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**PROGRAM MATERIALS**  
**Program #30193**  
**November 19, 2020**

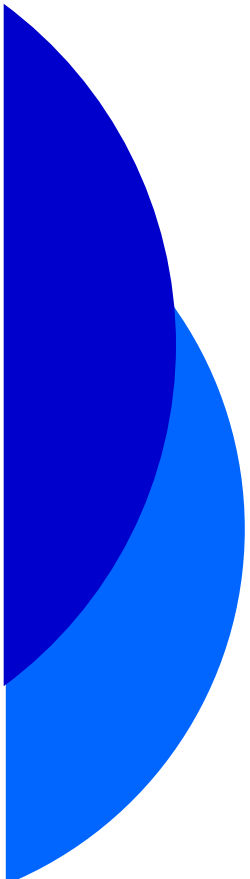
## **Piracy of Television Content: Deploying the Federal Communications Act**

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# Internet Piracy of Television Content: Deploying The Federal Communications Act

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CELESQ

**Raymond J. Dowd – Partner**  
**Hardin P. Rowley – Associate**  
Dunnington, Bartholow & Miller LLP

November 19, 2020  
Author – *Copyright Litigation Handbook*  
(West 14th Ed. 2020-2021)

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- 
- Attorneys Raymond J. Dowd and Hardin P. Rowley are part of an anti-piracy team that recently succeeded in applying the Federal Communications Act of 1934 for the first time to the new IPTV technology in the Southern District of New York.



# June 16, 2020 Panorama Judgment

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(1) Four Million Two Hundred Forty-One Thousand Dollars (\$4,241,000.00) in statutory damages pursuant to the Federal Communications Act (the “FCA”), 47 U.S.C. § 605~~(e)~~(3)(c)(i)(II);

(2) Eight Million Four Hundred and Eighty-Two Thousand Dollars (\$8,482,000.00) in enhanced damages pursuant to the FCA, 47 U.S.C. § 605(e)(3)(C)(ii); and

of Twelve Million Seven Hundred Fifty Three Thousand Six Hundred Seven Dollars and Fifty Cents (\$12,753,607.50) jointly and severally against Panorama Defendants (ECF 787); and

# Summary

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- In the age of cord-cutting, internet television has exploded, piracy along with it. According to industry estimates at least six to ten percent of North American television viewing is pirated. The cost to content owners, the television industry and broadcasters is tremendous. IPTV pirates brazenly sell subscription packages with 200 channels and 2000 title on-demand movie libraries for as a little as \$25.00 per month. In an age of costly unbundling with Netflix, Hulu, Disney+, Peacock, HBOMAX, and Amazon Prime, IPTV pirates create unbeatable illicit bundles.
- The Federal Communications Act of 1934 (“FCA”) combined and organized federal regulation of telephone, telegraph, and radio communications. FCA **Section 605(a)** prohibits persons who transmit or receive wire or radio **communications** from divulging such **communications** except to authorized persons. Violations carry statutory damages ranging from \$1,000 to \$10,000 each, with mandatory attorneys fees and costs. Recent cases have applied the FCA to internet television distribution originating as satellite transmissions.
- The FCA also prohibits the importation, manufacture, sale, or distribution of a device with the intent to use it in any activity prohibited by § 605(a). Statutory damages range from a minimum of \$10,000 per device to a maximum of \$100,000 per device, with mandatory attorneys fees and costs.
- Join us to learn: how the technology works ,how the case law has been applied to internet television technology, what this means for content owners, the television industry, broadcasters and consumers proactive measures to limit potential piracy



# Goals of CLE

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- Learn how to use public resources and litigation tools to discover the identify of an IPTV pirate
- Obtain Personal jurisdiction over an IPTV pirate
- Learn how an old law, Section 605 of the Federal Communications Act, was used to obtain a \$12.7 Million Judgment against that IPTV pirate

# FCA Violations- Unmasking An Anonymous Blogger

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## John Doe

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From Wikipedia, the free encyclopedia

