

CableFAX Daily™

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What the Industry Reads First

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Lawsuit Scorecard: Madden, Barkley Join DISH's Legal Hit Parade

DISH Network's legal machine is working overtime these days, with a new lawsuit popping up on our radar every few weeks. The latest complaint to grab our attention involves sports legends *John Madden* and *Charles Barkley*. Last month, DISH quietly asked the US District Court for CO to declare that its ad campaign featuring parodies of the 2 former athletes does not violate trademark or common law rights. While the complaint was filed on Valentine's Day, as far as we can tell, no media picked up on it. Despite the big names involved, the lack of notice is not that surprising given the flurry of lawsuits involving DISH in recent months (see "Legal Laundry List" below). DISH said it filed the complaint because Madden and Barkley reps have threatened imminent legal action over the national campaign. The spots feature comedian *Frank Caliendo*, star of TBS series "Frank TV," impersonating the 2 (see them at www.dishnetwork.com). Other famous faces lampooned in the campaign include *George W Bush* and *Al Pacino* (not mentioned in the court filing). Caliendo, who is ID'd as a comedian in the spots, appears as himself side-by-side his impersonations, who tout DISH products (ie, Bush likes the "recordification" of the DVR). The parodies "do no create any likelihood of confusion, or suggest or imply that Mr. Madden or Mr. Barkley sponsor or promote DISH Network," DISH told the court. **Legal Laundry List:** So many programmers are wrapped in legal entanglements with DISH over package placement, licensing fees, etc, we thought we'd compile a cheat sheet to help you keep tabs. Here's a list—at least the ones we know about!

- **ABC Cable/ESPN:** DISH filed a request for a preliminary injunction and temporary restraining order last month in NY Supreme Court, naming ESPN, **ESPN Classic**, ABC Cable Nets, **SOAPNet** and **Intl Family Ent** as defendants.
- **Fox News:** Fox News sued in Dec for about \$50mln, claiming the operator breached a '98 contract requiring the channel to be offered on its most widely distributed package. DISH demanded a trial by jury earlier this month.
- **HBO:** Filed suit in Jan '07 over \$90 mln in unpaid licensing fees. Dropped suit in Feb '07, reaching a long-term deal.
- **NFL Net:** The net filed suit late last month over DISH's decision to move the channel to a lesser distributed tier.
- **Voom:** The **Rainbow** HD programming service won a temporary restraining order that keeps its nets from being moved to a higher-priced tier. It's seeking a permanent injunction to stop DISH from tiering the channels.

HD Fuel Leaks: A pair of recent satellite snafus affecting the HD initiatives of both **DirectTV** and **DISH** sent the sat-casters' shares on a downward trajectory Wed to close at \$24.45 (-1.2%) and \$26.64 (-4%), respectively. On Fri, **SES Americom's** launch of a satellite slated to increase DISH's HD channel capacity left the bird in a lower orbit than planned. DISH said in an **SEC** filing that the anomaly "will result in a delay in our rollout of some high definition channels, including some local network channels," although the true extent of the damage remains unclear. **Sanford Bernstein** analyst *Craig Moffett* predicted "it could take years for Dish Network to fully recover," considering "the long lead



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times involved in contracting for, building, and launching a satellite... The mishap extends the window of advantage for DirecTV [and] cable operators similarly benefit." But DirecTV has encountered its own satellite trouble. **Sea Launch** postponed indefinitely Sun the launch of a satellite that was also poised to increase HD capacity, citing technical problems. DirecTV directed inquiries to Sea Launch, whose spokeswoman said a 2-day delay is expected.

In the Courts: For the 1st time 30 years, the Supreme Court will hear a case about profanity on broadcast. The Court agreed to hear the **FCC's** appeal to reaffirm its authority to declare a single fleeting expletive in violation of its indecency rules. This all dates back to *Cher* and *Nicole Richie* dropping the F-bomb on Fox in '02 and '03. A lower court ruled last summer that the FCC couldn't fine fleeting profanity. -- A federal appeals court has ordered a new trial for former **Qwest** CEO *Joe Nacchio*, who was sentenced to 6 years in jail after a CO jury last year found him guilty of 19 counts of insider trading. The court said the trial judge wrongly excluded expert testimony and ordered a new judge to hear Nacchio's case. -- A judge has certified a class action suit against **Charter** by field techs who claim they weren't paid for all the hours they worked, AP reports. The suit was filed in the US District Court for the Western District of WI. Charter said the class is only conditionally certified but declined further comment on pending litigation.

