

Cablefax Daily™

WHAT THE INDUSTRY READS FIRST

Pirate Patrol: DISH Says Defendants in \$90M IPTV Piracy Case Strike Again

DISH continues its never-ending quest to stop copyright infringers—and sometimes that means suing again. Its latest litigation is aimed at a group of operators that had been ordered to pay DISH a settlement of \$90 million by a Florida court in October 2018, but DISH alleges they never really exited the TV piracy business.

HBO might want to take note because some of the details sound like they could be the makings of an original movie, complete with recorded jailhouse conversations, more than a million dollars in money transfers and a couple of brothers allegedly working behind the scenes.

The suit, filed Tuesday in U.S. District Court for the Middle District of Florida, names *Jason LaBossiere*, *Sean Beaman*, *Stefan Gollner* and *Osivette Brito* as defendants. Contacted Tuesday, a DISH spokesperson said the company doesn't comment on pending litigation. DISH sued LaBossiere and other defendants in June 2018 for their operation of streaming service **SetTV**, which distributed DISH's satellite broadcasts without authorization. Beaman and Gollner were co-owners of the corporate defendant and Brito was a reseller, according to DISH. In addition to the \$90 million settlement, the defendants agreed to a permanent injunction.

DISH claims the defendants have now rebranded the service as **ExpediteTV** and are pirating content from DISH and its streaming service **Sling TV**. ExpediteTV also has been

sold under the names Mundo TV and Must TV, according to the lawsuit. DISH said watermarks added to its programming were detected on the services operated by the defendants, which are advertised for \$24/month for 800+ channels or \$59 for 3 months.

On Feb. 28, DISH asked the court to reopen the previous case and order the defendants to show why they shouldn't be held in contempt for "blatant and repeated violations" of the court's 2018 permanent injunction. DISH obtained phone recording from the Pinellas County (FL) Sheriff's Office in May 2021 that it said show LaBossiere discussing with Beaman and Brito the ExpediteTV service and DISH legal action.

Those conversations included info about two brothers—*Roy "Ken" Clemons* and *Brent Clemons*—who DISH told the court were retained by LaBossiere, Beaman and Gollner to process credit card payments first for SetTV and later for ExpediteTV and other services. The brothers were tasked with setting up entities and establishing bank and merchant accounts in the names of those entities to receive money in connection with the streaming services, according to the suit. DISH said at least 86 payments explicitly referencing ExpediteTV were deposited into that Wells Fargo account between January 22, 2019 and May 28, 2019, totaling more than \$1 million.

Among other things, DISH said Brito informed LaBossiere in the jailhouse phone recordings that Brent Clemons "open[ed] his mouth," that DISH was enforcing the SetTV judgment, and advised LaBossiere to speak with his counsel because "[t]hey

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Cablefax 2022 Award Submission Deadlines

The FAXIES Awards

Deadline: March 11
Final Deadline: March 18

Top Ops Nominations

Deadline: April 1

The Diversity List Nominations

Deadline: June 3
Final Deadline: June 10

Most Powerful Women Nominations

Deadline: August 12
Final Deadline: August 19

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Questions: Kate Schaeffer at kschaeffer@accessintel.com



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DISH has been on a piracy litigation roll, filing a suit last month against **Datacamp Limited** seeking more than \$32.5 million in damages. It's currently seeking \$26 million from a collection of services using the name **Desi TV** in the U.S. and another \$24 million from IPTV service **iStar**.

Back in the day, pirates launching pay TV alternatives relied on equipment and hardware to illegally share content. “These days, with OTT, it's much, much simpler. It's ludicrously easy to do,” *Yael Fainaro*, **Synamedia's** EVP of Security, said during a press event Tuesday. She said there are two primary types of piracy. One is through credential sharing and pooling as well as developing modified apps that look legitimate but allow users to authenticate to service providers without paying.

The second type is called “competing service” piracy, where the providers build an infrastructure that looks like a legit streaming service. “They invest in infrastructure, in marketing, in UI, they have their own kind of user experience and their own apps and their own payments,” Fainaro said. She gave the example of one pirate with only 10,000 subs that is making about a million dollars in revenues.

Some of those competing service pirates offer content for free and make money through advertising or propagating malware, but Synamedia, whose clients include **Comcast, Cox, Disney** and **Fox**, is concentrating most of its efforts on those that are charging a reduced fee because that's where the most money is. “In certain markets, like Western Europe, we're seeing growth of like 37% in the number of users that are watching piracy on a regular basis,” Fainaro said. “Once they start watching through piracy, since the pirates are super, super aggregators... They don't have any limitation of content and then they cut the legit service all together because they have everything under one subscription.”