*For other uses, see [John Doe \(disambiguation\)](#).*

*"Jane Doe" redirects here. For other uses, see [Jane Doe \(disambiguation\)](#).*

"**John Doe**", "**John Roe**" or "**Richard Roe**" (for men), "**Jane Doe**" or "**Jane Roe**" (for women) are [multiple-use names](#) that have two distinct usages. Firstly, and especially in the United States, they are used in [legal action](#) whose identity is being withheld officially.<sup>[1][2]</sup> In the context of [law enforcement](#) or [journalism](#), they are used for an individual whose identity is unconfirmed. Secondly, such names are also often used to refer to a hypothetical "everyman" or "everywoman".

In other [English-speaking countries](#), unique placeholder names, numbers and/or [code words](#) are used instead. In the [United Kingdom](#), where usage of "John Doe" originated during the [Middle Ages](#), [Latin](#) and other legal systems influenced by it. Other names used informally such as "**Joe Bloggs**" in the UK, [Australia](#) and [New Zealand](#), such names are seldom used in legal or police contexts.

Well-known legal cases named after placeholders include:

- the landmark 1973 [US Supreme Court](#) decision regarding abortion: *Roe v. Wade* (1973)
- the civil cases *McKeogh v. John Doe* (Ireland; 2012) and *Uber Technologies, Inc. v. Heller* (Canada; 2020)

Use of "John Doe" in the sense of an everyman, includes:

- the 1941 film *Meet John Doe* and;



# IPTV/OTT

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- Internet Protocol Television is a service that delivers television programming over Internet Protocol networks.
- Over the Top is a streaming media service offered directly to viewers via the Internet
- OTT bypasses cable, broadcast, and satellite television platforms
- Two-way data stream between provider and user
- Examples of licensed OTT providers: Netflix, Hulu, YouTubeTV





# IPTV/OTT Piracy

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- Unlicensed IPTV/OTT range from slick legitimate looking providers with websites to pirates offering login information for a price on Reddit or a Facebook page
- User can stream on pirate website, Smart TVs, STBs connected to a TV, and Phone Apps
- Often use open-source software to create a service platform

# Sandvine: 6.5% of Households Use Pirated Content

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Using the same numbers from the previous calculation, and using \$50 as an approximation for the cost of television service, the pirate television services could quickly cost CSPs in the United States and Canada five billion dollars a year. This calculation is far from perfect because not everyone who subscribes to a pirate service would sign up for a traditional TV package, but the number serves to illustrate the threat for CSPs.

7 million subscribers x \$50/month x 12 months =

**\$4.2 billion a year**

- Sandvine: 2017 Global Internet Phenomena, Spotlight: Subscription Television Piracy  
<https://www.sandvine.com/hubfs/downloads/archive/2017-global-internet-phenomena-spotlight-subscription-television-piracy.pdf>



# Scope of IPTV Piracy

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- Estimates lost revenue of \$840 million to \$4.2 billion per year *See Sandvine 2019 Subscription Television Piracy, Sandvine Global Internet Phenomena Spotlight*
- <https://www.sandvine.com/blog/the-video-tsunami-continues>



# IPTV End User

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- Pays a monthly/yearly subscription for access to unlicensed content
- May make a one-time payment to purchase a plug-and-play STB that comes fully loaded with media software to view content
- Low price to view foreign programming is appealing

