



**RESPONSE TO “JURISDICTION AND VENUE”**

5. DIRECTV admits that Quantum Stream purports to bring a dispute over which this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1338(a) and that Quantum Stream purports to bring this action under 35 U.S.C. §§ 1 *et seq.*, but DIRECTV denies any liability thereunder.

6. DIRECTV admits, for purposes of this action only, that venue is proper in this District.

7. DIRECTV admits, for purposes of this action only, that this Court may exercise personal jurisdiction over it. DIRECTV admits that it has a corporate office in this District but denies the remaining allegations of paragraph 7 of the Complaint.

**RESPONSE TO “BACKGROUND”**

**RESPONSE TO “The Patents-In-Suit”**

8. DIRECTV admits that the face of U.S. Patent No. 9,047,626 (“the ’626 Patent”), attached as Exhibit A to the Complaint, lists the title as “Content Distribution System and Method,” the issue date as June 2, 2015, and the inventor as Tayo Akadiri. DIRECTV is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations recited in paragraph 8 of the Complaint, and on that basis denies them.

9. DIRECTV is without knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 9 of the Complaint, and on that basis denies them.

10. DIRECTV admits that the face of U.S. Patent No. 9,117,228 (“the ’228 Patent”), attached as Exhibit B to the Complaint, lists the title as “Content Distribution System and Method,” the issue date as August 25, 2015, and the inventor as Tayo Akadiri. DIRECTV is

without knowledge or information sufficient to form a belief as to the truth of the remaining allegations recited in paragraph 10 of the Complaint, and on that basis denies them.

11. DIRECTV is without knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 11 of the Complaint, and on that basis denies them.

12. DIRECTV admits that the face of U.S. Patent No. 9,349,136 (“the ’136 Patent”), attached as Exhibit C to the Complaint, lists the title as “Content Distribution System and Method,” the issue date as May 24, 2016, and the inventor as Tayo Akadiri. DIRECTV is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations recited in paragraph 12 of the Complaint, and on that basis denies them.

13. DIRECTV is without knowledge or information sufficient to form a belief as to the truth of the allegations recited in paragraph 13 of the Complaint, and on that basis denies them.

**RESPONSE TO “DIRECTV’s Infringing Systems”**

14. DIRECTV admits that it is a provider of digital television entertainment services. DIRECTV denies the remaining allegations of paragraph 14 of the Complaint.

15. DIRECTV admits that it provides digital content to its customers. DIRECTV denies the remaining allegations of paragraph 15 of the Complaint.

16. DIRECTV admits the allegations of paragraph 16 of the Complaint.

17. DIRECTV objects to the phrase “DIRECTV’s systems allow for addressable advertising in order to target advertisements to its customers” as vague. Based on the understanding that, by this phrase, Quantum Stream means to suggest infringement of one or more of its patents, DIRECTV denies the allegation. DIRECTV denies that there is any content at the following website as of the date of this Answer: <http://www.invidi.com/media15.html>.

DIRECTV further objects to the incorporation by reference of numerous third-party internet articles whose content may have changed since service of the Complaint or which may change in the future. On that basis, DIRECTV denies the allegations in paragraph 17 of the Complaint that such articles “describe[]” DIRECTV’s systems.

18. DIRECTV admits the allegations of paragraph 18 of the Complaint.

19. DIRECTV admits that the “DIRECTV 2015 Media Kit” ([http://cdn.directv.com/cms3/special\\_projects/ad\\_sales\\_microsite/DIRECTV\\_Ad\\_Sales\\_Media\\_Kit.pdf](http://cdn.directv.com/cms3/special_projects/ad_sales_microsite/DIRECTV_Ad_Sales_Media_Kit.pdf)) is a promotional marketing and sales document relating to certain advertising solutions offered by DIRECTV. The “DIRECTV 2015 Media Kit” does not purport to “describe” the technical operation or details of certain advertising solutions offered by DIRECTV and, on that basis, DIRECTV denies the remaining the allegations of paragraph 19 of the Complaint.

