

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Legal Drama: DISH Battles In Court Over Streaming Patents

DISH has entered the court system once again to pursue patent infringement claims, this time against BBC- and ITV-owned BritBox. The satellite video provider filed a suit against BritBox Thursday claiming its online streaming services, including its app, site and servers, infringe upon DISH's patents related to adaptive bitrate (ABR) streaming.

The technology, which was developed by Move Networks, allows content delivery to adapt to the bandwidth that is available at any given time to ensure that end users are receiving the best quality video throughout their time streaming. In December 2010, EchoStar purchased Move Networks and its ABR patent portfolio for \$45 million, and it has since become a part of DISH's portfolio. Two of the three inventors of the ABR technology remain DISH employees.

DISH claims that it has been trying to reach out to BritBox about the alleged patent infringements for nearly five years. It said it first sent letters to BBC CEO *Tim Davie* and ITV COO/ Executive Director *Ian Griffiths* in Nov. 2018 in an attempt to negotiate a licensing agreement. Those efforts continued until the filing of the suit on Thursday. "BritBox's actions have caused DISH to suffer irreparable harm resulting from the loss of its lawful patent rights and the loss of its ability to exclude others from the market," DISH said. "Upon information and belief, BritBox will continue these infringing acts unless enjoined by this court."

DISH is asking for a jury trial and for a judgment and order requiring BritBox to pay DISH damages, costs, expenses and pre-judgment and post-judgment interest for its infringement of the ABR patents. It has also asked the court to enter an order that would permanently block BritBox and its officers from infringing or contributing to the infringement of the patents.

This is far from the first time DISH has asked the courts to rule on a matter relating to these patents. Just last month, it filed a similar suit against Fubo arguing that the vMVPD had infringed on its patents with its online streaming service. In that claim, DISH said Fubo had been aware of its infringement for at least four years, establishing a first contact in May 2019 with DISH asking the company to talk about a licensing agreement. Similarly to the Britbox situation, a back-and-forth went on until last month when DISH claims fuboTV Chief Legal Officer *Gina DeGioia Sheldon* sent a letter stating that fuboTV did not believe it needed a license.

Time will tell how these suits progress, but DISH has proven successful in the past. DISH sued Peloton, iFit and Lululemon over the ABR patents, and it separately filed a complaint with the U.S. International Trade Commission asking for a ban on NordicTrack equipment and Lululemon's Mirror, a smart fitness device with live and on-demand workout classes. Lululemon chose to settle with DISH, but the ITC did institute an import ban on the NordicTrack equipment from iFit and Peloton in March. A judge also ruled that Peloton was infringing on DISH's patents in 2022, but the two companies agreed to settle the

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dispute in May.

The ordeal cost Peloton a pretty penny with the fitness technology company agreeing to send a one-time payment to DISH of \$75 million. “We believe our growth agenda is better served by the settlement because it eliminates a cloud of uncertainty and an enormous distraction to the day-to-day operation of our business, despite its adverse impact on Q4 cash flow,” Peloton CEO *Barry McCarthy* said in a May 4 letter to investors.

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CABLE TV PIONEERS PREPARE TO WELCOME 51ST CLASS, TECH TEN

The last time the **Cable TV Pioneers** held its annual banquet in Denver (2017 for its 51st class), it was a jam-packed house. It looks like it will be that way again for tonight’s celebration for the 57th class at the Denver Center for the Performing Arts. With over 700 attendees registered, the dinner is sold out and a record-breaker. It’s also record breaking in terms of the number of inductees—35 total. It’s a short trip for Denver-based **Syndeo Institute** CEO *Diane Christman*, who is among 10 women joining this year’s class (for years, the Pioneers leaned male, but that’s starting to change). She’s joined by **Charter’s** *Keely Buchanan*, **Marketing On Demand’s** *Susan Burgstiner*, **Broadcom’s** *Lisa Denney*, **Charter’s** *Sheri Langford*, **Comcast’s** *Amy Lynch*, **Broadcom’s** *Niki Pantelias*, former **Cox** and **Amazon** exec *Kathy Payne*, **NCTI** CEO *Stacey Slaughter* and **Comcast’s** *Jennifer Sardo*. **Charter’s** well represented with **Charter** Chairman *Tom Rutledge* and **Field Operations EVP** *Tom Monaghan* joining the Pioneers this year. **Comcast** has several execs being inducted as well, including *James Manchester* and *Jeff Smith*. The other new Pioneers are: **NCTA’s** *Michael Powell*,

outgoing **Altice USA** exec *Pragash Pillai*, retired **RBC Daniels** exec *Randy Wells*, **GrowthLix’s** *Shannon Saviers*, **Alpha Global Partners’** *Sudhir Ispahani*, **Fuse Media’s** *Arturo Marquez*, **Liberty Latin America’s** *Balan Nair*, **C3 Broadband Integration’s** *Daniel McKay*, **Court TV’s** *Dick Beahrs*, **Broadband Success Partners’** *Jack Burton*, **Mega Broadband’s** *Jack Dyste*, **Amazon Web Service’s** *Marc Aldrich* and **Technetix’s** *Eric Perbohner* (deceased). For the first time, the Pioneers is inducting what it’s calling the “Tech Ten,” a group of behind-the-scenes people who have enabled new, critical services to launch at scale. “These men and women have devoted their professional careers and much of their personal lives to the creation of critical standards and interoperability to enable new services to launch at scale. Working with organizations such as **IEEE**, **CableLabs**, **SCTE**, **SMPTE** and **ITU**, they have been core to the evolution of residential business and enterprise endeavors,” said Pioneers board member *Pat Kehoe*. The Tech Ten includes **Denney** and **Pantelias** as well as **Calix’s** *Mike Emmendorfer*, **Ciena’s** *Fernando Villarruel*, *Jack Moran* (retired), **Applied Broadband’s** *Jason Schnitzer*, **Charter’s** *Pawel Sowinski*, **Comcast’s** *Robert Howald*, **SCTE’s** *Steven Harris* and **CableLabs’** *Tom Williams*.