FCC DENIES GOOD FAITH PETITION

The **FCC** has denied a petition for reconsideration filed by broadcast stations charged with violating its good faith standards by refusing to negotiate retransmission consent with **DirecTV, Deerfield Media, GoCom Media, Mercury Broadcasting, MPS Media, Nashville Licensing Holdings, KMTR Television, Second Generation of Iowa** and **Waite Broadcasting** have been pushing back against a forfeiture order issued by the Commission that would impose a per-station penalty of \$512,228 against 17 of the stations that violated agency policy since the amounts were introduced in September 2020. In the petition filed in August, they claimed the agency made up a new interpretation of its good faith rule in an attack against them, holding that they engaged in staggered joint negotiations based on a template agreement. “On the contrary, throughout this proceeding the Commission has carefully considered the conduct of these specific parties, as presented in the undisputed factual record. ‘Staggered joint negotiations based

The **WHO** and the **WHY**

CFX's spotlight on recent new hires & promotions



NORA Zimmett
PRESIDENT, NEWS & ORIGINAL SERIES
WEATHER GROUP

3 THINGS TO KNOW

- Nora joined Weather Channel in 2014 as SVP of Programming, quickly rising up the ranks. She was EVP, Chief Content Officer until her promotion this month. The new role will see her continue to oversee all live and original programming for The Weather Channel, while also leading the expansion of new services and platforms. That includes the first 24-hour Spanish-language weather network, The Weather Channel en Español, set to launch this spring. Nora also created streaming network Patrn, which is dedicated to climate and environmental reporting.
- When severe weather strikes, Nora makes sure the Weather team is ready. She has helped establish strict protocols for reporting from a storm, including revising those rules of the road for COVID-19. She has first-hand experience with weather tragedy. When Hurricane Katrina ravaged New Orleans in 2005, Nora was on the ground as a producer for Fox News. She praised her former employer for providing counseling to crews covering the devastation, and it's something she has made sure Weather Channel has offered as well.
- In addition to Fox News, Nora also worked for CNN, Bloomberg TV and HDNet. What you may not know is that she is a nationally ranked equestrian who travels the country on weekends and school breaks to compete. She is also a blogger for Chronicle of the Horse, a monthly publication for the equestrian sport.

on a template agreement' is not what happened in this case, and it is not the conduct the commission identified as constituting three distinct per se violations,” the FCC said in its order. The Commission also fought back against the broadcasters' continued claims that they did not have fair notice that their conduct was prohibited under agency rules. “In 2016, Defendants each received letters of inquiry (LOIs) concerning an investigation of possible violations of the good faith requirements. Later that same year **Sinclair**—a station group with which each Defendant has a close relationship—signed a consent decree (CD) with the Commission under which it agreed to pay approximately \$9.5 million to resolve an investigation involving, among other things, suspected violations of the same good faith rule broken by Defendants,” the Commission said.

WARNER BROS DISCOVERY SETS BOARD

The merger of **WarnerMedia** and **Discovery** is set to occur in early 2Q22, and we officially know the board makeup of the new

entity. Per the merger agreement, six directors were designated by Discovery with an additional seven to be named by **AT&T**. Discovery has put forth incoming CEO *David Zaslav*, **Hilltop Investments** Managing Director *Robert Bennett*, **Allen & Company Incorporated** Managing Director/EVP *Paul Gould*, **Liberty Media** Chair *John Malone*, **Advance/Newhouse Partnership** CEO *Steven Miron* and **Advance** Co-President *Steven Newhouse* for its seats. AT&T's designees include *Samuel Di Piazza* (who will serve as board chair), **Narrativ** founder *Li Haslett Chen*, **Barclays** Senior Advisor *Richard Fisher*, former **BET** CEO *Debra Lee*, **Sixth Street Partners** senior advisor *Fazal Merchant*, former **Macy's** EVP/CFO *Paula Price* and **Redpoint Ventures** Founding Partner *Geoffrey Yang*. Di Piazza, Lee and Yang will resign from their positions on AT&T's board following the close of the merger, and AT&T will keep its number of board directors at the reduced level of 10 as a reflection of the company's narrowed focus on connectivity services.

