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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA
BY: _____

FILED

18 UNITED STATES DISTRICT COURT FOR THE
19 CENTRAL DISTRICT OF CALIFORNIA
20 SOUTHERN DIVISION
21

22 -----
23 DIRECTV, Inc., a California corporation,
24

25 Plaintiff,

26 v.

Civil Action No.

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28
29 PETER AN PHUONG NGO NGUYEN and
30 MY THI UONG, Individually, and as
31 officers, directors, shareholders and/or
32 principals of CLOUD 9 RESTAURANT
33 INC., d/b/a CLOUD 9 RESTAURANT, and
34 CLOUD 9 RESTAURANT INC., d/b/a
35 CLOUD 9 RESTAURANT,
36

CV10-2743 AHM (RZx)

37 Defendants.
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PLAINTIFF'S ORIGINAL COMPLAINT

1. Plaintiff, DIRECTV, sues PETER AN PHUONG NGO NGUYEN and MY THI UONG, Individually, and as officers, directors, shareholders and/or principals of CLOUD 9 RESTAURANT INC., d/b/a CLOUD 9 RESTAURANT, and CLOUD 9 RESTAURANT INC., d/b/a CLOUD 9 RESTAURANT, (referred to hereinafter as "Defendants"), and states as follows:

I. JURISDICTION

2. This lawsuit is brought pursuant to the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, *et seq.* (The "Act"), as an action for declaratory and injunctive relief and damages for the improper receipt, transmission, and exhibition of satellite programming signals in violation of the Act. This Court has jurisdiction of the subject matter to this action under 28 U.S.C. §1331. Pursuant to which the United States District Courts have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.

3. This Court has personal jurisdiction over the parties in this action. Defendants to this action had or have an agent or agents who has or have independently transacted business in the District of California and certain activities of Defendants giving rise to this action took place in the District of California; more particularly, Defendants' acts of violating federal laws and the proprietary rights of DIRECTV, Inc., as distributor of the satellite programming transmission signals which took place within the District of California. Moreover, upon information and belief, Defendants have their principal place of business within the District of California; thus, this Court

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1 has personal jurisdiction over Defendants.

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3 **II. VENUE**

4 4. Venue is proper in this judicial district under 28 U.S.C. §1391(b) as a substantial part
5 of the events or omissions giving rise to the claim occurred within Orange County, which is within
6 the District of California [28 U.S.C. § 84(c)(3)].

7
8 **III. PARTIES**

9 5. Plaintiff, DIRECTV, Inc. (referred to hereinafter as "DIRECTV"), is at all times
10 relevant hereto a corporation incorporated under the laws of the State of California. DIRECTV is
11 a major distributor of satellite programming doing business throughout the United States. Through
12 its operations, DIRECTV provides interstate direct broadcast satellite programming to subscribers
13 with specialized satellite receiving equipment who pay for the programming via a subscription fee
14 and obtain a programming license from DIRECTV in return for a subscription. The obvious result
15 of a user subscription is that users can then watch programs on their televisions and/or listen to
16 certain high quality audio programs communicated electronically by DIRECTV via satellite (referred
17 to hereinafter as the "Satellite Programming"). DIRECTV holds proprietary rights to the Satellite
18 Programming it transmits and DIRECTV is the owner of and/or a lawfully designated distribution
19 agent for such Satellite Programming.

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1 subsequently displaying the programming in a commercial establishment for commercial gain
2 without authorization, or by such other means which are unknown to DIRECTV and known only to
3 Defendants.

4 19. Each of the Defendants' acts violates federal law. Defendants, illegally and without
5 authorization, intercepted, received and exhibited, or otherwise assisted in the unauthorized
6 interception, reception or exhibition of Satellite Programming transmitted by DIRECTV. Moreover,
7 Defendants divulged or published the existence, contents, substance, purport, effect or meaning of
8 such satellite communications. Further, Defendants used such communications for their own benefit
9 or for the benefit of others who were not entitled to such communications. Each of these acts is a
10 practice prohibited by 47 U.S.C. §605(a).

11 20. DIRECTV is a person aggrieved by Defendants' violation of 47 U.S.C. §605 and is
12 authorized to institute this action against Defendants pursuant to 47 U.S.C. §605(e)(3)(A).

13 21. Defendants' violations of 47 U.S.C. §605 have injured DIRECTV's ability to
14 maximize the revenues which it seeks to derive from the Satellite Programming, as DIRECTV has
15 been deprived of the benefit of subscribers to the Satellite Programming. As a further result of such
16 violations, DIRECTV's goodwill and reputation have been usurped by Defendants while Defendants
17 gained and will continue to gain unjust profits and undeserved goodwill. DIRECTV is entitled to
18 costs, reasonable attorney's fees, actual damages suffered and profits obtained by Defendants
19 attributable to their illegal conduct.
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- 1 a. Declare that Defendants' unauthorized interception, reception, and public
2 commercial exhibition of DIRECTV's electronic communications, or its assistance
3 in the performance of such unauthorized actions, were in violation of 18 U.S.C.
4 §2511 and 47 U.S.C. §605, and that such violations were committed willfully and for
5 purposes of direct or indirect commercial advantage and private financial gain;
6
7 b. In accordance with 18 U.S.C. §2520(b)(1) and 47 U.S.C. §605(e)(3)(B)(I), enjoin
8 Defendants, and Defendant corporation and establishment, their owners, officers,
9 agents, servants, employees and attorneys, and all persons in active concert or
10 participation with any of them from (i) interfering with DIRECTV's proprietary
11 rights; (ii) intercepting, receiving, divulging, or displaying DIRECTV's Satellite
12 Programming without prior written consent of DIRECTV; and (iii) further violations;
13
14 c. Award DIRECTV statutory damages in the amount of the greater of \$10,000 or \$100
15 per day for each day Defendants violated 18 U.S.C. §2511 or, alternatively,
16 DIRECTV requests judgment for actual damages, plus damages equal to any profits
17 attributable to the Defendants' violations of 18 U.S.C. §2511;
18
19 d. Award DIRECTV statutory damages in the amount of \$10,000 for each violation of
20 47 U.S.C. §605, plus an additional \$100,000 for each violation pursuant to 47 U.S.C.
21 §605(e)(3)(C)(ii); alternatively, DIRECTV requests judgment for actual damages,
22 plus damages equal to any profits attributable to the Defendants' violations of 47
23 U.S.C. §605;
24
25 e. That the Court award punitive damages; and
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28 f. That this Court award DIRECTV its costs, including reasonable attorney's fees,
29 prejudgment interest and post-judgment interest, and such other relief to which
30 DIRECTV may be entitled.
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32 Dated: April 12, 2010
33 Ellenville, New York
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Respectfully submitted,

DIRECTV, Inc

By: _____

~~WAYNE D. LONSTEIN~~

Attorney for Plaintiff

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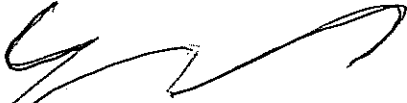
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