lower the required level of expertise for users of such systems, (3) avoid the need to install and burden front end computer and electronic devices with additional software, (4) reduce or eliminate entirely the need for local memory storage devices and other specialized recording equipment, and (5) reduce or eliminate other hardware and software requirements inherent in prior art audio and video recording and distribution systems.

**United States Patent No. 9,467,728**

20. On October 11, 2016, the USPTO duly and legally issued United States Patent No. 9,467,728 ("the '728 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Ellis. A true and correct copy of the '728 patent is attached as Exhibit 2.

21. The '728 patent is presumed valid under 35 U.S.C. § 282.

22. Onstream owns all rights, title, and interest in the '728 patent.

23. Onstream has not granted Dacast a license to the rights under the '728 patent.

24. The '728 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

25. The specification of the '728 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

**United States Patent No. 10,038,930**

26. On July 31, 2018 the USPTO duly and legally issued United States Patent No. 10,038,930 ("the '930 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis. A true and correct copy of the '930 patent is attached as Exhibit 3.

27. The '930 patent is presumed valid under 35 U.S.C. § 282.

28. Onstream owns all rights, title, and interest in the '930 patent.

29. Onstream has not granted Dacast a license to the rights under the '930 patent.

30. The '930 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

31. The claimed invention(s) of the '930 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '930 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

**United States Patent No. 10,200,648**

32. On February 5, 2019, the USPTO duly and legally issued United States Patent No. 10,200,648 ("the '648 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis. A true and correct copy of the '648 patent is attached as Exhibit 4.

33. The '648 patent is presumed valid under 35 U.S.C. § 282.

34. Onstream owns all rights, title, and interest in the '648 patent.

35. Onstream has not granted Dacast a license to the rights under the '648 patent.

36. The '648 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

37. The claimed invention(s) of the '648 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '648 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

**United States Patent No. 10,674,109**

38. On June 2, 2020, the USPTO duly and legally issued United States Patent No. 10,674,109 ("the '109 patent") entitled "Remotely Accessed Virtual Recording Room" to inventor Gregory Duane Ellis. A true and correct copy of the '109 patent is attached as Exhibit 5.

39. The '109 patent is presumed valid under 35 U.S.C. § 282.

40. Onstream owns all rights, title, and interest in the '109 patent.

41. Onstream has not granted Dacast a license to the rights under the '109 patent.

42. The '109 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

43. The claimed invention(s) of the '109 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '109 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

**United States Patent No. 10,694,142**

44. On June 23, 2020, the USPTO duly and legally issued United States Patent No. 10,694,142 (“the ’142 patent”) entitled “Remotely Accessed Virtual Recording Room” to inventor Gregory Duane Ellis. A true and correct copy of the ’142 patent is attached as Exhibit 6.

45. The ’142 patent is presumed valid under 35 U.S.C. § 282.

46. Onstream owns all rights, title, and interest in the ’142 patent.

47. Onstream has not granted Dacast a license to the rights under the ’142 patent.

48. The ’142 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

49. The claimed invention(s) of the ’142 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the ’142 patent is the same as the ’068 patent specification, and addresses and solves the problems recited above and described in the ’068 patent specification.

**United States Patent No. 10,848,707**

50. On November 24, 2020, the USPTO duly and legally issued United States Patent No. 10,848,707 (“the ’707 patent”) entitled “Remotely Accessed Virtual Recording Room” to inventor Gregory Duane Ellis. A true and correct copy of the ’707 patent is attached as Exhibit 7.

51. The ’707 patent is presumed valid under 35 U.S.C. § 282.

52. Onstream owns all rights, title, and interest in the ’707 patent.

53. Onstream has not granted Dacast a license to the rights under the ’707 patent.

54. The ’707 patent relates to, among other things, an audio and video stream recording, storage and delivery system.

55. The claimed invention(s) of the '707 patent sought to solve problems with, and improve upon, existing audio and video recording, storage, delivery systems. The specification of the '707 patent is the same as the '068 patent specification, and addresses and solves the problems recited above and described in the '068 patent specification.

### **CLAIMS FOR RELIEF**

#### **Count I – Infringement of United States Patent No. 9,161,068**

56. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

57. On information and belief, Dacast is the developer, owner, and operator of an online Live Streaming & Video Hosting Platform.<sup>1</sup>

58. On information and belief, Dacast makes, uses, and provides Dacast Live Streaming & Video Hosting Platform and sells and/or offers to sell products and services in the United States that use Dacast Live Streaming & Video Hosting Platform as a feature or component.

59. Dacast Live Streaming & Video Hosting Platform, as well as the hardware and software components comprising the system that enables the Dacast Live Streaming & Video Hosting Platform service to operate, including but not limited to servers, server software, client software, and other computer systems and components (the “Dacast Live Streaming & Video Hosting Platform System”), infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '068 patent.

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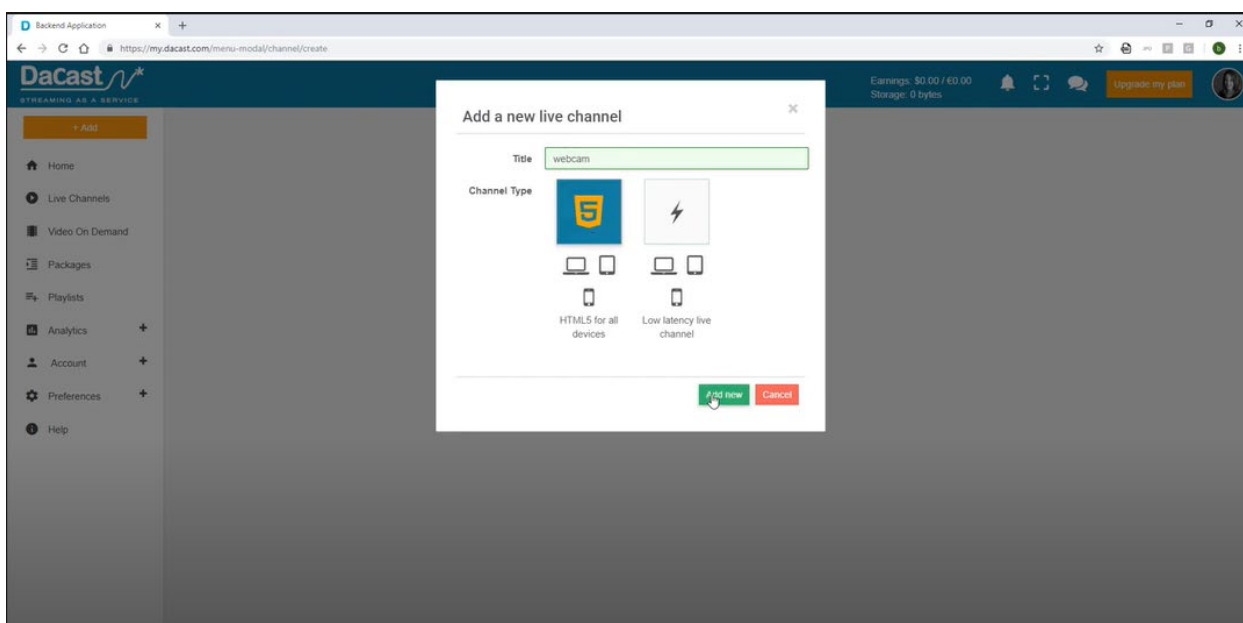
<sup>1</sup> See <https://www.dacast.com/>



60. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end. *Id.*

61. On information and belief, the Dacast Live Streaming & Video Hosting Platform System, can be accessed using an Internet browser on a desktop computer<sup>2</sup> or a mobile device.

62. On information and belief, when a user wants to “go live” using the Dacast Live Streaming & Video Hosting Platform System, Dacast’s servers deliver a code, which can be executed by a browser, as demonstrated by the screenshot below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

63. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that enables the streaming of audio and video material.

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<sup>2</sup> See <https://www.dacast.com/stream-live-video-on-your-website/>  
See also <https://www.youtube.com/watch?v=fz1PU2sCeg4>

