

Posted by Al Zakarian

Ohio End User Trial Settles

The civil trial by DIRECTV against an End User that was scheduled to begin on Monday, October 6, 2003, settled on October 5, 2003. The End User was represented by Albert A. Zakarian, Esquire and Robert Apgood, Esquire. Throughout the End User's defense of this matter, the End User consistently asserted to DIRECTV and counsel, during sworn depositions and elsewhere, that he had not engaged in any conduct that violated Titles 18 and 47 of the U.S. Code, and that he purchased unloopers for a legitimate smart card research project. These Federal Laws expressly prohibit: the unauthorized reception of satellite television programming; providing assistance for the unauthorized reception of satellite television programming; and the manufacture, assembly, modification, importation, exportation, sale, or distribution of Pirate Access Devices.

During the course of pre-trial discovery, DIRECTV undeniably showed its willingness to bring to bear considerable investigative and financial resources in an effort to investigate the facts underlying this End User's suspected piracy-related activities. As a result, DIRECTV discovered substantial evidence that, despite statements to the contrary, this End User had, in fact, provided assistance to one or more persons in their efforts related to the unauthorized reception of DIRECTV'S satellite television programming.

In light of this newly discovered evidence, the End User was facing a substantial likelihood that DIRECTV would have, at a minimum, obtained a verdict against this End User based upon the End User's assistance of activities related to unauthorized reception of DIRECTV'S satellite television programming. As a result of such a verdict, the End User was also facing a substantial monetary judgment pursuant to the terms of Title 47 of the U.S. Code, including recovery by DIRECTV of reasonable attorney's fees and costs expended by it during this trial.

The End User agreed to settle this matter with DIRECTV. The terms of that settlement include: (1) payment to DIRECTV of \$20,000; (2) a consent judgment in the amount of \$225,000 which includes the Title 47 damages to which DIRECTV would have been entitled, including a significant sum for attorney's fees and costs; (3) a permanent injunction against any and all satellite piracy related activities; and (4) other considerations.