

1 Yasha Bronshteyn, Esq.
2 Ginzburg & Bronshteyn, LLP
3 11111 Santa Monica Boulevard, Suite 1840
4 Los Angeles, CA 90025
5 Tel. (310)914-3222
6 Fax (310)914-4242
7 Email: yashagblp@yahoo.com
8 SBN: 210248
9

10 Julie Cohen Lonstein, Esq.
11 Lonstein Law Office, P.C.
12 1 Terrace Hill, P.O. Box 351
13 Ellenville, NY 12428
14 Tel. (845) 647-8500
15 Fax (845) 647-6277
16 Email: Julie@signallaw.com
17

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CLERK U.S. DISTRICT COURT
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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, **CV 11 - 00383**

26 **SM (OPX)**

27 v.

Civil Action No.

28 WINTER ANNE BOONE, Individually, and
29 as officer, director, shareholder and/or
30 principal of ONTARIO CAL TRADING
31 INC., d/b/a CARLOS AND CHARLIES
32 RESTAURANT AND BAR, a/k/a CARLOS
33 & CHARLIE'S RESTAURANT,
34

35 and

36
37 ONTARIO CAL TRADING INC., d/b/a
38 CARLOS AND CHARLIES RESTAURANT
39 AND BAR, a/k/a CARLOS & CHARLIE'S
40 RESTAURANT,
41

Defendants.
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1 **PLAINTIFF'S ORIGINAL COMPLAINT**

2
3 1. Plaintiff, DIRECTV, sues WINTER ANNE BOONE, Individually, and as officer,
4 director, shareholder and/or principal of ONTARIO CAL TRADING INC., d/b/a CARLOS AND
5 CHARLIES RESTAURANT AND BAR, a/k/a CARLOS & CHARLIE'S RESTAURANT, and
6 ONTARIO CAL TRADING INC., d/b/a CARLOS AND CHARLIES RESTAURANT AND BAR,
7 a/k/a CARLOS & CHARLIE'S RESTAURANT, (referred to hereinafter as "Defendants"), and states
8 as follows:

9
10 **I. JURISDICTION**

11 2. This lawsuit is brought pursuant to the Cable Communications Policy Act of 1984,
12 47 U.S.C. § 521, *et seq.* (The "Act"), as an action for declaratory and injunctive relief and damages
13 for the improper receipt, transmission, and exhibition of satellite programming signals in violation
14 of the Act. This Court has jurisdiction of the subject matter to this action under 28 U.S.C. §1331.
15 Pursuant to which the United States District Courts have original jurisdiction of all civil actions
16 arising under the Constitution, laws or treaties of the United States.

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

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1 Defendants have their principal place of business within the District of California; thus, this Court
2 has personal jurisdiction over Defendants.

3
4 **II. VENUE**

5 4. Venue is proper in this judicial district under 28 U.S.C. §1391(b) as a substantial part
6 of the events or omissions giving rise to the claim occurred within San Bernardino County, which
7 is within the Central District of California [28 U.S.C. § 84(c)(1)].

8
9 **III. PARTIES**

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

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1 subscriber to unscramble and receive the Satellite Programming.

2 11. DIRECTV provides services to homes based on residential rates and to commercial
3 establishments under commercial rates. Because equipment used with DIRECTV services can be
4 moved from residential locations to commercial establishments without DIRECTV's knowledge,
5 commercial gain, at the lower residential rates can surreptitiously gain access to DIRECTV
6 programming without proper authorization by subscribing to DIRECTV services under a residential
7 account and then installing/moving the equipment to their businesses and utilizing those services in
8 a commercial environment.

9 12. On or about, and prior to, August 7, 2010, Defendants did not have a valid
10 commercial account with DIRECTV.

11 13. Without obtaining valid commercial exhibition rights, the Defendants willfully received
12 and displayed Satellite Programming to the public and for commercial benefit or financial gain;
13 specifically, Defendants received and displayed, among other programs, the UFC #117 Pay-Per-View
14 program. Such Satellite Programming was displayed without authorization from DIRECTV.

