

FILED

AUG 22 2006

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13 **TRANS VIDEO ELECTRONICS, LTD.,**
14 **an Indiana Corporation, and**
15 **Plaintiff,**
16 **v.**
17 **ECHOSTAR COMMUNICATIONS CORP.,**
18 **a Nevada Corporation,**
19 **ECHOSTAR DBS CORP.,**
20 **a Colorado Corporation,**
21 **ECHOSTAR SATELLITE,**
22 **a Colorado Corporation, and**
23 **ECHOSTAR TECHNOLOGIES CORP.**
24 **a Texas Corporation,**
25 **Defendants.**

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COMPLAINT FOR PATENT INFRINGEMENT

DEMAND FOR JURY TRIAL

26 **PLAINTIFF TRANS VIDEO ELECTRONICS, LTD.'s**
27 **COMPLAINT FOR PATENT INFRINGEMENT**

28 **THE PARTIES**

1. Plaintiff Trans Video Electronics, Ltd. (hereinafter "Trans Video") is a corporation incorporated under the laws of the State of Indiana and has its principal place of business at 4115 Wisconsin Ave., NW, Suite 208, Washington, DC 20016.

1 2. Upon information and belief, Defendant EchoStar Communications Corporation
2 ("ECC") is a Nevada corporation with a principal place of business at 5671 Warehouse Way,
3 Sacramento, California 95826, and also a principal place of business at 9601 S. Meridian Blvd.,
4 Englewood, CO 80112. Upon information and belief, Defendant EchoStar DBS Corporation
5 ("EDBS"), a subsidiary of ECC, is a Colorado corporation with its principal place of business at
6 9601 S. Meridian Blvd., Englewood, CO 80112. Upon information and belief, EchoStar Satellite
7 ("EchoStar Satellite"), a subsidiary of EDBS, is a Colorado corporation with its principal place of
8 business at 9601 S. Meridian Blvd., Englewood, CO 80112. Upon information and belief, EchoStar
9 Technologies Corporation ("ETC"), a subsidiary of EDBS and ECC, is a Texas corporation with its
10 principal place of business at 90 Inverness Circle East Englewood, Colorado 80112. The EchoStar
11 entities, referred to above, are collectively referred to hereinafter as "EchoStar."
12

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14 3. Upon information and belief, Defendant EchoStar makes, uses, offers for sale, sells
15 and/or imports into the United States digital satellite television products and processes, including
16 Dish network systems and equipment and video on demand products and services, including Dish on
17 Demand and Dish DVR on Demand and related systems and equipment.
18

19 **JURISDICTION AND VENUE**

20 4. This action arises under the laws of the United States, more specifically under
21 35 U.S.C. § 100, *et seq.* Subject matter jurisdiction is proper in this Court pursuant to 28 U.S.C.
22 §§ 1331, 1338 and 1367.
23

24 5. Upon information and belief, EchoStar transacts business in this judicial district,
25 including the sale and offering for sale of its products, and EchoStar has sufficient contacts with this
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27
28

1 judicial district to subject itself to the jurisdiction of this Court. Personal jurisdiction and venue is
2 proper in this Court pursuant to 28 U.S.C. §§ 1391 and 1400.

3
4 **COUNT 1: INFRINGEMENT OF U.S. PATENT NO. 5,903,621**

5 6. Trans Video Electronics, Ltd. incorporates by reference the allegations set forth in the
6 preceding paragraphs.

7
8 7. On May 11, 1999, United States Patent No. 5,903,621 ("the '621 patent") was duly
9 and legally issued. A true and correct copy of the '621 patent is attached hereto as Exhibit A.
10 Trans Video Electronics, Ltd. is the assignee and the owner of all right, title and interest in and to the
11 '621 patent. The assignment is recorded at reel 6691 and frame 229. The '621 patent is entitled to a
12 presumption of validity.

13
14 8. EchoStar has committed, actively induced and contributed to the infringement of the
15 '621 patent. EchoStar continues to commit, actively induce and contribute to the infringement of the
16 '621 patent.