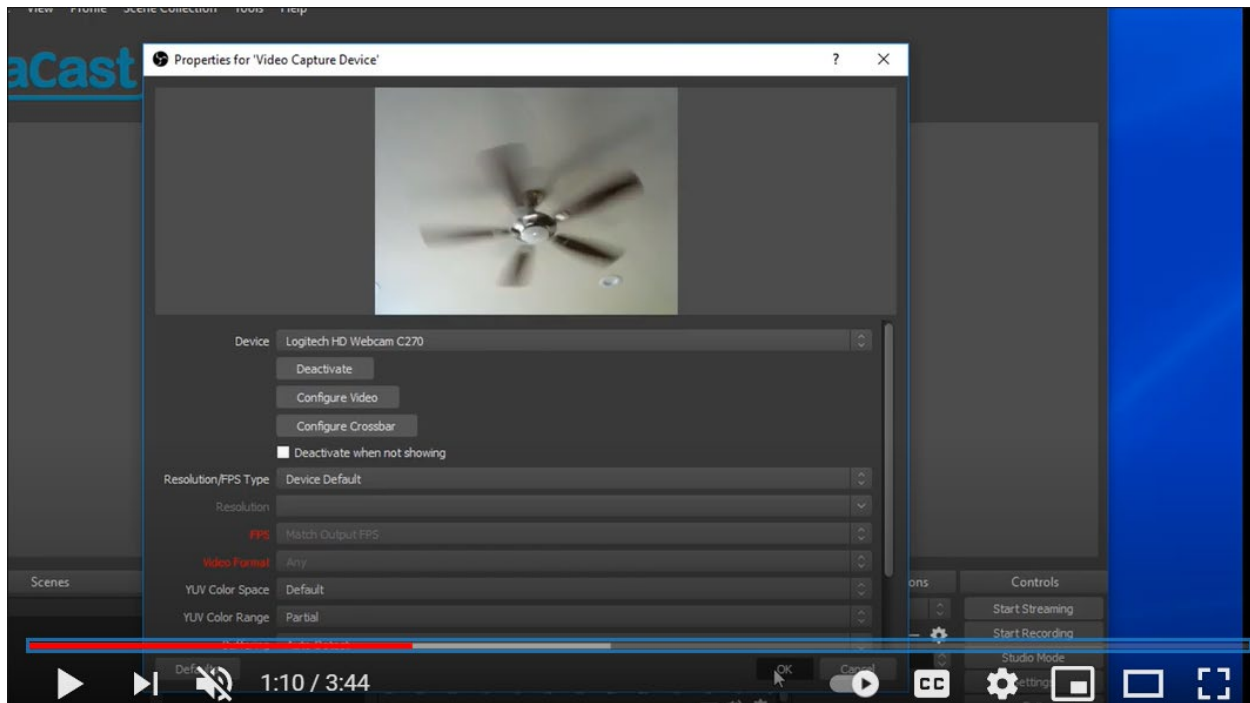
64. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a browser-executable-code that is a browser independent recording application that initiates the audio and video stream to be recorded.

65. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that is browser independent, in part, because a user can record audio and video material without requiring specialized recording equipment, software, or coding.

66. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that is executed through a browser at the user front end.

67. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses an Internet connection.

68. The Dacast Live Streaming & Video Hosting Platform System employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device, as demonstrated by the screen capture below:

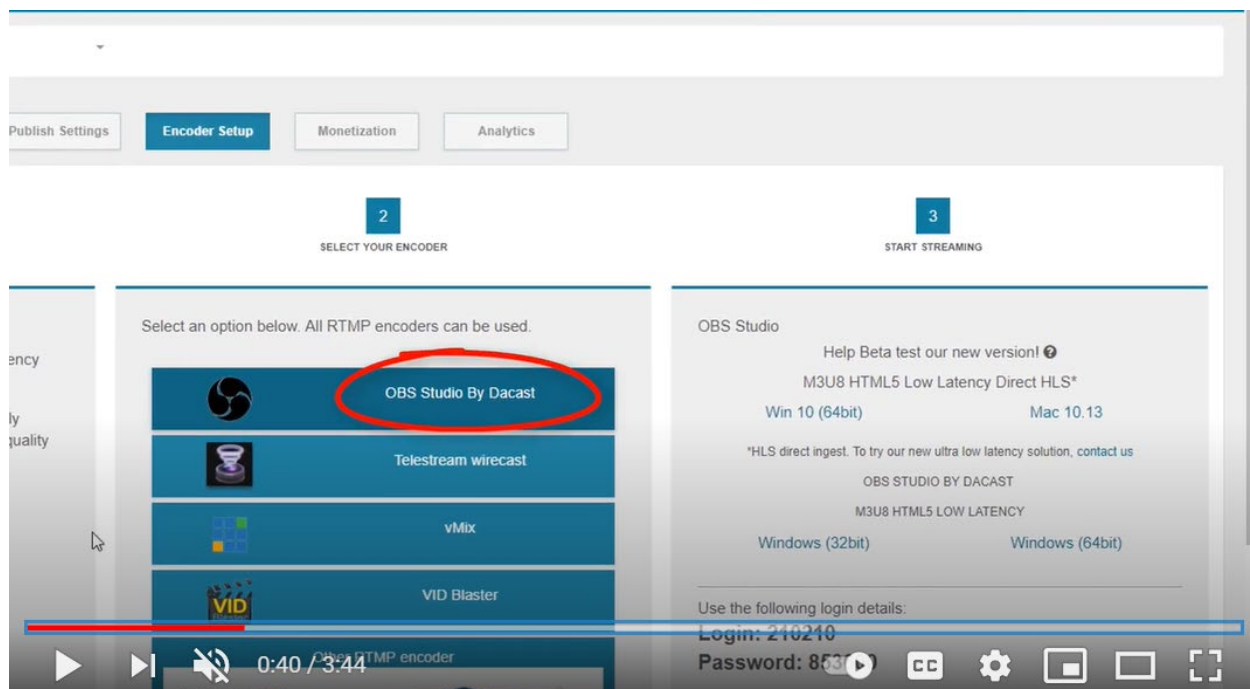


See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

69. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

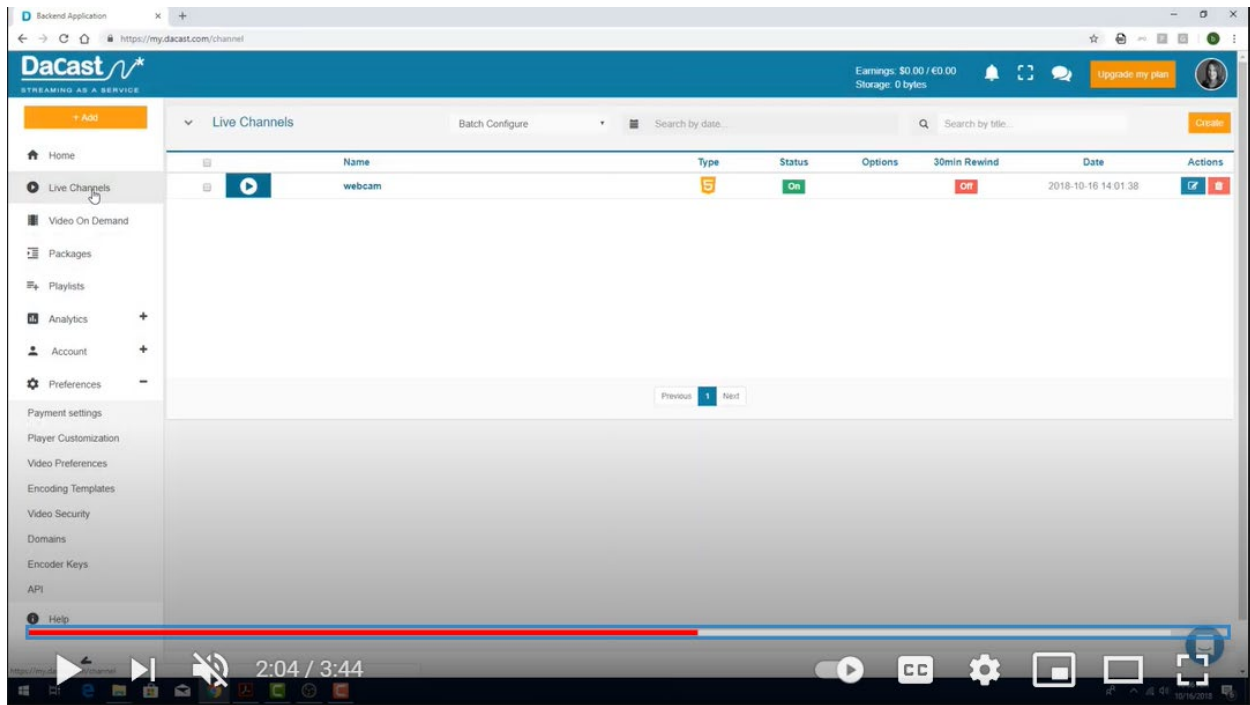
70. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video

material is transmitted to Dacast's servers as the audio and video material is being captured.



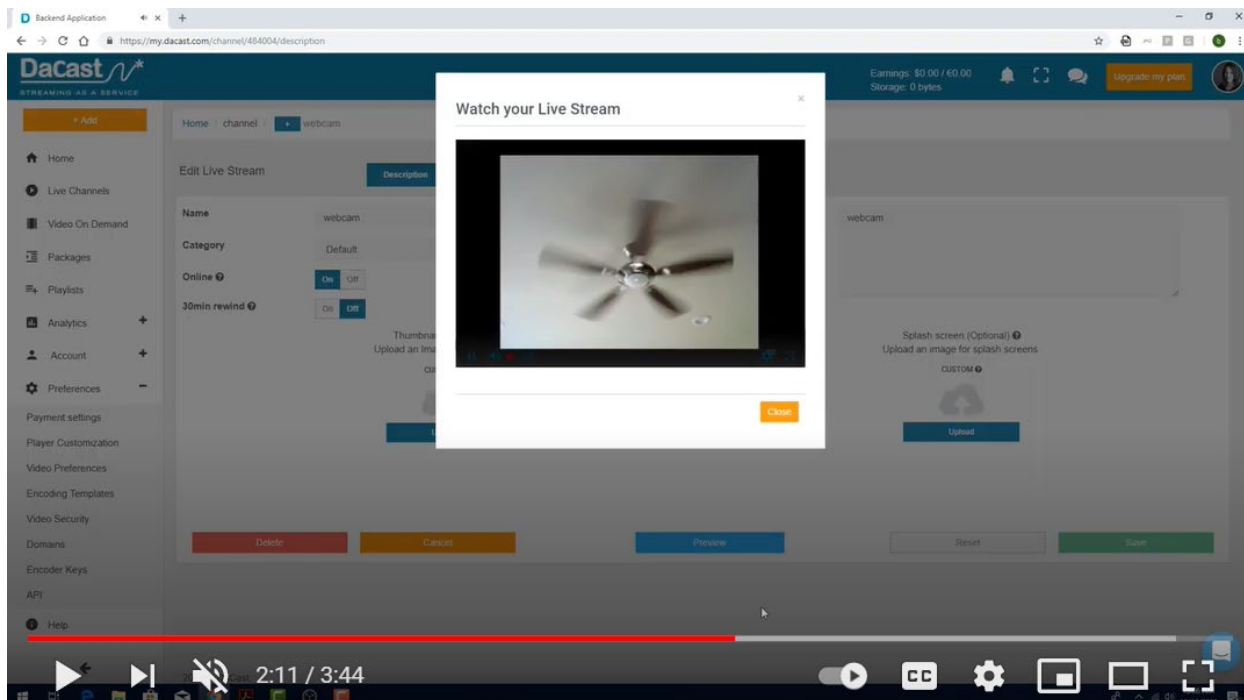
See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

71. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

72. On information and belief, the DaCast Live Streaming & Video Hosting Platform System uses and provides a method wherein after the recording of audio and video material is complete, DaCast provides access to the entire audio and video recording through its website, which is hosted on DaCast's servers, as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

73. On information and belief, Dacast directly infringes at least claim 1 of the '068 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

74. Dacast's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

### **Count II – Infringement of United States Patent No. 9,467,728**

75. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

76. The Dacast Live Streaming & Video Hosting Platform System infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '728 patent.

77. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs and provides an Internet-based method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

78. On information and belief, the Dacast Live Streaming & Video Hosting Platform System, including particularly and without limitation Dacast's servers, transmits via a network a platform-independent web application, which initiates the streaming of audio and video material from a user's device as the audio and video material is being captured by that device.

79. On information and belief, the Dacast Live Streaming & Video Hosting Platform system records audio and video material on Dacast's servers via the Dacast web application and stores that audio and video material as a complete file.

80. On information and belief, the Dacast Live Streaming & Video Hosting Platform System generates one or more codes, including without limitation codes comprising a particular Live Video Object ID, including but not limited to Universal Resource Locator (URL) and Hyper Text Mark-Up Language (HTML) codes, which are associated with the recorded and stored audio and video, to facilitate accessing the recorded and stored audio and video material from an additional location, such as a location from which another user of the Dacast Live Streaming & Video Hosting Platform System is accessing the Dacast Live Streaming & Video Hosting Platform audio and video material.

81. On information and belief, the content of the one or more codes generated by the Dacast Live Streaming & Video Hosting Platform System depends on the type of code supported by the additional location. On information and belief, the content of the one or more codes generated by the Dacast Live Streaming & Video Hosting Platform System depends on, among other things, the data transfer protocols that are supported by the client and/or device from which another user of the Dacast Live Streaming & Video Hosting Platform System is accessing the Dacast Live Streaming & Video Hosting Platform audio and video material.

82. On information and belief, the Dacast Live Streaming & Video Hosting Platform System enables the copying and pasting of codes associated with the recorded and stored audio and video material, including without limitation codes comprising a particular Live Video Object ID, including but not limited to URL and HTML codes, to additional locations, wherein the activation of such a code provides access to the recorded audio and video from additional locations.

# Embed Live Video Anywhere

**Maintain 100% control over your content**

Stream live video on your website with no restrictions.  
Use your own branding and control where your video content can be accessed.

See e.g. <https://www.dacast.com/stream-live-video-on-your-website/>

83. On information and belief, Dacast directly infringes at least claims 1 and 21 of the '728 patent and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

84. Dacast's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.



**Count III – Infringement of United States Patent No. 10,038,930**

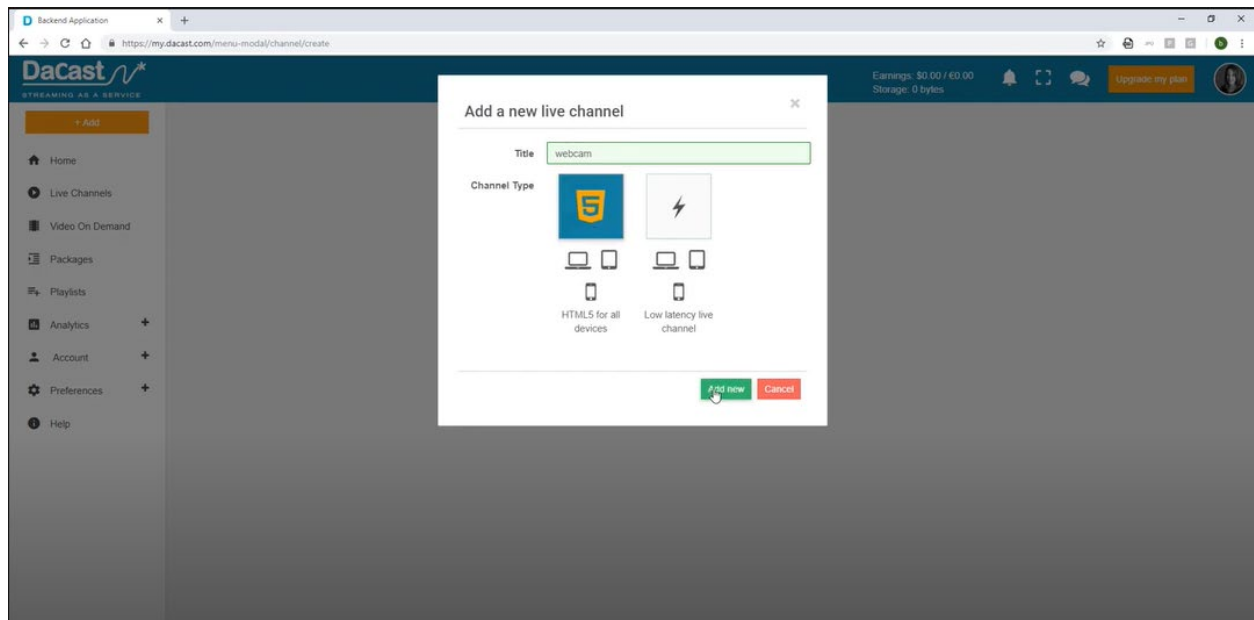
85. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

86. On information and belief, Dacast makes, uses, and provides Dacast Live Streaming & Video Hosting Platform and sells and/or offers to sell products and services in the United States that use Dacast Live Streaming & Video Hosting Platform as a feature or component. The Dacast Live Streaming & Video Hosting Platform System infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '930 patent.

87. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs a method that transmits via a network a browser-independent recording application from Dacast's servers to the devices used by Dacast's users.

88. On information and belief, Dacast's servers receive a media stream from the devices used by Dacast's users.

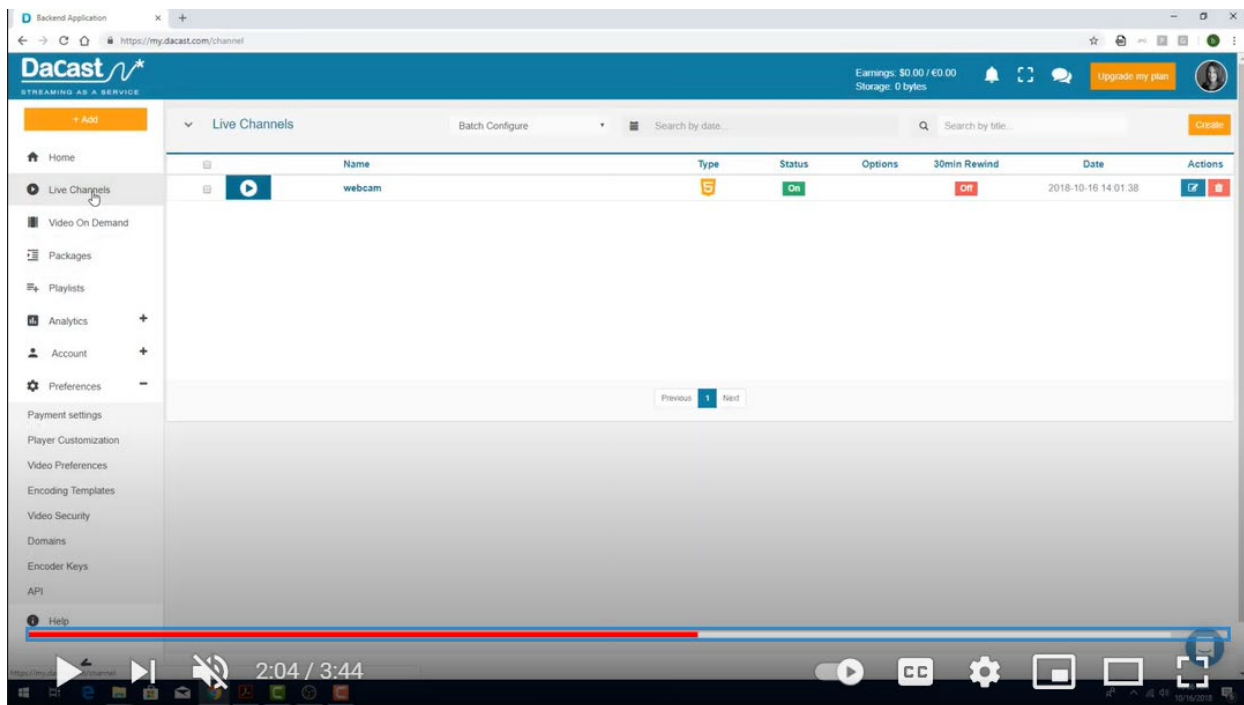
89. On information and belief, the media streams that are transmitted to Dacast's servers are captured by the Dacast browser-independent recording applications, which execute in a browser, as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

90. On information and belief, the DaCast Live Streaming & Video Hosting Platform System does not require the installation of record management software to be installed on the devices used by their users to access the DaCast Live Streaming & Video Hosting Platform System.