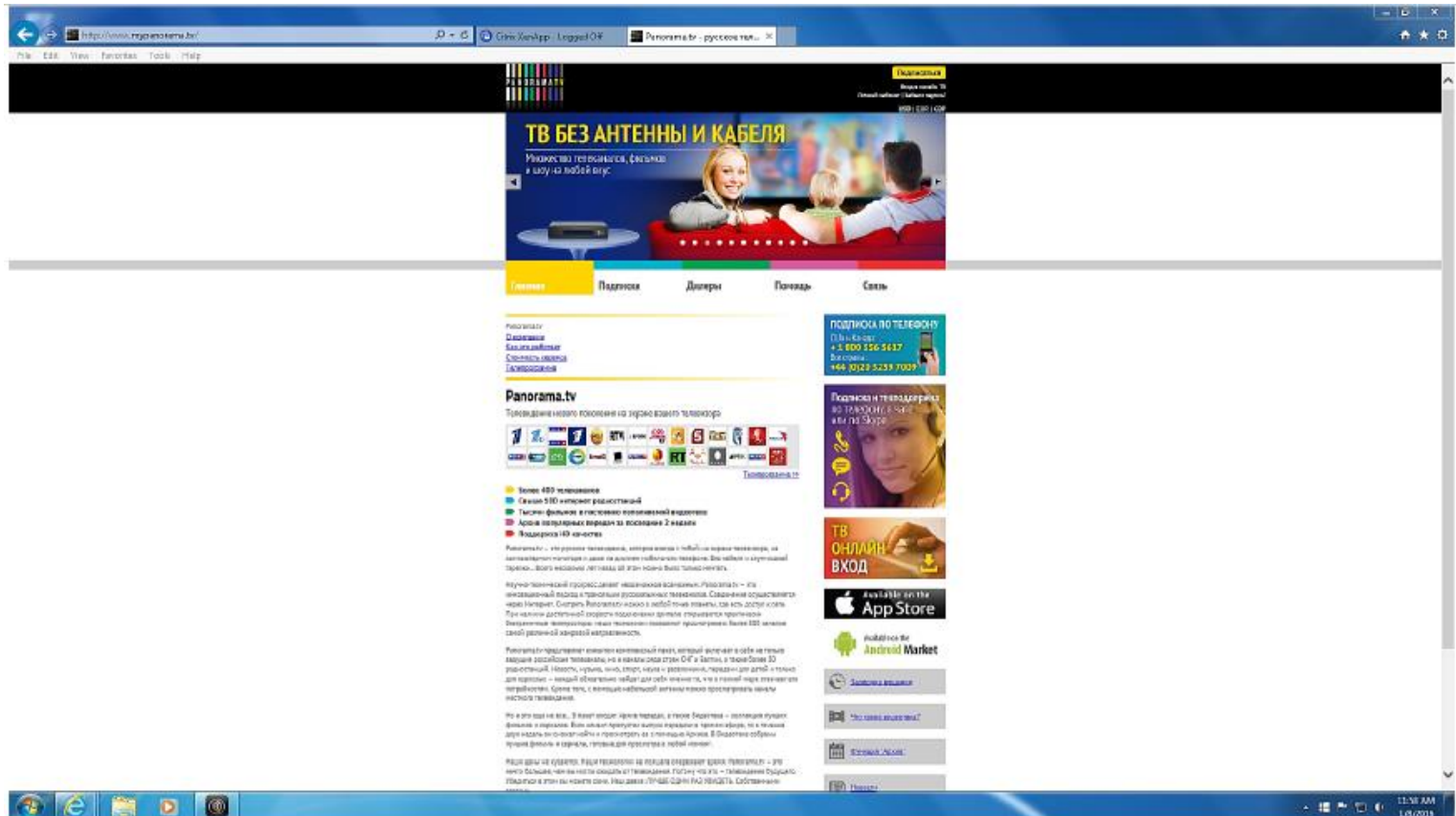


# Russian Language IPTV End User

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- The audience for the pirated programming tended to be in Brooklyn, NY as part of diaspora from former Soviet Union
- Providers opened up retail and service shops in New York too
- Identified One Potential Pirate as Panorama TV