20. DIRECTV admits that the statements listed in paragraph 20 of the Complaint appear in the promotional marketing and sales document “DIRECTV 2015 Media Kit,” but not all the quotes in paragraph 20 relate to the accused advertising solution and, on that basis, DIRECTV denies the remaining allegations of paragraph 20 of the Complaint.

21. DIRECTV admits that the statements listed in paragraph 21 of the Complaint appear in the promotional marketing and sales document “DIRECTV 2015 Media Kit.” DIRECTV objects to the phrase “DIRECTV has used its systems to provide targeted ads” as vague. Based on the understanding that, by this phrase, Quantum Stream means to suggest infringement of one or more of its patents, DIRECTV denies the remaining allegations of paragraph 21 of the Complaint.

**RESPONSE TO “FIRST CLAIM FOR RELIEF”**  
**RESPONSE TO “Patent Infringement Of United States Patent No. 9,047,626”**

22. DIRECTV hereby incorporates by reference paragraphs 1 through 21 of this Answer.

23. DIRECTV denies the allegations of paragraph 23 of the Complaint.

24. DIRECTV denies the allegations of paragraph 24 of the Complaint.

25. DIRECTV denies the allegations of paragraph 25 of the Complaint.

**RESPONSE TO “SECOND CLAIM FOR RELIEF”**  
**RESPONSE TO “Patent Infringement Of United States Patent No. 9,117,228”**

26. DIRECTV hereby incorporates by reference paragraphs 1 through 25 of this Answer.

27. DIRECTV denies the allegations of paragraph 27 of the Complaint.

28. DIRECTV denies the allegations of paragraph 28 of the Complaint.

29. DIRECTV denies the allegations of paragraph 29 of the Complaint.

**RESPONSE TO “THIRD CLAIM FOR RELIEF”**  
**RESPONSE TO “Patent Infringement Of United States Patent No. 9,349,136”**

30. DIRECTV hereby incorporates by reference paragraphs 1 through 29 of this Answer.

31. DIRECTV denies the allegations of paragraph 31 of the Complaint.

32. DIRECTV denies the allegations of paragraph 32 of the Complaint.

33. DIRECTV denies the allegations of paragraph 33 of the Complaint.

**RESPONSE TO “WILLFUL INFRINGEMENT”**

34. DIRECTV admits that Quantum Stream’s original complaint was filed in October 2015 and identified the ’626 and ’228 Patents. DIRECTV denies the remaining allegations of paragraph 34 of the Complaint.

35. DIRECTV denies the allegations of paragraph 35 of the Complaint.

36. DIRECTV denies the allegations of paragraph 36 of the Complaint.

37. DIRECTV denies the allegations of paragraph 37 of the Complaint.

38. DIRECTV admits that it offered digital television entertainment services both before and after the filing of Quantum Stream's original complaint. DIRECTV denies the remaining allegations of paragraph 38 of the Complaint.

39. DIRECTV admits that it offered digital television entertainment services both before and after the filing of Quantum Stream's First Amended complaint. DIRECTV denies the remaining allegations of paragraph 39 of the Complaint.

40. DIRECTV is without knowledge or information sufficient to form a belief as to the conduct of "Lowe's," and on that basis denies the allegations of paragraph 40 of the Complaint.

41. DIRECTV denies the allegations of paragraph 41 of the Complaint.

**RESPONSE TO "REQUESTED RELIEF"**

DIRECTV denies that Quantum Stream is entitled to any relief in any form whatsoever from DIRECTV and specifically denies that Quantum Stream is entitled to any of the relief sought in paragraphs A-J of its Requested Relief.

**RESPONSE TO "DEMAND FOR TRIAL BY JURY"**

DIRECTV admits that Quantum Stream has demanded a jury trial.

**ADDITIONAL DEFENSES**

As further answer and as additional defenses, but without assuming any burden that it would not otherwise have or admitting that it bears the burden of proof with respect to any of the following, DIRECTV asserts the following defenses and alleges as follows. DIRECTV reserves all rights to allege additional defenses that become known through the course of discovery.

