

FILED

UNITED STATE DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

2019 MAY 31 PM 12: 21

CLERK US DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA FLORIDA

DISH NETWORK, L.L.C.)
 and NAGRASTAR, LLC,)
)
Plaintiff,)
)
 v.)
)
 PETER LIBERATORE, BRANDON)
 WELLS, DROID TECHNOLOGY LLC,)
 and TAMPA BAY MARKETING)
 SERVICES, INC., individually and)
 Collectively d/b/a www.simply-tv.com,)
)
Defendant.)
)
 _____)

Case No.: 8:19-cv-672-T-02AEP

DEFENDANTS' RESPONSE TO PLAINTIFFS' COMPLAINT

The Defendants, PETER LIBERATORE (“Liberatore”); BRANDON WELLS (“Wells”); DROID TECHNOLOGY LLC (“Droid Technology LLC”); and TAMPA BAY MARKETING SERVICES, INC. (“Tampa Bay Marketing”) (Collectively, “Defendants”) hereby answer Plaintiffs’ Complaint (Docket No. 1) and assert affirmative defenses as follows:

RESPONSES TO SPECIFIC ALLEGATIONS

The numbering of the following responses corresponds to the numbering of the allegations in Plaintiffs’ Complaint. As used herein below, “lacks knowledge or information” indicates that a party “lacks knowledge or information sufficient to for a belief about the truth of an allegation” under Fed. R. Civ. P. 8(b)(5).

PARTIES

1. Lack knowledge or information.
2. Lack knowledge or information.
3. Admit.
4. Admit.

5. Admit.
6. Admit.
7. Deny.
8. Deny.
9. Deny.
 - A. Deny.
 - B. Deny.
 - C. Deny.
 - D. Deny.
10. Deny.
11. Admit that Liberatore and Wells act in some circumstances on behalf of Droid Technology LLC. Deny remainder.
12. Deny.

JURISDICTION AND VENUE

13. Admit.
14. Deny that conduct described in Plaintiffs' Complaint is wrongful. Admit remainder.
15. Admit.

NATURE OF THE ACTION

16. Admit that Droid Technology LLC provided a subscription-based streaming service branded "Simply-TV." Admit that at least some content available on Simply-TV originated from Dish Network. Admit that Droid Technology LLC contracted with several vendors to provide services related to Simply-TV. Deny remainder.

DISH'S SATELLITE TELEVISION PROGRAMMING

17. Lack knowledge or information.
18. Lack knowledge or information.
19. Lack knowledge or information.
20. Lack knowledge or information.
21. Lack knowledge or information.

DEFENDANTS' WRONGFUL CONDUCT

22. Admit that subscriptions to Simply-TV were sold through the identified websites. Admit that the quoted advertising language may have been used by Droid Technology LLC to promote Simply-TV. Admit that the reproduced graphics appear to be promotional material that may have been used by Droid Technology LLC to promote Simply-TV. Deny remainder.
23. Admit that the quoted advertising language may have been used by Droid Technology LLC to promote Simply-TV.
24. Admit that some of the content provided by Simply-TV to subscribers originated from Dish Network. Admit that Simply-TV did not have explicit authorization from Dish Network. Lack knowledge or information as to what Plaintiffs may have observed in content received from the Simply-TV service. Deny remainder.
25. Admit that Droid Technology LLC sold subscriptions to Simply-TV through the "Simply-TV Domains," and that Droid Technology LLC provided technology, including hardware or software, for consuming Simply-TV content on various devices. Deny remainder.
26. Admit that Droid Technology LLC used a commission-based affiliate program to promote Simply-TV, and that at least some versions of this affiliate program include a "master reseller" concept involving subscription credits. Admit that Droid Technology LLC provided support tools to its affiliates and resellers. Deny remainder.
27. Deny.
28. Admit that Droid Technology LLC has provided at least some Dish Network content to subscribers. Deny remainder.

CLAIMS FOR RELIEF

(Count I – Violation of the Federal Communications Act, 47 U.S.C. § 605(a) – On Behalf of Dish)

29. Defendants' responses to the referenced paragraphs are incorporated herein by reference.
30. Admit that Droid Technology LLC or a person in contact with Droid Technology LLC received Dish Network transmissions. Lack knowledge or information as to whether the person receiving Dish Network transmissions had authorization from Dish Network. Deny remainder.
31. Deny.

32. Deny.

33. Deny.

**Count II – Violation of the Federal Communications Act, 47 U.S.C. § 605(a) – On
Behalf of Dish)**

34. Defendants' responses to the referenced paragraphs are incorporated herein by reference.

35. Deny.

36. Deny.

37. Deny.

PRAYER FOR RELIEF

A. Deny.

1. Deny.

2. Deny.

B. Deny.

C. Deny.

D. Deny.

E. Deny.

F. Deny.

G. Deny.

H. Deny.

I. Deny.

J. Deny.

Dated this 31st day of May, 2019.



PETER LIBERATORE

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY a copy of the foregoing has been electronically and personally served upon: **JAMES A. BOATMAN, Jr., Esquire**, The Boatman Law Firm, P.A., courtfilings@boatman-law.com; (Primary) and **HONORABLE WILLIAM F. JUNG**, United States District Judge, 801 N Florida Ave, Tampa, FL 33602, Chambers: 1558 (Primary) this 31 day of May, 2019.



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