15 14. Defendants, without entitlement, without prior permission or authorization from
16 DIRECTV, and without having paid DIRECTV for the right to receive, broadcast, use or display
17 DIRECTV's Satellite Programming in the commercial establishment known as CARLOS &
18 CHARLIE'S RESTAURANT, have received, assisted in receiving, transmitted, assisted in
19 transmitting, divulged, published and displayed the content and substance of DIRECTV's Satellite
20 Programming at such Defendants' place of business, CARLOS & CHARLIE'S RESTAURANT.
21 Without authorization, Defendants displayed and/or published such Satellite Programming to their

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1 customers and others. Defendants' conduct violates several federal statutes, including 18 U.S.C.
2 §§2511 and 2512, and 47 U.S.C. §605, and laws of the District of California. Moreover, Defendants'
3 acts were unauthorized, willful, and for purposes of direct or indirect commercial advantage or
4 private financial gain.

5 15. DIRECTV has been damaged by Defendants in that (a) DIRECTV has been denied
6 subscription fees for commercial use of its Satellite Programming; (b) DIRECTV's sales have been
7 reduced through Defendants' unfair competition with DIRECTV's authorized customers; and (c)
8 DIRECTV's proprietary rights in the Satellite Programming have been impaired. In addition,
9 Defendants profited and gained commercial advantage from the unauthorized and willful use of
10 DIRECTV's Satellite Programming.

11 16. DIRECTV has been required to retain attorneys to prevent Defendants' wrongful acts
12 and to prosecute this action. Due to Defendants' statutory violations, DIRECTV is entitled to
13 recover the reasonable attorneys' fees and expenses incurred in prosecution of this action under
14 federal law.

15
16 **V. CAUSES OF ACTION**

17 **Count 1 - Damages for Violations of Cable Communications Policy Act**
18 **[47 U.S.C. §605(e)(3)(C)]**
19

20 17. DIRECTV realleges the allegations contained in the foregoing paragraphs of this
21 Complaint and incorporates such allegations as if fully set forth herein.

22 18. DIRECTV alleges on information and belief, that Defendants effected unauthorized
23 interception and receipt of Satellite Programming by ordering programming for residential use and
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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.

20 22. Alternatively, DIRECTV is entitled to statutory damages in an amount not less than
21 \$1,000 nor more than \$10,000 for each violation of 47 U.S.C. §605(a).

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1 to the greater of the sum of (1) actual damages suffered by DIRECTV and the profits made by the
2 Defendants as a result of their conduct, or (2) statutory damages in an amount the greater of \$10,000
3 or \$100 per day for each day Defendants acted in violation of 18 U.S.C. §2511.
4

5 **Count 3 - Civil Conversion**

6 29. DIRECTV realleges the allegations contained in the foregoing paragraphs of this
7 Complaint and incorporates such allegations as if fully set forth herein.

8 30. By virtue of the conduct set forth above, Defendants have unlawfully converted
9 DIRECTV's property for their own commercial use and benefit.

10 31. Such conversion was done intentionally and wrongfully by Defendants to deprive
11 DIRECTV of its proprietary interests, and for Defendants' direct commercial benefit and advantage.

12 32. Due to Defendants' wrongful conversion of DIRECTV Satellite Programming,
13 DIRECTV suffered damages.
14

15 **VI. REQUEST FOR INJUNCTIVE RELIEF**

16 33. DIRECTV realleges the allegations contained in the foregoing paragraphs of this
17 Complaint and incorporates such allegations as if fully set forth herein.

18 34. DIRECTV further alleges that unless restrained by this Court, Defendants will
19 continue to receive, intercept, transmit, and exhibit the Satellite Programming, illegally and without
20 authorization, in violation of 47 U.S.C. §605. Defendants intercepted and publicly exhibited the
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1 Satellite Programming without authorization on at least one (1) occasion and DIRECTV cannot
2 practicably detect or determine each occasion on which Defendants have intercepted and publicly
3 exhibited the Satellite Programming.