**FIRST DEFENSE**  
**(Failure to State a Claim)**

1. The Complaint fails to state a claim on which relief can be granted.

**SECOND DEFENSE**  
**(Non-Infringement)**

2. DIRECTV has not infringed and does not infringe, directly or indirectly, any claim of the '626, '228, or '136 Patents (collectively the "Asserted Patents") literally or under the doctrine of equivalents.

**THIRD DEFENSE**  
**(Invalidity)**

3. One or more of the claims of the Asserted Patents are invalid for failure to satisfy the conditions of patentability set forth in 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 101, 102, 103, and/or 112.

**FOURTH DEFENSE**  
**(Prosecution History Estoppel and Disclaimer)**

4. Based on proceedings before the United States Patent and Trademark Office ("PTO") during the prosecution of the applications that issued as the Asserted Patents and/or the application(s) to which the Asserted Patents claim priority, Quantum Stream is precluded or otherwise estopped from asserting that any claim of the Asserted Patents cover, either literally or under the doctrine of equivalents, any product or method made, performed, used, sold, offered for sale, or imported by DIRECTV.

**FIFTH DEFENSE**  
**(Prosecution History Laches)**

5. Quantum Stream's claims for relief are barred, in whole or in part, under the doctrine of prosecution history laches.

**SIXTH DEFENSE**  
**(Limitation of Damages)**

6. Quantum Stream's claims and prayer for relief are barred in whole or in part by 35 U.S.C. §§ 286, 287, and/or 288.

**SEVENTH DEFENSE**  
**(Lack of Standing)**

7. Quantum Stream lacks standing to bring an action for infringement of the Asserted Patents because it is not the sole owner of the Asserted Patents and/or because it does not have the exclusive right to sue and to recover damages for infringement of the Asserted Patents.

8. On information and belief, Time Warner Cable may own part, or all, of one or more of the Asserted Patents.

**EIGHTH DEFENSE**  
**(Inventorship)**

9. One or more of the claims of the Asserted Patents are invalid for failing to name all proper inventors pursuant to 35 U.S.C. § 102(f) or any other statute.

**NINTH DEFENSE**  
**(License, Exhaustion)**

10. To the extent Quantum Stream's infringement allegations relate to products or services that were provided by or for any licensee of the Asserted Patents and/or provided to DIRECTV by or through a licensee of the Asserted Patents or under a covenant not to sue, whether express or implied, Quantum Stream's claims are barred.

**RESERVATION OF ALL DEFENSES**

11. DIRECTV alleges that it may have other separate and additional defenses of which it is not presently aware and hereby reserves the right to raise such defenses by amendment of this Answer, including to conform to proof at trial. DIRECTV therefore reserves

all defenses under the Federal Rules of Civil Procedure, including Rule 8(c), the Patent Laws of the United States and any other and additional defenses, at law or in equity, that are now or may become available or appear during, or as a result of, discovery proceedings in this action.

**DIRECTV, LLC'S COUNTERCLAIMS**  
**FOR DECLARATORY JUDGMENT**

Defendant and Counterclaimant DIRECTV, LLC ("DIRECTV"), by its undersigned attorneys, as and for its Counterclaims against Plaintiff and Counterclaim-Defendant Quantum Stream Inc. ("Quantum Stream"), alleges as follows:

**THE PARTIES**

1. DIRECTV is a Delaware corporation, having a principal place of business at 2230 E. Imperial Highway, El Segundo, California 90245.

2. On information and belief, Quantum Stream Inc. is a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 780 3rd Avenue, 12th Floor, New York, New York 10017.

**JURISDICTION AND VENUE**

3. In its counterclaims, DIRECTV seeks to obtain a declaratory judgment that the Asserted Patents are invalid and not infringed by DIRECTV. These counterclaims arise under the Federal Declaratory Judgment Act and the Patent Laws of the United States, more particularly, Title 28 of the United States Code, §§ 2201 and 2202, and Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1338(a), 2201, and 2202.

5. This Court has personal jurisdiction over Quantum Stream because, *inter alia*, Quantum Stream has availed itself of this Court by filing a lawsuit in this District.