# What is mypanorama.tv?



# Panorama is a Suspected IPTV Pirate

## Panorama.tv

Телевидение нового поколения на экране вашего телевизора

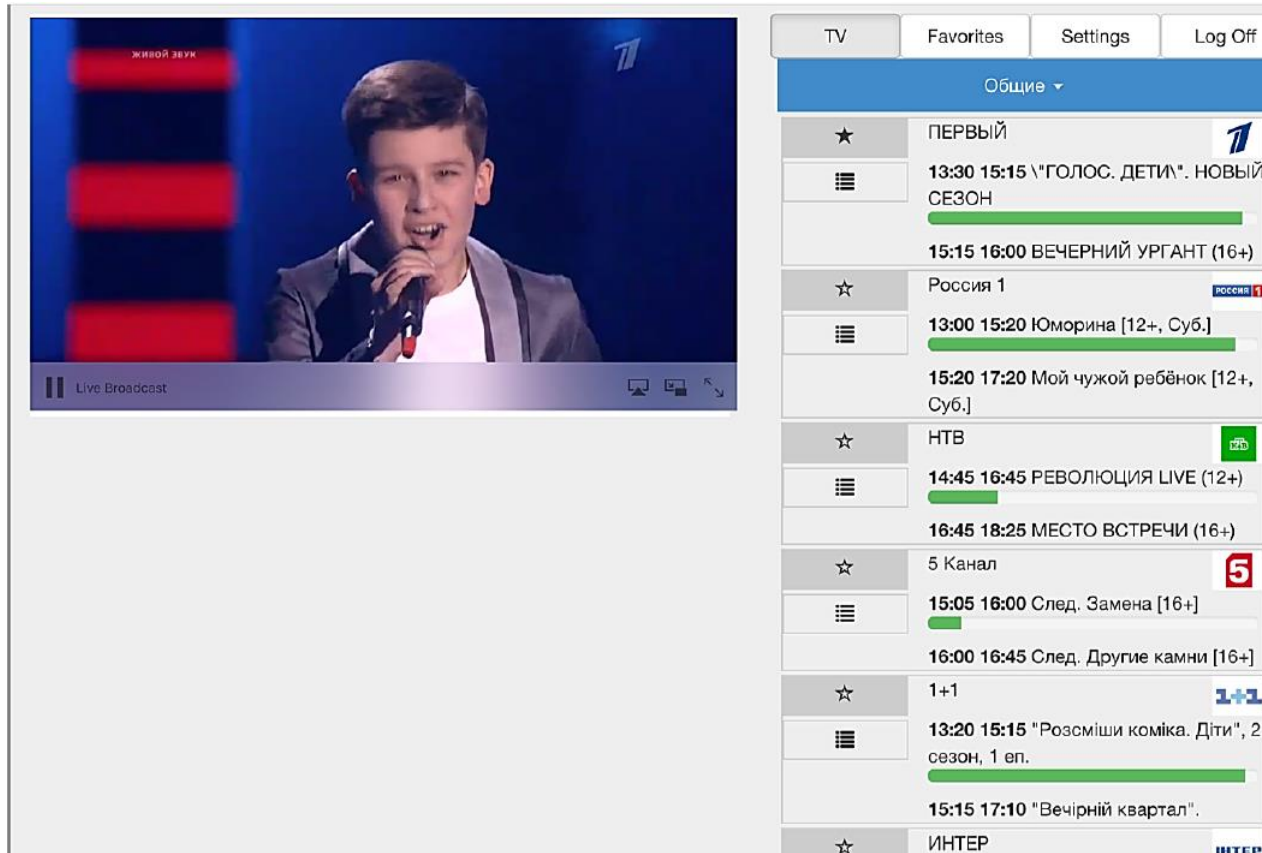


[Телепрограмма >>](#)

- ▶ Более 400 телеканалов
- ▶ Свыше 100 интернет радиостанций
- ▶ Тысячи фильмов в постоянно пополняемой видеотеке
- ▶ Архив популярных передач за последние 2 недели
- ▶ Поддержка HD качества

Panorama.tv – это русское телевидение, которое всегда с тобой: на экране телевизора, на компьютерном мониторе и даже на дисплее мобильного телефона. Без кабеля и спутниковой тарелки... Всего несколько лет назад об этом можно было только мечтать.

# Channel One Viewable on Panorama Website



The screenshot displays the Panorama website interface. On the left, a video player shows a live broadcast of a young boy singing into a microphone. The video player includes a 'Live Broadcast' indicator and standard playback controls. On the right, a navigation menu includes 'TV', 'Favorites', 'Settings', and 'Log Off'. Below this is a 'Общие' (General) section with a dropdown arrow. The main content area is a channel guide listing various channels and their current or upcoming programs. The channels listed are ПЕРВЫЙ, Россия 1, НТВ, 5 Канал, 1+1, and ИНТЕР.