Competition: **AT&T** has launched **Team USA on Demand**, providing exclusively to **U-verse TV** subs special eps and behind-the-scenes footage of US Olympic Team members' training activities. More content will be added leading up to the '08 Games in Beijing. Also, the telco rolled out **U-verse Voice** in Sacramento after expanding the availability of its video product there earlier this month. -- **DirecTV** is set to launch **Gospel Music Channel** nationwide on Wed.

In the States: The storm that ripped through the Atlanta area Fri, causing damage at the **Georgia Dome** and **CNN Center**, didn't injure any employees of the net or **Turner**, which both operated as usual Mon, said a spokesperson. Repairs to the CNN Center are underway. -- **Cox** inked with **Yellow Book USA** a co-marketing and distribution deal allowing Yellow Book directories to include Cox branding and product information in some of the MSO's markets, including OK City and Pensacola. -- **CBS College Sports Net**, nee **CSTV**, officially launched Sun with content focused on the **NCAA's** selection of men's basketball tourney teams.

VOD: **TVN** will distribute **Film Movement's Film Festival On Demand**, providing free indie films from major festivals.

Programming: **MTV** and the *AP* will bring together *Barack Obama* and *Hillary Clinton* with 8 young veterans just back from Iraq for a discussion on the 5th anniversary of the war. Taped in PA, the special will be roadblocked across **MTV**, **mtvU**, **MTV2**, **MTV Tr3s**, **MTV Hits**, **MTV Jams**, and streamed across 1800 sites of the Associated Press Online Video Network, Thurs, 6pm. -- **NHL Net** on Mar 17 began simulcasting live and in high-def "**NHL Live**," a **XM Radio** talk show. The 2-hour show will air on the net throughout the Stanley Cup Playoffs and the '08 NHL Entry Draft. -- **Bravo** has agreed to air later this year the **19th Annual GLAAD Media Awards**. -- **TV Land** greenlit 4 original pilots, including "First Love, Second Chance," offering long-lost couples a chance to rekindle romance, and game show "What's In The Box."

Online: **GSN** enhanced its relationship with **WPT Enterprises** through **WPTonGSN.com**, launched Mon to accompany the net's Mon premiere of **World Poker Tour** events. -- Retired tennis star *Monica Seles* chronicles at **TennisChannel.com** her experiences as a contestant on **ABC's** "Dancing With the Stars" (Tues) in weekly interviews and Q&A videos. -- **TLC's** new show "The Secret Lives of Soccer Moms," in which stay-at-home moms (SAHMs) can resume the career

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BUSINESS & FINANCE

they left behind, is burning up the mommy message boards. At TLC's own online forum, there are dozens of heated threads, including "If you want a full-time career, invest in birth control." Bottom line: some vocal at-home moms aren't the show's biggest fans. May we suggest "The Secret Lives of Homeschoolers" as a sequel?

On the Circuit: WWE chmn *Vince McMahon* declared he's "the biggest star of all time," upon receiving a star on the Hollywood Walk of Fame Fri.

Public Affairs: RCN is again donating this year \$3mln in cable ad time to the **United Way of America**.

People: HBO Ent pres *Carolyn Strauss* resigned as part of a reorg. -- **WOW!** pres/CEO *Colleen Abdoulah* also becomes chmn, **Avista Capital Partners**. WOW! also named *Cash Hagen* CTO and *Cathy Kuo* chief marketing officer. -- **TV One's** affil relations vet *Brad Samuels* becomes svp, content distribution at **fuse**. The new dept will also handle affil sales and marketing for **MSG** and **MSG Plus** (nee FSNY).

Business/Finance: NBCU acquired a 35% stake in **driverTV**, and will collaborate with the automobile-related video content distributor to provide online content aimed at in-market car buyers and auto enthusiasts. Initial partners include **NBC.com** and **MySpace**. -- **Harmonic** reached a tentative \$16.4mln settlement of a securities class action suit filed in '00.