91. On information and belief, the media streams generated by the users of the DaCast Live Streaming & Video Hosting Platform System are recorded on DaCast's servers using the DaCast client, which is a browser-independent recording application:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

92. On information and belief, Dacast directly infringes at least claims 1 and 11 of the '930 patent and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

93. Dacast's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages as a result of Dacast's infringement.

#### **Count IV – Infringement of United States Patent No. 10,200,648**

94. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

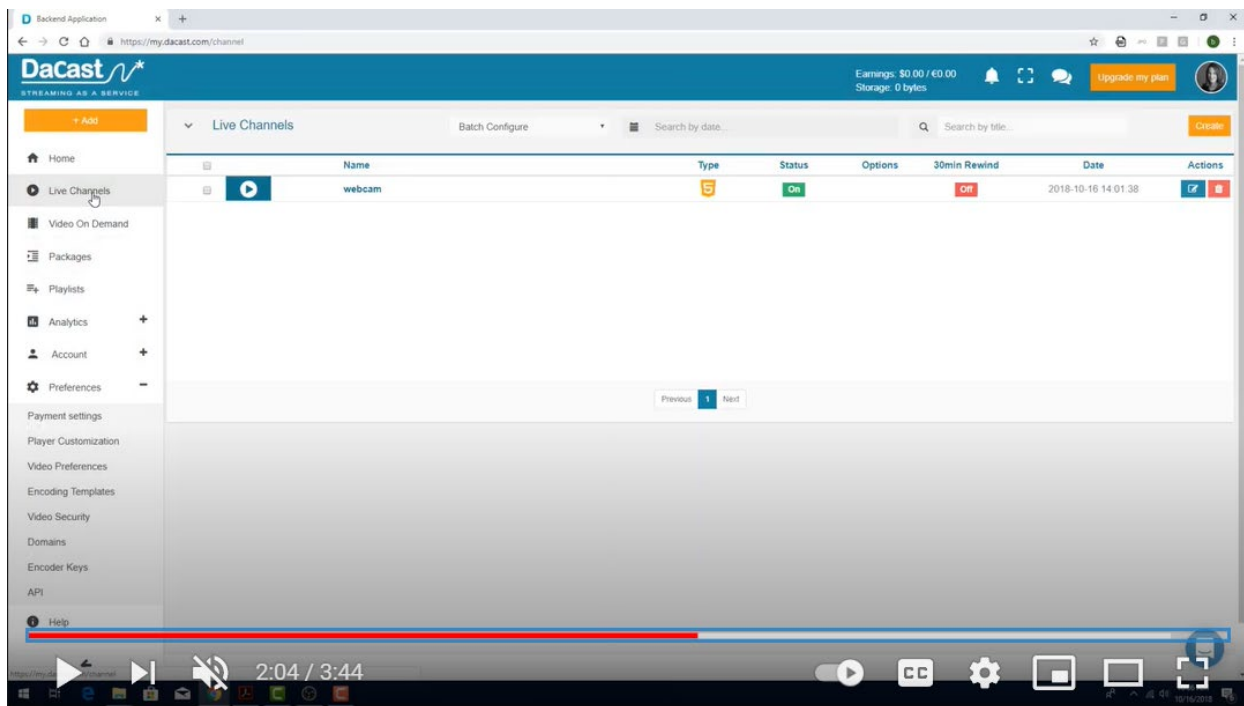
95. On information and belief, Dacast makes, uses, and provides Dacast Live Streaming & Video Hosting Platform and sells and/or offers to sell products and services in the United States that use Dacast Live Streaming & Video Hosting Platform as a feature or

component. The Dacast Live Streaming & Video Hosting Platform System, infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '648 patent.

96. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs an Internet-based recording method that performs all of its audio and video recording functions over an Internet browser connection established between a user front end and a host back end.

97. On information and belief, the Dacast Live Streaming & Video Hosting Platform System records audio and video material that is created by a user over an internet browser connection, without requiring recording functionality to be present in the user's device.

98. On information and belief, the Dacast Live Streaming & Video Hosting Platform System stores audio and video material on Dacast's servers.



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

99. On information and belief, the Dacast Live Streaming & Video Hosting Platform System generates one or more codes, including without limitation codes comprising a particular Live Video Object ID, including but not limited to URL and HTML codes, associated with the recorded and stored audio and video, to facilitate accessing the recorded and stored audio and video material.

# Embed Live Video Anywhere

**Maintain 100% control over your content**

Stream live video on your website with no restrictions.  
Use your own branding and control where your video content can be accessed.

See e.g. <https://www.dacast.com/stream-live-video-on-your-website/>

100. On information and belief, the Dacast Live Streaming & Video Hosting Platform System enables the copying and pasting of code, including without limitation codes comprising a particular Live Video Object ID, including but not limited to URL and HTML codes, to additional locations, wherein the activation of such a code provides access to the recorded audio and video from additional locations.

101. On information and belief, Dacast directly infringes at least claims 1 and 18 of the '648 patent and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

102. Dacast's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages as a result of Dacast's infringement.

**Count V – Infringement of United States Patent No. 10,674,109**

103. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

104. On information and belief, Dacast is the developer, owner, and operator of an online video streaming service called "Dacast Live Streaming & Video Hosting Platform."<sup>3</sup>

105. On information and belief, Dacast makes, uses, and provides Dacast Live Streaming & Video Hosting Platform and sells and/or offers to sell products and services in the United States that use Dacast Live Streaming & Video Hosting Platform as a feature or component. The Dacast Live Streaming & Video Hosting Platform System, infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the '109 patent.

106. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs an Internet-based recording method that performs all of its audio and video recording functions over an Internet browser connection established between a user front end and a host back end.

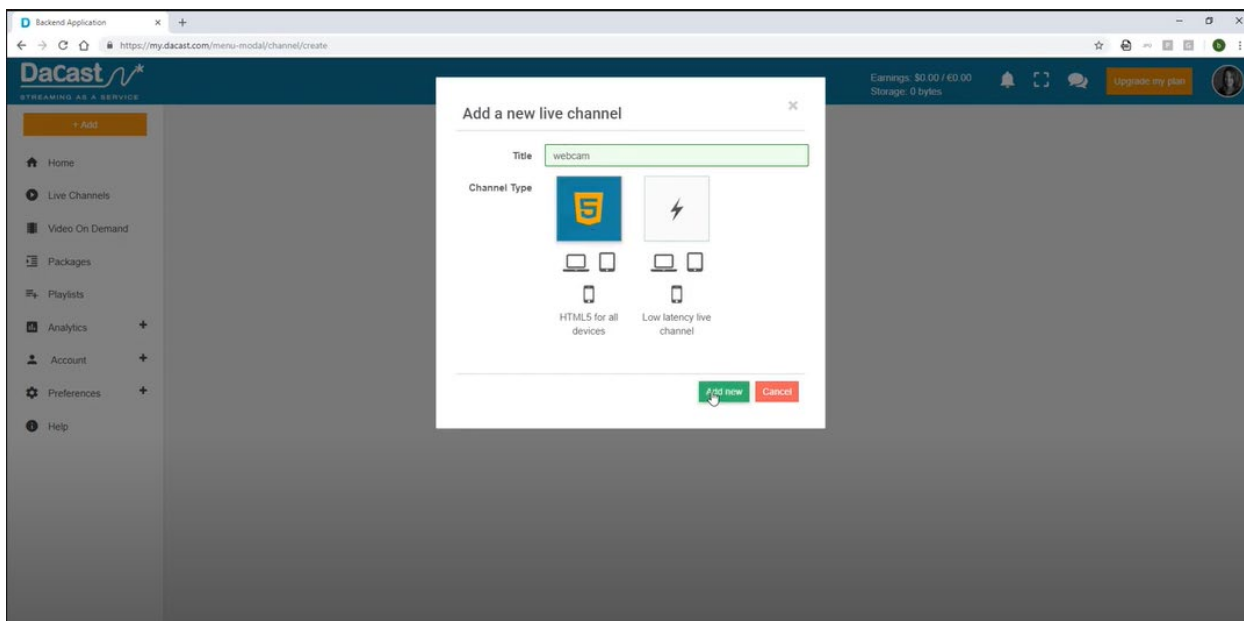
107. On information and belief, the Dacast Live Streaming & Video Hosting Platform System, can be accessed using an Internet browser on a desktop computer<sup>4</sup> or a mobile device.

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<sup>3</sup> See <https://www.dacast.com/>

<sup>4</sup> See <https://www.dacast.com/stream-live-video-on-your-website/>  
See also <https://www.youtube.com/watch?v=fz1PU2sCeg4>

108. On information and belief, when a user wants to “go live” using the Dacast Live Streaming & Video Hosting Platform System, Dacast’s servers deliver a code, which can be executed by a browser, as demonstrated by the screenshot below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

109. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that enables the streaming of audio and video material.