6. Venue is proper in this judicial District under 28 U.S.C. § 1391(b) because Quantum Stream has commenced suit against DIRECTV in this District alleging infringement of the Asserted Patents. DIRECTV denies those allegations.

### **THE PATENTS IN SUIT**

7. The '626 patent is entitled "Content Distribution System and Method" and the front page of the '626 patent bears an issuance date of June 2, 2015.

8. A copy of the '626 patent is attached as Exhibit A to Quantum Stream's Complaint.

9. By paragraph 9 of its Complaint, Quantum Stream purports to be the owner by assignment of the '626 Patent with the "exclusive right to sue and to recover damages for infringement of the '626 Patent."

10. The '228 patent is entitled "Content Distribution System and Method" and the front page of the '228 patent bears an issuance date of August 25, 2015.

11. A copy of the '228 patent is attached as Exhibit B to Quantum Stream's Complaint.

12. By paragraph 11 of its Complaint, Quantum Stream purports to be the owner by assignment of the '228 Patent with the "exclusive right to sue and to recover damages for infringement of the '228 Patent."

13. The '136 patent is entitled "Content Distribution System and Method" and the front page of the '136 patent bears an issuance date of May 24, 2016.

14. A copy of the '136 patent is attached as Exhibit C to Quantum Stream's Complaint.

15. By paragraph 13 of its Complaint, Quantum Stream purports to be the owner by assignment of the '136 Patent with the "exclusive right to sue and to recover damages for infringement of the '136 Patent."

**EXISTENCE OF A JUSTICIABLE CONTROVERSY**

16. By its Complaint, Quantum Stream commenced a lawsuit against DIRECTV in this judicial District alleging infringement of the Asserted Patents. Quantum Stream accuses DIRECTV of infringement by "making, using, offering to sell, and/or selling content distribution systems that include consumer device(s) and server interface(s), which provide video content and addressable advertising," "making, using, offering to sell, and/or selling content distribution systems for targeting digital video advertisements to consumers that include server(s) and consumer device(s), which provide video content and addressable advertising" in paragraphs 23, 27, and 31 of its Complaint. DIRECTV denies those allegations.

17. There exists a justiciable controversy between Quantum Stream and DIRECTV concerning non-infringement and/or invalidity of the Asserted Patents as set forth in the Complaint and in DIRECTV's Answer thereto set forth herein.

**FIRST COUNTERCLAIM**  
**(For Declaratory Judgment of Non-infringement of the '626 Patent)**

18. An actual controversy exists between DIRECTV and Quantum Stream as to whether DIRECTV infringes any of the claims of the '626 Patent, as Quantum Stream contends, or does not do so, as DIRECTV contends.

19. By this Counterclaim, DIRECTV seeks a declaration that it has not infringed and does not infringe any valid and enforceable claim of the '626 Patent literally, under the doctrine of equivalents, or willfully. A judicial declaration is necessary and appropriate at this time so DIRECTV may ascertain its rights and duties with respect to the '626 Patent and with respect to

any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products and/or services.

**SECOND COUNTERCLAIM**  
**(For Declaratory Judgment of Invalidity of the '626 Patent)**

20. An actual controversy exists between DIRECTV and Quantum Stream as to whether the claims of the '626 Patent are valid, as Quantum Stream contends, or invalid for failure to comply with the conditions of patentability set forth in 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 101, 102, 103, and/or 112 as DIRECTV contends.

21. By this Counterclaim, DIRECTV seeks a declaration that the claims of the '626 Patent are invalid. A judicial declaration is necessary and appropriate at this time so DIRECTV may ascertain its rights and duties with respect to the '626 Patent and to any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products and/or services.

**THIRD COUNTERCLAIM**  
**(For Declaratory Judgment of Non-infringement of the '228 Patent)**

22. An actual controversy exists between DIRECTV and Quantum Stream as to whether DIRECTV infringes any of the claims of the '228 Patent, as Quantum Stream contends, or does not do so, as DIRECTV contends.