17
18 9. Specifically, EchoStar's making, using, offering for sale, selling and/or importing into
19 the United States of certain of its digital satellite television products and processes including Dish on
20 Demand and related products and processes directly infringes Trans Video's '621 patent. By
21 EchoStar's acts of making, using, offering for sale, selling, importing, marketing, supporting and
22 advertising said digital satellite television products and processes EchoStar is actively inducing the
23 infringement of the '621 patent and contributing to the infringement of the '621 patent.
24

1 10. EchoStar has been on notice of the '621 patent and its infringement, and has not
2 ceased its infringing activities. EchoStar's infringement of the '621 patent has been and continues to
3 be willful and deliberate.

4
5 11. Trans Video has been irreparably harmed by EchoStar's acts of infringement of the
6 '621 patent, and will continue to be harmed unless and until EchoStar's acts of infringement are
7 enjoined and restrained by order of this Court.

8
9 12. As a result of EchoStar's acts of infringement, Trans Video has suffered and will
10 continue to suffer damages in an amount to be proven at trial.

11
12 **COUNT 2: INFRINGEMENT OF U.S. PATENT NO. 5,991,801**

13 13. Trans Video Electronics, Ltd. incorporates by reference the allegations set forth in the
14 preceding paragraphs.

15 14. On November 23, 1999, United States Patent No. 5,991,801 ("the '801 patent") was
16 duly and legally issued. A true and correct copy of the '801 patent is attached hereto as Exhibit B.
17 Trans Video Electronics, Ltd. is the assignee and the owner of all right, title and interest in and to the
18 '801 patent. The assignment is recorded at reel 6695 and frame 0673. The '801 patent is entitled to
19 a presumption of validity.
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21
22 15. EchoStar has committed, actively induced and contributed to the infringement of the
23 '801 patent. EchoStar continues to commit, actively induce and contribute to the infringement of the
24 '801 patent.

25
26 16. Specifically, EchoStar's making, using, offering for sale, selling and/or importing into
27 the United States of certain of its video on demand products and processes including Dish on
28

1 Demand and Dish DVR On Demand and related products and processes directly infringes
2 Trans Video's '801 patent. By EchoStar's acts of making, using, offering for sale, selling,
3 importing, marketing, supporting and advertising of certain of its video on demand products and
4 processes, EchoStar is actively inducing the infringement of the '801 patent and contributing to the
5 infringement of the '801 patent.
6

7 17. EchoStar has been on notice of the '801 patent and its infringement, and has not
8 ceased its infringing activities. EchoStar's infringement of the '801 patent has been and continues to
9 be willful and deliberate.
10

11 18. Trans Video has been irreparably harmed by EchoStar's acts of infringement of the
12 '801 patent, and will continue to be harmed unless and until EchoStar's acts of infringement are
13 enjoined and restrained by order of this Court.
14

15 19. As a result of EchoStar's acts of infringement, Trans Video has suffered and will
16 continue to suffer damages in an amount to be proven at trial.
17

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Trans Video requests this Court enter judgment as follows:

- 20 A. That EchoStar has infringed the '621 and '801 patents;
- 21 B. That such infringement has been willful;
- 22 C. That EchoStar accounts for and pays to Trans Video all damages caused by
23 the infringement of the '621 and '801 patents;
- 24 D. That Trans Video receive enhanced damages, in the form of treble damages,
25 pursuant to 35 U.S.C. §284;
- 26 E. That this is an exceptional case under 35 U.S.C. §285;
- 27
- 28

1 F. That EchoStar pay Trans Video all of Trans Video's reasonable attorneys'
2 fees and expenses, including for all appeals;

3 G. That Trans Video be granted pre-judgment and post-judgment interest on the
4 damages caused to it by reason of EchoStar's infringement of the '621 and '801 patents, including
5 pre-judgment and post-judgment interest on any enhanced damages or attorneys' fees award;
6

7 H. That costs be awarded to Trans Video;

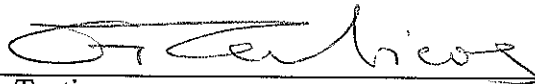
8 I. That EchoStar, its agents, employees, representatives, successors and assigns,
9 and those acting in privity or in concert with them, be preliminarily and permanently enjoined from
10 further infringement of the '621 and '801 patents; and

11 J. That Trans Video be granted such other and further relief as the Court may
12 deem just and proper under the circumstances.
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14
15 **DEMAND FOR JURY TRIAL**

16 Trans Video hereby demand a trial by jury on all issues.

17 Dated: August 22, 2006 Respectfully submitted,
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