CableFAX Daily Stockwatch

Company	03/17 Close	1-Day Ch	Company	03/17 Close	1-Day Ch
BROADCASTERS/DBS/MMDS					
BRITISH SKY:	42.30	(1.12)	AMDOCS:	28.32	(1.41)
DIRECTV:	24.45	(0.3)	AMPHENOL:	34.71	(0.41)
DISNEY:	30.46	(0.32)	APPLE:	126.73	0.12
ECHOSTAR:	26.64	(1.1)	ARRIS GROUP:	5.45	0.06
GE:	34.33	0.51	AVID TECH:	23.68	(0.05)
HEARST-ARGYLE:	20.80	(0.36)	BIGBAND:	5.69	(0.2)
ION MEDIA:	1.45	0.00	BLNDER TONGUE:	1.43	(0.05)
NEWS CORP:	18.29	(0.1)	BROADCOM:	16.45	(0.58)
MSOS					
CABLEVISION:	21.85	(0.4)	CISCO:	24.29	(0.03)
CHARTER:	0.78	(0.03)	COMMSCOPE:	34.63	(1.3)
COMCAST:	18.85	(0.07)	CONCURRENT:	0.62	(0.04)
COMCAST SPCL:	18.47	(0.08)	CONVERGYS:	14.49	(0.14)
GCI:	5.26	(0.07)	CSG SYSTEMS:	10.55	(0.19)
KNOLGY:	12.01	(0.07)	ECHOSTAR HOLDING:	32.26	(1.09)
LIBERTY CAPITAL:	15.08	(0.08)	GEMSTAR TVG:	4.40	(0.19)
LIBERTY ENTERTAINMENT:	21.72	(0.85)	GOOGLE:	419.87	(18.05)
LIBERTY GLOBAL:	34.80	(0.68)	HARMONIC:	8.25	0.17
LIBERTY INTERACTIVE:	16.18	0.10	JDSU:	12.45	(0.1)
MEDIACOM:	4.18	(0.02)	LEVEL 3:	1.84	0.04
ROGERS COMM:	42.97	0.00	MICROSOFT:	28.30	0.34
SHAW COMM:	17.63	(0.82)	MOTOROLA:	9.25	(0.3)
TIME WARNER CABLE:	25.43	0.04	NDS:	48.81	(0.49)
VIRGIN MEDIA:	13.50	(0.59)	NORTEL:	6.00	(0.35)
WASH POST:	647.00	(13.95)	OPENTV:	1.14	(0.04)
PROGRAMMING					
CBS:	21.90	0.33	PHILIPS:	37.43	(1.45)
CROWN:	4.72	(0.17)	RENTRAK:	11.33	0.33
DISCOVERY:	20.22	(0.44)	SEACHANGE:	6.56	(0.35)
EW SCRIPPS:	41.30	(0.44)	SPRINT NEXTEL:	5.66	(0.36)
GRUPO TELEVISIA:	21.56	0.01	THOMAS & BETTS:	35.00	(1.16)
INTERACTIVE CORP:	19.86	(0.7)	TIVO:	8.15	(0.2)
LIBERTY:	1.00	0.00	TOLLGRADE:	5.28	(0.04)
LODGENET:	7.42	(1.01)	UNIVERSAL ELEC:	21.94	(0.43)
NEW FRONTIER:	4.47	(0.26)	VONAGE:	1.72	(0.11)
OUTDOOR:	6.32	(0.04)	VYYO:	0.60	(0.03)
PLAYBOY:	8.26	(0.09)	WEBB SYS:	0.04	(0.01)
TIME WARNER:	13.91	(0.12)	YAHOO:	25.85	(0.86)
UNIVISION:	36.23	0.00	TELCOS		
VALUEVISION:	4.55	(0.28)	AT&T:	35.79	0.76
VIACOM:	38.10	(0.29)	QWEST:	4.50	(0.12)
WWE:	18.30	0.14	VERIZON:	34.61	0.79
TECHNOLOGY					
3COM:	2.69	(0.17)	MARKET INDICES		
ADC:	11.76	(0.47)	DOW:	11972.25	21.16
ADVANTAGE:	4.10	(0.12)	NASDAQ:	2177.01	(35.48)
ALCATEL LUCENT:	5.14	(0.12)			

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