23. By this Counterclaim, DIRECTV seeks a declaration that it has not infringed and does not infringe any valid and enforceable claim of the '228 Patent literally, under the doctrine of equivalents, or willfully. A judicial declaration is necessary and appropriate at this time so DIRECTV may ascertain its rights and duties with respect to the '228 Patent and with respect to any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products and/or services.

**FOURTH COUNTERCLAIM**  
**(For Declaratory Judgment of Invalidity of the '228 Patent)**

24. An actual controversy exists between DIRECTV and Quantum Stream as to whether the claims of the '228 Patent are valid, as Quantum Stream contends, or invalid for failure to comply with the conditions of patentability set forth in 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 101, 102, 103, and/or 112 as DIRECTV contends.

25. By this Counterclaim, DIRECTV seeks a declaration that the claims of the '228 Patent are invalid. A judicial declaration is necessary and appropriate at this time so DIRECTV may ascertain its rights and duties with respect to the '228 Patent and to any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products and/or services.

**FIFTH COUNTERCLAIM**  
**(For Declaratory Judgment of Non-infringement of the '136 Patent)**

26. An actual controversy exists between DIRECTV and Quantum Stream as to whether DIRECTV infringes any of the claims of the '136 Patent, as Quantum Stream contends, or does not do so, as DIRECTV contends.

27. By this Counterclaim, DIRECTV seeks a declaration that it has not infringed and does not infringe any valid and enforceable claim of the '136 Patent literally, under the doctrine of equivalents, or willfully. A judicial declaration is necessary and appropriate at this time so DIRECTV may ascertain its rights and duties with respect to the '136 Patent and with respect to any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products and/or services.

**SIXTH COUNTERCLAIM**  
**(For Declaratory Judgment of Invalidity of the '136 Patent)**

28. An actual controversy exists between DIRECTV and Quantum Stream as to whether the claims of the '136 Patent are valid, as Quantum Stream contends, or invalid for failure to comply with the conditions of patentability set forth in 35 U.S.C. § 1 *et seq.*, including 35 U.S.C. §§ 101, 102, 103, and/or 112 as DIRECTV contends.

29. By this Counterclaim, DIRECTV seeks a declaration that the claims of the '136 Patent are invalid. A judicial declaration is necessary and appropriate at this time so DIRECTV may ascertain its rights and duties with respect to the '136 Patent and to any past, present, or future manufacture, use, importation, distribution, sale, or offer for sale of its products and/or services.

**PRAYER FOR RELIEF**

WHEREFORE, DIRECTV respectfully requests that this Court enter judgment in favor of DIRECTV granting the following relief:

**On Quantum Stream's Claims**

- a) an order dismissing all claims in Quantum Stream's Complaint with prejudice;
- b) an order declaring that this is an exceptional case and awarding DIRECTV its reasonable attorneys' fees under 35 U.S.C. § 285 and all other applicable statutes, rules, and common law; and
- c) an order awarding DIRECTV its costs and expenses;
- d) an order awarding interest on amounts due to DIRECTV; and
- e) an order awarding DIRECTV all other and further relief as this Court deems just and proper.

**On DIRECTV's Claims**

f) a declaration that DIRECTV does not infringe and has not infringed any claim of the Asserted Patents;

g) a declaration that each claim of the Asserted Patents is invalid;

h) an injunction against Quantum Stream and its officers, agents, servants, employees, attorneys, and others in active concert or participation with any of them from asserting infringement or instituting or continuing any legal action for infringement of the Asserted Patents against DIRECTV or its customers, suppliers, manufacturers, distributors, resellers, or end users of its products;

i) an order declaring that this is an exceptional case and awarding DIRECTV its reasonable attorneys' fees under 35 U.S.C. § 285 and all other applicable statutes, rules, and common law; and

j) an order awarding DIRECTV its costs and expenses;

k) an order awarding interest on amounts due to DIRECTV; and

l) an order awarding DIRECTV all other and further relief as this Court deems just and proper.

**DEMAND FOR JURY TRIAL**

DIRECTV requests a trial by jury as to all issues so triable.

Dated: August 22, 2016

By: /s/ Alex V. Chachkes

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