Channel	Program	Time	Rating
ПЕРВЫЙ	"ГОЛОС. ДЕТИ". НОВЫЙ СЕЗОН	13:30 - 15:15	
ПЕРВЫЙ	ВЕЧЕРНИЙ УРГАНТ	15:15 - 16:00	(16+)
Россия 1	Юморина	13:00 - 15:20	[12+, Суб.]
Россия 1	Мой чужой ребёнок	15:20 - 17:20	[12+, Суб.]
НТВ	РЕВОЛЮЦИЯ LIVE	14:45 - 16:45	(12+)
НТВ	МЕСТО ВСТРЕЧИ	16:45 - 18:25	(16+)
5 Канал	След. Замена	15:05 - 16:00	[16+]
5 Канал	След. Другие камни	16:00 - 16:45	[16+]
1+1	"Розміші коміка. Діти", 2 сезон, 1 еп.	13:20 - 15:15	
1+1	"Вечірній квартал".	15:15 - 17:10	
ИНТЕР			



# Who is mypanorama.tv?



DOMAINS ▾

HOSTING ▾

WEBSITES ▾

EMAIL ▾

SECURITY ▾

WHOIS

SUPPORT

## mypanorama.tv registry whois

Updated 1 hour ago - Refresh

Domain Name: MYPANORAMA.TV  
Domain ID: 95197149  
WHOIS Server: whois.godaddy.com  
Referral URL: http://registrar.godaddy.com  
Updated Date: 2015-11-27T17:26:07Z  
Creation Date: 2010-12-16T18:47:27Z  
Registry Expiry Date: 2016-12-16T18:47:27Z  
Sponsoring Registrar: GODADDY.COM, LLC  
Sponsoring Registrar IANA ID: 146  
Domain Status: clientDeleteProhibited <https://www.icann.org/epp#clientDeleteProhibited>  
Domain Status: clientRenewProhibited <https://www.icann.org/epp#clientRenewProhibited>  
Domain Status: clientTransferProhibited <https://www.icann.org/epp#clientTransferProhibited>  
Domain Status: clientUpdateProhibited <https://www.icann.org/epp#clientUpdateProhibited>  
Name Server: BETH.NS.CLOUDFLARE.COM  
Name Server: HUGH.NS.CLOUDFLARE.COM  
DNSSEC: unsigned

## mypanorama.tv registrar whois

Updated 1 hour ago

Domain Name: MYPANORAMA.TV  
Registry Domain ID: 95197149\_DOMAIN\_TV-VRSN  
Registrar WHOIS Server: whois.godaddy.com  
Registrar URL: http://www.godaddy.com  
Update Date: 2015-05-06T17:09:30Z  
Creation Date: 2010-12-16T13:47:27Z  
Registrar Registration Expiration Date: 2016-12-16T13:47:27Z  
Registrar: GoDaddy.com, LLC  
Registrar IANA ID: 146  
Registrar Abuse Contact Email: [abuse@godaddy.com](mailto:abuse@godaddy.com)  
Registrar Abuse Contact Phone: +1.4806242505  
Domain Status: clientTransferProhibited <http://www.icann.org/epp#clientTransferProhibited>  
Domain Status: clientUpdateProhibited <http://www.icann.org/epp#clientUpdateProhibited>  
Domain Status: clientRenewProhibited <http://www.icann.org/epp#clientRenewProhibited>  
Domain Status: clientDeleteProhibited <http://www.icann.org/epp#clientDeleteProhibited>  
Registry Registrant ID: Not Available From Registry  
Registrant Name: Registration Private  
Registrant Organization: Domains By Proxy, LLC