4 35. The violations of 47 U.S.C. §605 set forth above have caused and will continue to
5 cause DIRECTV irreparable harm.

6 36. DIRECTV cannot practicably determine the loss of subscribers and lost revenues
7 resulting from Defendants' unlawful conduct. In addition to diminishing DIRECTV's revenues,
8 Defendants' unlawful conduct injures DIRECTV's reputation and goodwill as well as its ability to
9 attract and finance the future acquisition, production, and distribution of quality programming,
10 thereby impairing DIRECTV's ability to enhance its future growth and profitability.

11 37. DIRECTV has no adequate remedy at law to redress the violations set forth above.

12
13 **VII. PRAYER**

14 WHEREFORE, Plaintiff, DIRECTV, INC., prays that this Court enter judgment in its favor
15 and against Defendants, and:

16 a. Declare that Defendants' unauthorized interception, reception, and public
17 commercial exhibition of DIRECTV's electronic communications, or its assistance
18 in the performance of such unauthorized actions, were in violation of 18 U.S.C.
19 §2511 and 47 U.S.C. §605, and that such violations were committed willfully and for
20 purposes of direct or indirect commercial advantage and private financial gain;

21
22 b. In accordance with 18 U.S.C. §2520(b)(1) and 47 U.S.C. §605(e)(3)(B)(I), enjoin
23 Defendants, and Defendant corporation and establishment, their owners, officers,
24 agents, servants, employees and attorneys, and all persons in active concert or
25

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1 participation with any of them from (i) interfering with DIRECTV's proprietary
2 rights; (ii) intercepting, receiving, divulging, or displaying DIRECTV's Satellite
3 Programming without prior written consent of DIRECTV; and (iii) further violations;
4

- 5 c. Award DIRECTV statutory damages in the amount of the greater of \$10,000 or \$100
6 per day for each day Defendants violated 18 U.S.C. §2511 or, alternatively,
7 DIRECTV requests judgment for actual damages, plus damages equal to any profits
8 attributable to the Defendants' violations of 18 U.S.C. §2511;
9
- 10 d. Award DIRECTV statutory damages in the amount of \$10,000 for each violation of
11 47 U.S.C. §605, plus an additional \$100,000 for each violation pursuant to 47 U.S.C.
12 §605(e)(3)(C)(ii); alternatively, DIRECTV requests judgment for actual damages,
13 plus damages equal to any profits attributable to the Defendants' violations of 47
14 U.S.C. §605;
15
- 16 e. That the Court award punitive damages; and
17
- 18 f. That this Court award DIRECTV its costs, including reasonable attorney's fees,
19 prejudgment interest and post-judgment interest, and such other relief to which
20 DIRECTV may be entitled.
21

22 Dated: December 29, 2010
23 Ellenville, New York

24 Respectfully submitted,

25 DIRECTV, Inc.

26
27
28 By: _____

JULIE COHEN LONSTEIN

Attorney for Plaintiff

LONSTEIN LAW OFFICE, P.C.

1 Terrace Hill : P.O. Box 351

Ellenville, NY 12428

Telephone: (845) 647-8500

Facsimile: (845) 647-6277

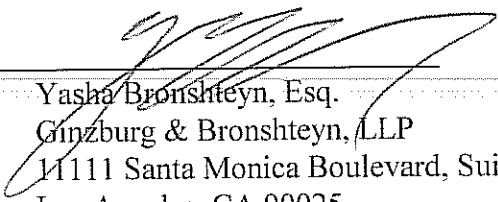
Email: Info@signallaw.com, Julie@signallaw.com

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BY: _____



Yasha Bronshteyn, Esq.
Ginzburg & Bronshteyn, LLP
1111 Santa Monica Boulevard, Suite 1840
Los Angeles, CA 90025
Tel. (310)914-3222
Fax (310)914-4242
Email: yashagblp@yahoo.com
SBN: 210248

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