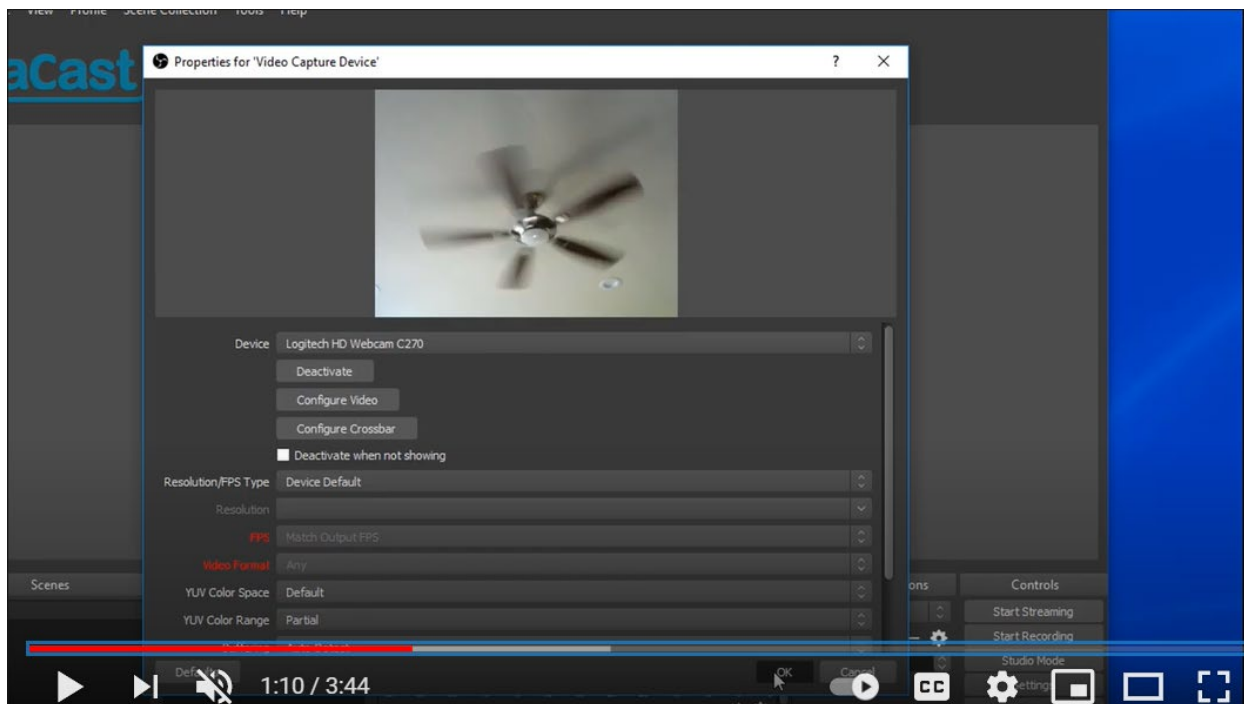
110. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a browser-executable-code that is a browser independent recording application that initiates the audio and video stream to be recorded.

111. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that is browser independent, in part, because a user can record audio and video material without requiring specialized recording equipment, software, or coding.

112. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that is executed though a browser at the user front end.

113. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses an Internet connection.

114. The Dacast Live Streaming & Video Hosting Platform System employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device, as demonstrated by the screen capture below:



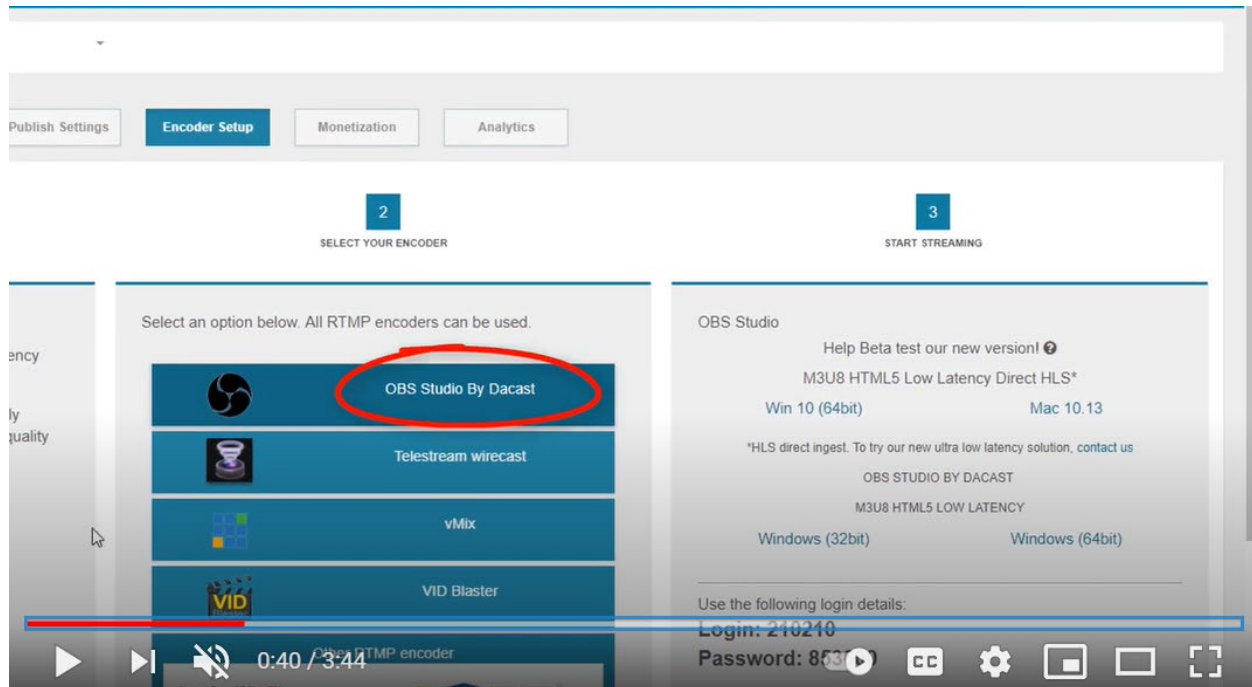
See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

115. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

116. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video

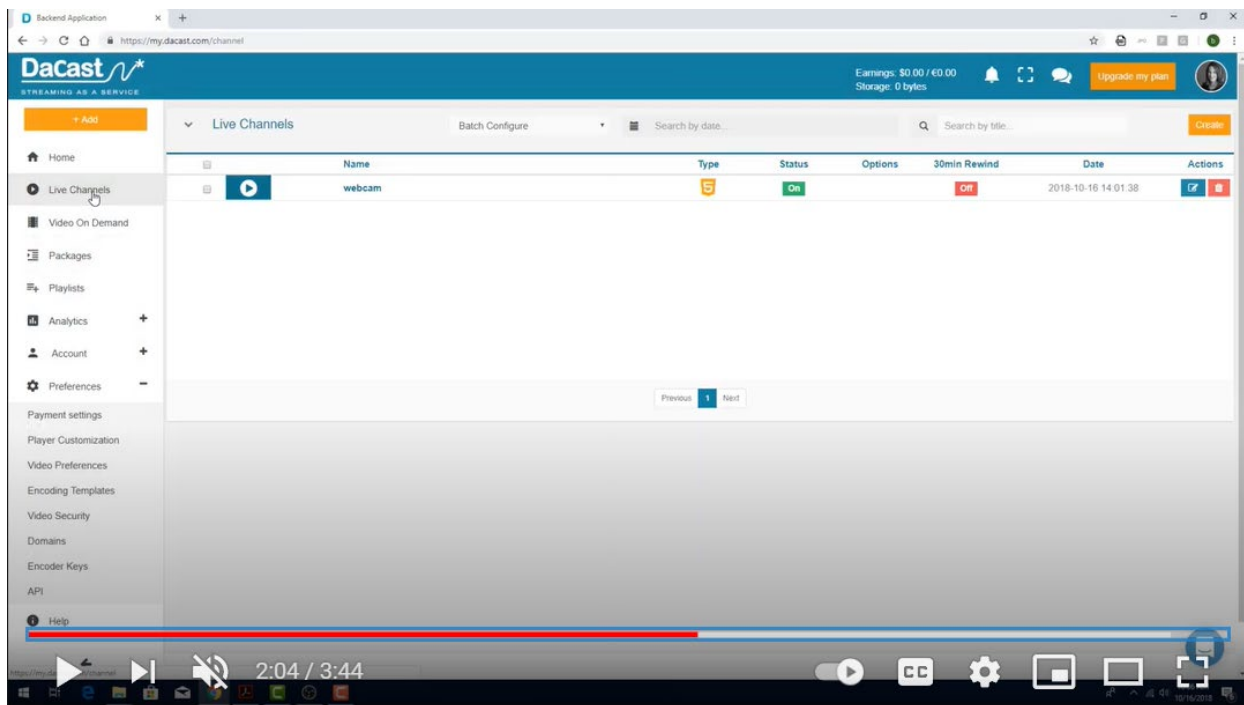


material is transmitted to Dacast's servers as the audio and video material is being captured.