FCC FOREIGN SPONSORSHIP ID RULES GO LIVE

The **FCC's** foreign sponsorship identification rules went into effect Tuesday, requiring broadcasters to disclose when foreign governments or their representatives lease time on their airwaves. The Commission first adopted the requirement in April 2021, and the rules are now effective immediately for new leasing agreements. They'll need to be implemented within 6 months for existing agreements. "In light of recent events, this effort—which is all about transparency—has taken on new importance," FCC Chair *Jessica Rosenworcel* said in a statement. "It is essential that audiences know when a broadcast station has been compensated to air content coming from a foreign government." Additionally, stations airing programming provided by a foreign government pursuant to a lease agreement must now include disclosures in their Online Public Inspection Files.

TWO FOX NEWS STAFFERS KILLED IN UKRAINE

Fox News cameraman *Pierre Zakrzewski* and journalist *Oleksandra Kuvshynova* were killed outside of Kyiv, Ukraine, on Monday. The two were alongside *Benjamin Hall* when incoming fire struck their vehicle. Hall is [currently hospitalized](#) with Fox News saying it has "minimal details" regarding his situation. Zakrzewski served as a war zone photographer, making stops in Iraq, Afghanistan and Syria, while also helping out as an engineer, editor and producer. "Pierre was a constant in all of our international coverage," Fox News Media President and Executive Editor *Jay Wallace* said. "I, like countless others, always felt an extra sense of reassurance when arriving on the scene." Kuvshynova, a native of Ukraine, was a consultant for Fox News and worked with the channel's crews to navigate Kyiv and surrounding areas.

NETFLIX TARGET PRICE DROPPED ON TAM CONCERNS

MoffettNathanson lowered its target price for **Netflix** by \$25 to \$350, citing problems measuring how large the total addressable market really is for the streaming giant. Netflix CFO *Spencer Neumann* put that number at 700 million-1 billion homes during an appearance at an investor conference last week. That's technically correct if we're talking about homes that possess the technical ability to become a Netflix subscriber.

But a slowdown in growth in the service's top markets and the addition of only 8.3 million paid subscribers in 4Q21 has the firm questioning whether Netflix can fly much closer to that number. "Part of this slowdown can be attributed to a fierce step up in competition—competition we expect to subside in the medium to long term as competitors start to tap out and step away from this business," **MoffettNathanson** said in a note. "Once the dust from the streaming wars settles, will we see a return to the exponential growth necessary for Netflix to come anywhere close to that 900 million number? How much room is there left for Netflix to grow?"

SCTE KICKS OFF DEGREE PROGRAM AT FHSU

SCTE has teamed up with Fort Hays State University in Kansas to craft a degree program targeted at professionals working in telecom. After completing a mix of courses from both the university and SCTE, participants will earn an Associate of General Studies degree with an emphasis on Computer Networking & Telecommunications. The partnership is an extension of an agreement that has existed between the Fort Hays State University Department of Informatics and SCTE originally established in Feb. 2012.

NAMIC ANNOUNCES VISION AWARDS NOMS

NAMIC unveiled the nominees for its annual Vision Awards, led by **HBO** and **ESPN** with 18 and 10 nominations, respectively. The winners will be announced during the **Walter Kaitz Foundation** Hollywood Creative Forum on April 27. The full list of nominees can be found [here](#).

HBCU GO, SWAC REACH DEAL

Allen Media Group's HBCU Go entered a multiyear partnership with the **Southwestern Athletic Conference** (SWAC). HBCU Go will have cable, linear, streaming, broadcast, VOD and PPV rights to the conference's sporting events beginning this fall. The deal includes live coverage of over 2,000 SWAC events, with some games also on **theGrio**, **Local Now** and **Sports TV**.

NUL'S URBAN EMPOWERMENT FUND NOW CDFI

The **U.S. Department of Treasury** certified the **National Urban League's Urban Empowerment Fund** as a **Community Development Financial Institution** (CDFI), boosting the ability to deliver capital to minority-owned small businesses in urban areas. The certification as a CDFI was helped by a \$3 million pledge and \$500k capacity grant from **Charter Communications**.

MEET AUDIENCEXPRESS

Comcast Advertising is relaunching its premium TV ad solutions under the name **AudienceXpress**. Its capabilities include allowing U.S. advertisers to purchase premium TV advertising on an audience basis across all screens. FreeWheel Media, the media solutions team within Comcast's **FreeWheel** division, will now be in market under the AudienceXpress brand. AudienceXpress allows advertisers to measure and report on campaigns in real time with a potential reach of 300 million for a single campaign. Comcast acquired the assets that comprise AudienceXpress as well as its parent company **VisibleWorld** in 2015 and housed them within FreeWheel.