# Is Panorama.tv Just a website?

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57. Upon information and belief, Panorama TV is a for profit organization with a principal place of business located at 1702 Ave Z, Second Floor, Brooklyn, NY 11235. Panorama TV owns and operates the website [www.mypanorama.tv](http://www.mypanorama.tv). According to WHOIS.com, a search engine that reveals the registrars of different websites, the registrar of that website is

11

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Case 1:16-cv-01318 Document 1 Filed 02/19/16 Page 12 of 29

GoDaddy.com, LLC which is located at 14455 N. Hayden Rd., Ste. 226 Scottsdale, AZ, 85260. Annexed hereto as **Exhibit 2** is a screenshot of the WHOIS website showing that GoDaddy.com hosts the website [www.mypanorama.tv](http://www.mypanorama.tv).

# Where is mypanorama.tv?

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- 1701 Ave Z  
Brooklyn, NY





# Who is Alex Yenavour?

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- Complaint filed February 6, 2019
- March 16, 2016. Process server served “Alex Yenavour” at 1701 Ave Z in Brooklyn, NY



# Default Motion

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- Panorama never filed a responsive pleading
- Filed motion for default judgment on May 12, 2016.
- May 13, 2016, Alan Fraade, Esq, files notice of appearance on behalf of Panorama TV.

# May 20, 2016 Fraade Letter

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We are attorneys for My Panorama TV UK, a corporation organized under the laws of the United Kingdom and is named as a defendant in this action as Panorama TV (www.mypanorama.tv). This may be a bit confusing, but only because Plaintiff is loose with the form in which it names the defendants or otherwise identifies them. We were retained as attorneys late in the day on May 12, 2016, and we filed a notice of appearance the next day. Plaintiff has moved for a default judgment against Panorama TV UK, which motion was filed on May 12, 2016.

We are advised by our client, Panorama TV UK, that it has no offices in the United States and no employees in the United States. There is no one in the United States who is authorized to accept service. All My Panorama TV UK's licensing and programming business is done from the UK. The business of Panorama TV UK is to provide Russian language programming through license agreements, utilizing the trade name, Panorama TV. That a business in Brooklyn, New York, which may be an unrelated distributor, uses the banner, Panorama TV does not connote that such premises are an office of Panorama TV UK.

Accordingly, service could not have been effected in Brooklyn, New York, as proffered by Plaintiffs. Any individual whom Plaintiffs claim to have served could not have been an agent, let alone an officer or director of Panorama TV UK.

# May 27, 2016 Fraade Letter

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I am an attorney for Panorama Alliance LP, a Limited Partnership formed under the laws of the United Kingdom. I am writing to correct the reference to the correct legal name of our client stated in our May 20, 2016 letter to this Court. In the May 20 letter I incorrectly stated that our client's entity name is My Panorama TV UK, and incorrectly stated that it is a corporation. Our client's actual entity name is Panorama Alliance LP, and it is a Limited Partnership formed under the laws of the United Kingdom.

The error was caused by our desire to promptly provide the Court with the relevant information in the letter and to note the inadequate service made by Plaintiffs in this matter. On that, we were unable to confirm the full entity name with our client in time. We apologize for providing the Court with this inaccurate information.

# Who is David Zeltser?

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## DECLARATION OF DAVID ZELTSE

David Zeltser hereby declares, under penalty of perjury:

- I am the **Managing Director** of Panorama Alliance LP (the “Company”), a Limited Partnership formed pursuant to the laws of the United Kingdom. A true copy of the formation documents of the Company is annexed hereto as Exhibit “A”.
- The Company’s principal address is located in the United Kingdom at 44 Main Street Douglas, South Lanarkshire, M111 0Qw.
- The Company **has no office in the State of New York** and the Company does not do business in the State of New York.
- There is **no office** associated with Panorama Alliance, LP, located at 1702 Avenue Z,



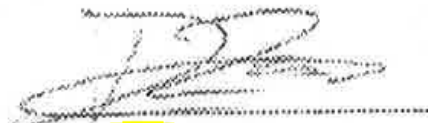
# Who is David Zeltser?

---

Brooklyn, New York, 11235.