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

117. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

118. On information and belief, Dacast directly infringes at least claim 1 of the '109 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

119. Dacast's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages as a result of Dacast's infringement.

#### **Count VI – Infringement of United States Patent No. 10,694,142**

120. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

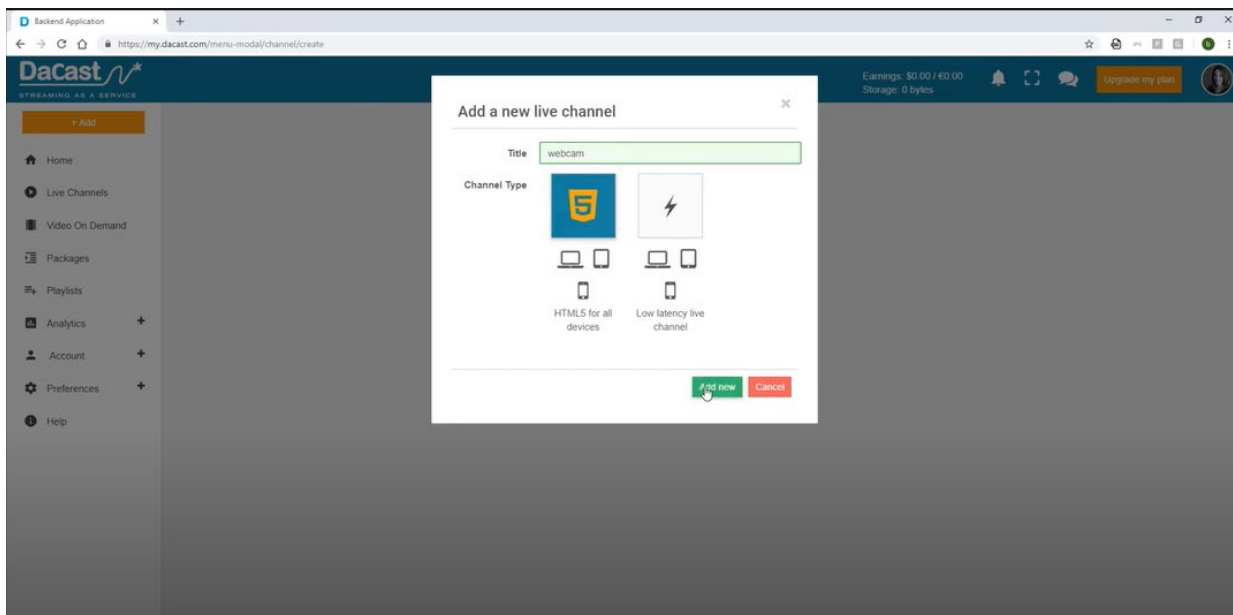
121. On information and belief, Dacast makes, uses, and provides Dacast Live Streaming & Video Hosting Platform and sells and/or offers to sell products and services in the United States that use Dacast Live Streaming & Video Hosting Platform as a feature or component. Dacast Live Streaming & Video Hosting Platform, as well as the hardware and

software components comprising the system that enables the Dacast Live Streaming & Video Hosting Platform service to operate, including but not limited to servers, server software, client software, and other computer systems and components (the “Dacast Live Streaming & Video Hosting Platform System”), infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the ’142 patent.

122. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

123. On information and belief, the Dacast Live Streaming & Video Hosting Platform System, can be accessed using an Internet browser on a desktop computer<sup>5</sup> or a mobile device.

124. On information and belief, when a user wants to go live using the Dacast Live Streaming & Video Hosting Platform System, Dacast’s servers deliver a code, which can be executed by a browser, as demonstrated by the screenshot below:



<sup>5</sup> See <https://www.dacast.com/stream-live-video-on-your-website/>  
See also <https://www.youtube.com/watch?v=fz1PU2sCeg4>

See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

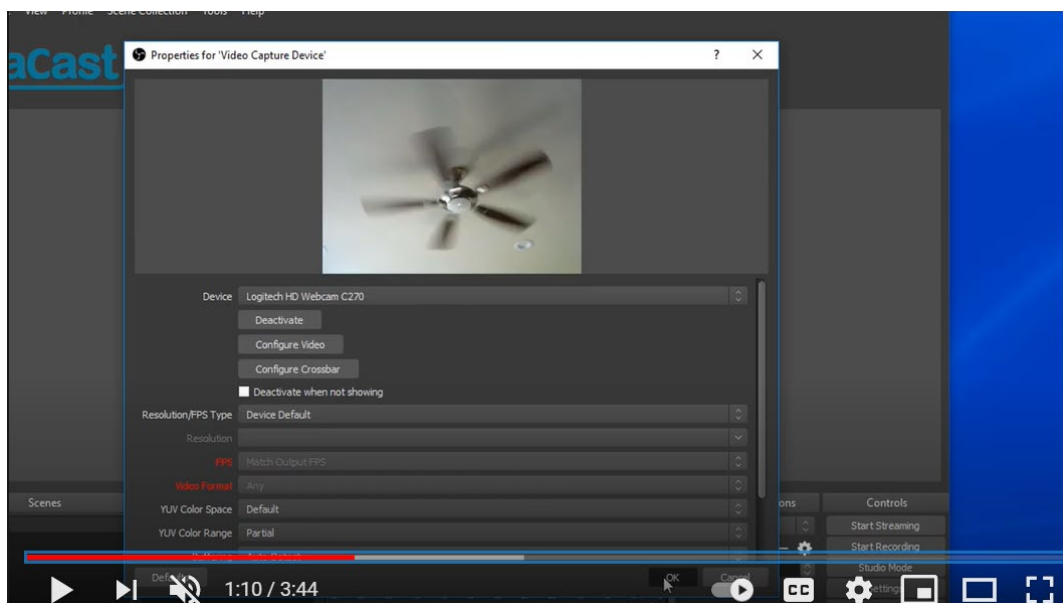
125. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that enables the streaming of audio and video material.

126. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that is executed at the user front end to initiate the streaming of audio and video material as it is being captured by one or more capturing devices at the user front end to the host back end.

127. On information and belief, the Dacast Live Streaming & Video Hosting Platform System delivers a code that is executed through a browser at the user front end.

128. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses an Internet connection.

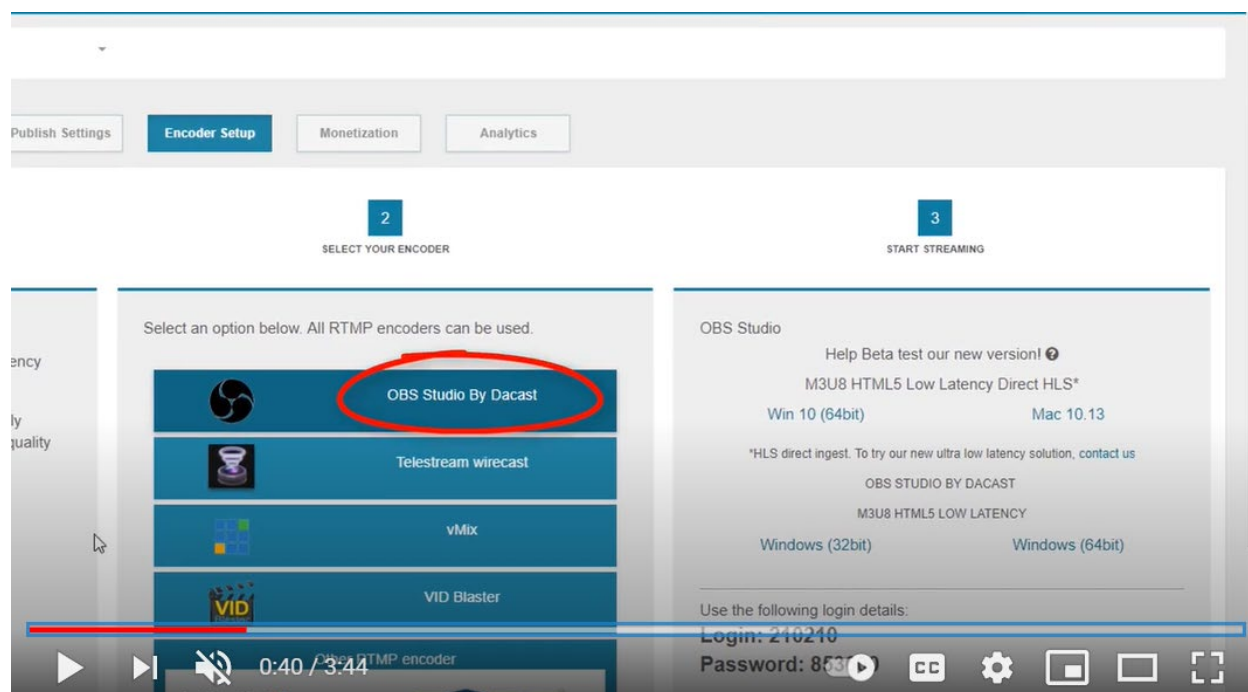
129. The Dacast Live Streaming & Video Hosting Platform System employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device, as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