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PAC-12 OVERPAYMENT FALLOUT

The **Pac-12’s** list of issues off the field continues to grow. In January, the conference let go CFO *Brent Willman* and **Pac-12 Networks** President *Mark Shuken* after failing to report an overpayment of \$50 million from what was then labeled an unnamed media distribution partner. That partner turned out to be **Comcast**, and now the actual [budget hit](#) the Pac-12 is taking has been revealed to be \$72 million, according to the

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San Jose Mercury News. Pac-12 commissioner George Kliavkoff revealed the figure in a court declaration after Willman and Shuken filed a wrongful termination lawsuit in April. Approximately \$50 million of that is what is owed to Comcast, while the remaining \$22 million is going to the conference. According to the Mercury News—which cites a source—the \$72 million figure can be broken into two ways: distributions withheld by Comcast to offset 10 years of overpayments due to its tracking of Pac-12 Networks subscribers (\$58 million), and reductions in distributions from FY23 and FY24 to make up for a correction in subscriber figures (\$14 million). The withholding and reduction of the \$72 million has already begun and is currently expected to be finalized before the end of the current fiscal year. Both Comcast and the Pac-12 declined to comment.

CABLE-TEC EXPO NEWS

OpenVault is partnering with **Harmonic** to integrate its Profile Management Application technology with Harmonic’s cOS broadband platform. It’ll help simplify the optimization of bandwidth and performance for operators with DOCSIS 3.1 or higher networks. OpenVault’s PMA software will enable broadband CMTs to identify network impairments, which maximizes network capacity when they’re present. – Broadband network solutions provider **Hitron** launched two DOCSIS 4.0 SKU products: CODA6000 and CODA6008. The CODA6000 allows for seamless integration with DOCSIS 3.1 and 4.0 networks, which enables service providers the ability to offer numerous services while also future-proofing service offerings. Other features for both products include high split and ultra-high split capabilities, 10 Gig ethernet port, advanced remote troubleshooting and telemetry assist for real-time insights.

NFL’S STREAMING ADVENTURES

We’re well into the NFL’s plan to put more of its games on digital properties with the release of **NFL+** in July 2022 and the transition of **NFL Sunday Ticket** to **YouTube**. But those decisions mean many eyes from the professional sports realm are looking to see what blueprint works. Data from Antenna [estimates](#) the number of signups for NFL+ reached 2 million as of the end of September, up from a 2022 season-high of 1.7 million. Antenna estimates 1.3 million signups for Sunday Ticket from April-October 1.

NBC SPORTS GETS BOXXER RIGHTS

Boxxer, a professional boxing content provider and promotion company, agreed to a media rights deal with **NBC Sports** to bring its events to U.S. audiences. The bouts will be streamed on **Peacock** and have select events on NBC in the U.S. **Boxxer** has its programming air on **Sky Sports** in the U.K. and Ireland.

PROGRAMMING

National Geographic greenlit the docuseries “Top Gun: The Next Generation.” The series provides access to one of the U.S. Navy’s most intense training and selection programs. It’ll follow a group of officers as they move through the Advanced Flight Training Program. – **Warner Bros. Discovery** will offer an alternate telecast for tonight’s NLCS battle between the Diamondbacks and Phillies. The main telecast will be on **TBS** tonight starting at 8pm, but the alternate “Postseason ALTcast: Peloteros” will air on **truTV** with a heavy dose of cultural conversations throughout the game. It’ll be hosted by **MLB Network’s Alanna Rizzo**, who’ll be joined by *Pedro Martínez*, *Albert Pujols* as well as current players *Néstor Cortés Jr.* and *Enrique Hernández*. Coverage will also be streamed on **Max**. – **Disney+**’s “Once Upon A Studio,” which features 543 Disney characters from over 85 movies and short films, made its debut today. It’ll be shown on **Disney Channel**, **Disney Junior**, **Freeform**, **FX**, **FXN** and **FXM** today as well, with additional airings on Disney Junior on Oct. 18 and Disney Channel on Oct. 22.

PEOPLE

Comcast is shifting around its content acquisition team. It is upping **Drew Brayford** to SVP, Content Acquisition for Comcast Cable. In his ten years at the company, he has participated and led deals with the likes of **Nexstar**, **Paramount**, **NFL** and **Sinclair**. He’ll lead all broadcast distribution activities and other major programmer relationships. SVP, Content Planning & Acquisition **Mike Nissenblatt** will also be retiring from Comcast after 22 years. Before joining the company, he held several key management positions at **Disney ABC Television Group** in New York.



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