- Alex Yenavour, who we have been advised was served with the Summons and Complaint in this matter, is not an agent, officer, director or employee of the Company. The Company has no knowledge of who he is and he is not, and was never, authorized to accept service of process on behalf of the Company.
- Based upon the advice of counsel, if, for any reason, the Company is subject to the jurisdiction of this Court, it is believed that there are substantive defenses to the claims of the Plaintiffs, which the Company would respectfully request the opportunity to address the allegations made either pursuant to an Answer to the Complaint or a Motion to Dismiss the Complaint.

Dated: June 10, 2016



[Name], [Title]

# Panorama Alliance, LP

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CERTIFICATE OF REGISTRATION  
OF A  
LIMITED PARTNERSHIP

Limited Partnership No. SL13886

The Registrar of Companies for Scotland hereby certifies that:

**PANORAMA ALLIANCE L.P.**

is this day registered under the 1907 Limited Partnerships Act as a  
Limited Partnership.

Given at Companies House on 13th August 2013.

# Panorama files MTD Under 12(b)(6)

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- August 25, 2016
- Broadcasters Opposed and requested jurisdictional discovery
- Panorama's contacts with NY
  - Presence
  - Commercial website

# Who is David Zeltzer?

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I declare under the penalty of perjury that the foregoing is true and correct on the 22<sup>nd</sup> day of August, 2016.

  
David Zeltzer, Managing Director



# Something is Not Right...

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- Balance what seems like a fraudulent declaration with respect for opposing counsel
- We asked Panorama's counsel for an explanation and were told the different Zeltser spellings was a typo.



# Court Granted Jurisdictional Discovery

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- Broadcasters serve RFPs and Interrogatories
- Panorama produces no additional documents
- Independent Investigation



# Court Grants Jurisdictional Discovery

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**Interrogatory No. 7:** “State whether there exists and describe any relationship Panorama has with Asaf.”

**Response:** There is no written agreement or formal relationship between Panorama and “Asaf”. The person to whom this interrogatory refers made purchases from the Website similar to it being available to other consumers.

**Interrogatory No. 8:** “Identify each of Panorama’s limited partners, officers and directors.”

**Response:** David Zeltser is Panorama’s only Partner and its Managing Director.



# Investigation Resources

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- Google
- Westlaw People Search and Company Investigator
- Department of State Corporation Search
- Subpoenas of third parties
- Companies House
- Luck



# Who is Asaf Yevdayev?

Name	Panorama Alliance Group LLC		
Filing ID	2014-000675225		
Type	Limited Liability Company	Status	Active
<b>General Information</b>			
Old Name		Sub Status	Current
Fictitious Name		Standing - Tax	Good
		Standing - RA	Good
		Standing - Other	Good
Sub Type		Filing Date	11/08/2014 10:21 AM
Formed in	Wyoming	Delayed Effective Date	
Term of Duration	Perpetual	Inactive Date	
<b>Principal Address</b>		<b>Mailing Address</b>	
1702 Ave Z, Second Floor Brooklyn, NY 11235		1702 Ave Z, Second Floor Brooklyn, NY 11235	
<b>Registered Agent Address</b>			
National Registered Agents, Inc. 1908 Thomes Ave Cheyenne, WY 82001			
<b>Parties</b>			
Type	Name / Organization / Address		
Organizer	Asaf Yevdayev		
<b>Notes</b>			
Date	Recorded By	Note	