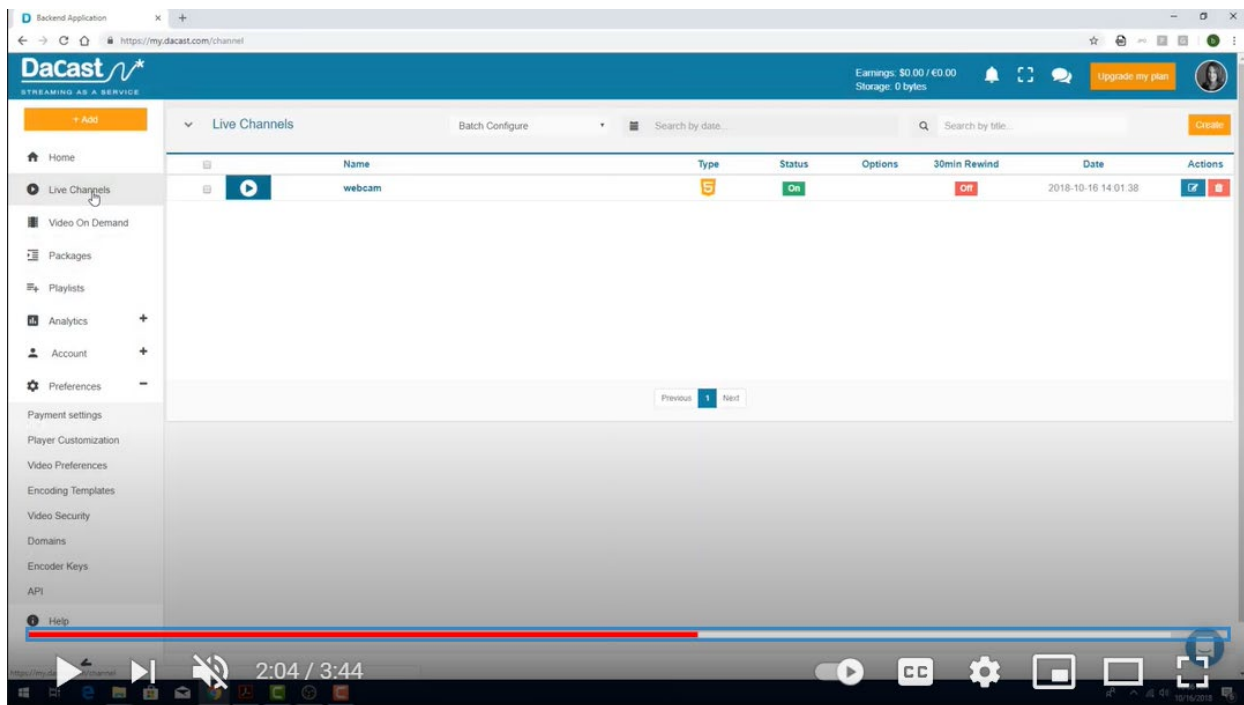
130. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

131. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video material is transmitted to Dacast's servers as the audio and video material is being captured.



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

132. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

133. On information and belief, Dacast directly infringes at least claim 1 of the ‘142 patent, and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

134. Dacast’s direct indirect infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

#### **Count VII – Infringement of United States Patent No. 10,848,707**

135. Onstream repeats, realleges, and incorporates by reference, as if fully set forth here, the allegations of the preceding paragraphs above.

136. On information and belief, Dacast makes, uses, and provides Dacast Live Streaming & Video Hosting Platform and sells and/or offers to sell products and services in the United States that use Dacast Live Streaming & Video Hosting Platform as a feature or component. Dacast Live Streaming & Video Hosting Platform, as well as the hardware and

software components comprising the system that enables the Dacast Live Streaming & Video Hosting Platform service to operate, including but not limited to servers, server software, client software, and other computer systems and components (the “Dacast Live Streaming & Video Hosting Platform System”), infringes (literally and/or under the doctrine of equivalents) at least claim 1 of the ‘707 patent.

137. On information and belief, the Dacast Live Streaming & Video Hosting Platform System employs and provides a method that records audio and video material over an Internet browser connection established between a user front end and a host back end.

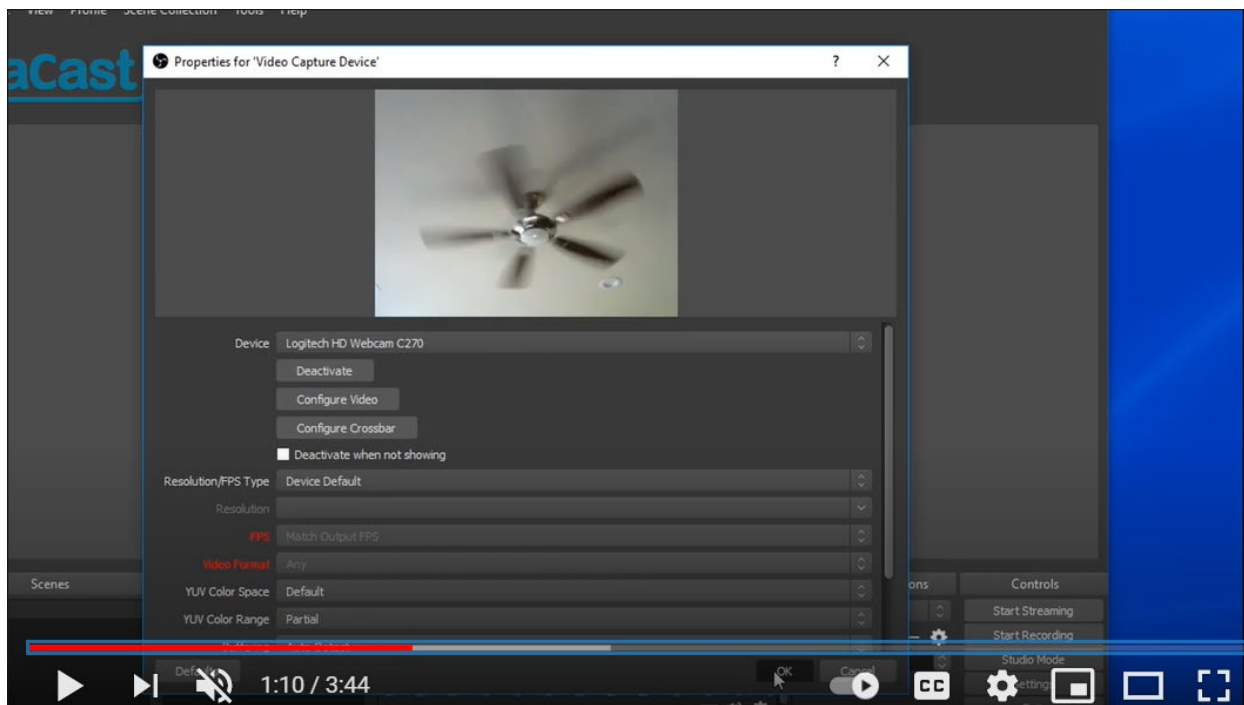
138. On information and belief, the Dacast Live Streaming & Video Hosting Platform System, can be accessed using an Internet browser on a desktop computer <sup>6</sup> or a mobile device.

139. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses an Internet connection.

140. The Dacast Live Streaming & Video Hosting Platform System employs and provides a method wherein audio and video material is streamed over the Internet as the audio and video material is captured by a recording device, as demonstrated by the screen capture below:

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<sup>6</sup> See <https://www.dacast.com/stream-live-video-on-your-website/>  
See also <https://www.youtube.com/watch?v=fz1PU2sCeg4>



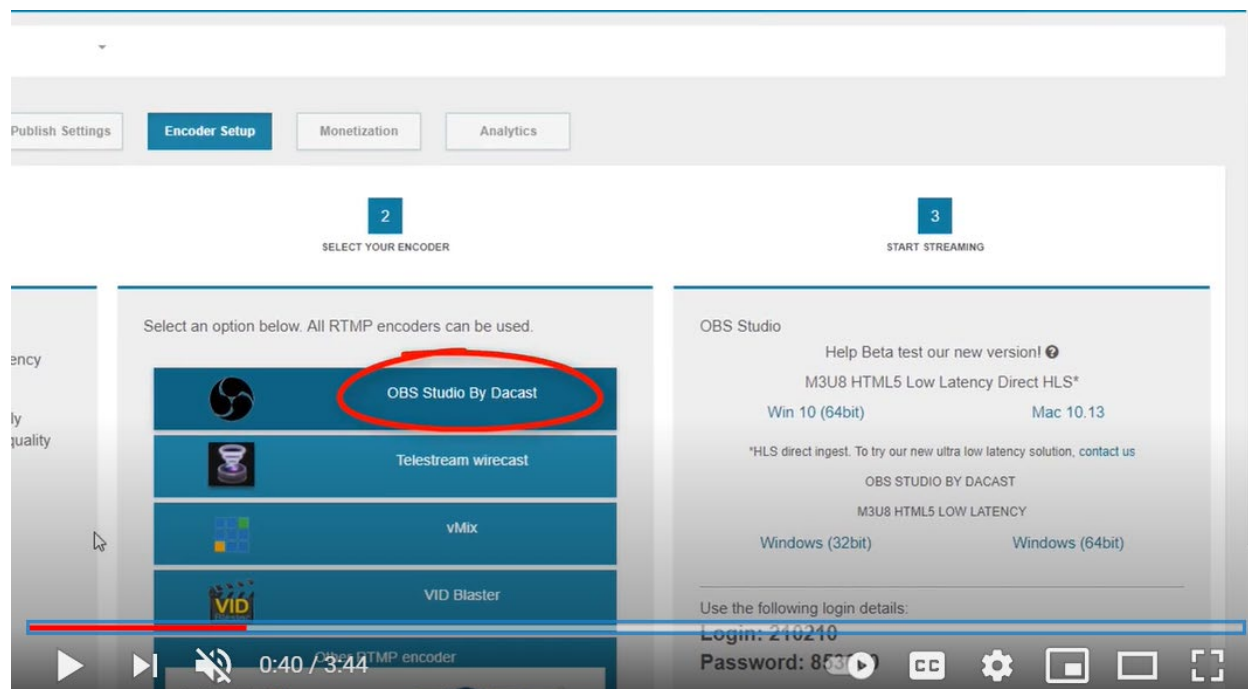
See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

141. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein audio and video material is captured without using any recording software installed on the user front end.

142. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method that does not require transmission of a complete audio and video file from the user front end. Rather, on information and belief, a stream of audio and video

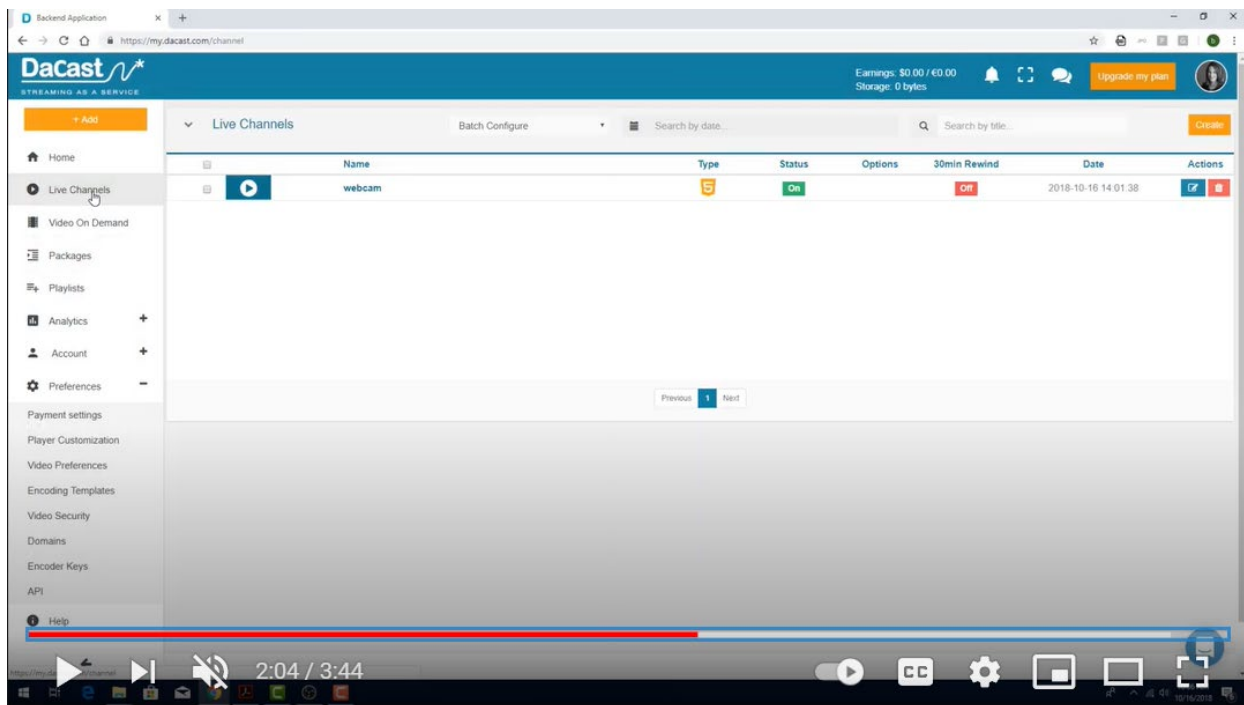


material is transmitted to Dacast's servers as the audio and video material is being captured.



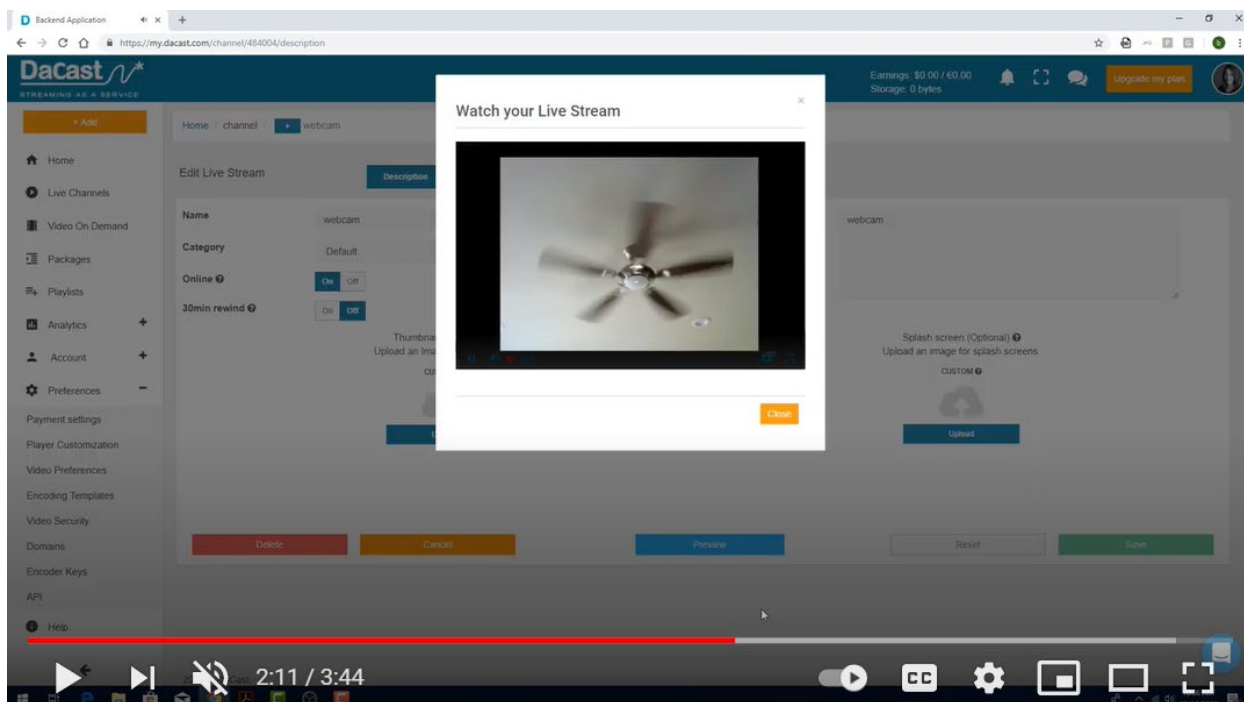
See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

143. On information and belief, the Dacast Live Streaming & Video Hosting Platform System uses and provides a method wherein the audio and video recordings are made and stored on the host back end as a complete file as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

144. On information and belief, the DaCast Live Streaming & Video Hosting Platform System uses and provides a method wherein after the recording of audio and video material is complete, DaCast provides access to the entire audio and video recording through its website, which is hosted on DaCast's servers, as demonstrated by the screen capture below:



See <https://www.youtube.com/watch?v=fz1PU2sCeg4&t=118s>

145. On information and belief, the Dacast Live Streaming & Video Hosting Platform System generates one or more codes, including without limitation codes comprising a particular Live Video Object ID, including but not limited to Universal Resource Locator (URL) and Hyper Text Mark-Up Language (HTML) codes, which are associated with the recorded and stored audio and video, to facilitate accessing the recorded and stored audio and video material from an additional location, such as a location from which another user of the Dacast Live Streaming & Video Hosting Platform System is accessing the Dacast Live Streaming & Video Hosting Platform audio and video material.

146. On information and belief, the Dacast Live Streaming & Video Hosting Platform System enables addition of (i) digital still image material (e.g., Poster, thumbnail, cover image), (ii) digital audio material (e.g., overlayed audios), (iii) digital video material (e.g., gif), (iv) digital video material and digital audio material, (v) digital still image material and digital video material, (vi) digital still image material and digital audio material, or (vii) digital still image

material, digital audio material, and digital video material, to the sequentially stored file at the one or more host back end application servers.

147. On information and belief, Dacast directly infringes at least claim 1 of the '707 patent and is in violation of 35 U.S.C. § 271(a) by using and providing the Dacast Live Streaming & Video Hosting Platform System.

148. Dacast's direct infringement has damaged Onstream and caused it to suffer and continue to suffer irreparable harm and damages.

### **JURY DEMANDED**

Pursuant to Federal Rule of Civil Procedure 38(b), Onstream hereby requests a trial by jury on all issues so triable.

### **PRAYER FOR RELIEF**

Onstream respectfully requests this Court to enter judgment in Onstream's favor and against Dacast as follows:

- a. finding that Dacast has infringed one or more claims of the '068 patent under 35 U.S.C. § 271(a);
- b. finding that Dacast has infringed one or more claims of the '728 patent under 35 U.S.C. § 271(a);
- c. finding that Dacast has infringed one or more claims of the '930 patent under 35 U.S.C. § 271(a);
- d. finding that Dacast has infringed one or more claims of the '648 patent under 35 U.S.C. § 271(a);
- e. finding that Dacast has infringed one or more claims of the '109 patent under 35 U.S.C. § 271(a);

- f. finding that Dacast has infringed one or more claims of the '142 patent under 35 U.S.C. § 271(a);
- g. finding that Dacast has infringed one or more claims of the '707 patent under 35 U.S.C. § 271(a);
- h. awarding Onstream damages under 35 U.S.C. § 284, or otherwise permitted by law, including supplemental damages for any continued post-verdict infringement;
- i. awarding Onstream pre-judgment and post-judgment interest on the damages award and costs;
- j. awarding cost of this action (including all disbursements) and attorney fees pursuant to 35 U.S.C. § 285, or as otherwise permitted by the law; and
- k. awarding such other costs and further relief that the Court determines to be just and equitable.

May 20, 2021

Respectfully submitted,

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