# Who is mypanorama.tv?



DOMAINS ▾

HOSTING ▾

WEBSITES ▾

EMAIL ▾

SECURITY ▾

WHOIS

SUPPORT

## mypanorama.tv registry whois

Updated 1 hour ago - Refresh

Domain Name: MYPANORAMA.TV  
Domain ID: 95197149  
WHOIS Server: whois.godaddy.com  
Referral URL: http://registrar.godaddy.com  
Updated Date: 2015-11-27T17:26:07Z  
Creation Date: 2010-12-16T18:47:27Z  
Registry Expiry Date: 2016-12-16T18:47:27Z  
Sponsoring Registrar: GODADDY.COM, LLC  
Sponsoring Registrar IANA ID: 146  
Domain Status: clientDeleteProhibited <https://www.icann.org/epp#clientDeleteProhibited>  
Domain Status: clientRenewProhibited <https://www.icann.org/epp#clientRenewProhibited>  
Domain Status: clientTransferProhibited <https://www.icann.org/epp#clientTransferProhibited>  
Domain Status: clientUpdateProhibited <https://www.icann.org/epp#clientUpdateProhibited>  
Name Server: BETH.NS.CLOUDFLARE.COM  
Name Server: HUGH.NS.CLOUDFLARE.COM  
DNSSEC: unsigned

## mypanorama.tv registrar whois

Updated 1 hour ago

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Registrar URL: http://www.godaddy.com  
Update Date: 2015-05-06T17:09:30Z  
Creation Date: 2010-12-16T13:47:27Z  
Registrar Registration Expiration Date: 2016-12-16T13:47:27Z  
Registrar: GoDaddy.com, LLC  
Registrar IANA ID: 146  
Registrar Abuse Contact Email: [abuse@godaddy.com](mailto:abuse@godaddy.com)  
Registrar Abuse Contact Phone: +1.4806242505  
Domain Status: clientTransferProhibited <http://www.icann.org/epp#clientTransferProhibited>  
Domain Status: clientUpdateProhibited <http://www.icann.org/epp#clientUpdateProhibited>  
Domain Status: clientRenewProhibited <http://www.icann.org/epp#clientRenewProhibited>  
Domain Status: clientDeleteProhibited <http://www.icann.org/epp#clientDeleteProhibited>  
Registry Registrant ID: Not Available From Registry  
Registrant Name: Registration Private  
Registrant Organization: Domains By Proxy, LLC

# Domains by Proxy Registration: Asaf Yevdayev

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Shopper ID: 40476676  
Private Label ID 1695  
Login Name: 40476676  
First Name: Asaf  
Middle Name:  
Last Name: Yevdayev  
Company:  
Address1: 2812 east 27th street  
Address2: suite 3c  
City: brooklyn  
State/Prov: NY  
Postal Code: 11235  
Country: US  
Phone1: +1.5169029552  
Phone1Extension:  
Phone2:  
Fax:  
Mobile:  
Email: asafyevdayev@hotmail.com  
BirthDate:  
Gender: No Response  
Date Created: 12/16/2010 11:46:30 AM  
Last Changed By gdqhDeleteProfiles  
Last Changed By Date 1/16/2016 1:13:43 AM  
Status:



**PANORAMATV** Subscribe  
My Account | Forget your password?  
EUR | GBP

home   Subscription   **Dealers**   Help   communication

---

A list of authorized dealers with **Panorama TV Partnership**  
[Become a reseller](#)

### A list of authorized dealers

dealer Locator

1. Select a country  
USA


2. Choose a region  
New York

3. Select a city  
Brooklyn


**To find**

Panorama TV Authorized Dealer


1702 Avenue Z  
Brooklyn, NY, 11235, USA  
Phone: 718-954-1100



Подписка и техподдержка по телефону, в чате или по Skype



**ТВ ОНЛАЙН ВХОД**



Available on the **App Store**

Available on the **Android Market**

broadcast delay

What is a video library?

**Plaintiff's Exhibit**

10

ME 10/20/16



# March 30, 2017:

## Court Finds Personal Jurisdiction

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The Report correctly found that Panorama is subject to specific jurisdiction under N.Y. C.P.L.R. § 302(a)(1),<sup>3</sup> which “provides for jurisdiction over a non-domiciliary where (1) the defendant ‘in person or through an agent . . . transacts any business within the state or contracts anywhere to supply goods or services in the state,’ so long as (2) the cause of action ‘aris[es] from’ that business transaction,” *Peeq Media, LLC v. Buccheri*, No. 16 Civ. 5292, 2016 WL 5947295, at \*2 (S.D.N.Y. Oct. 13, 2016) (alterations in original) (citing *Licci ex rel. v. Lebanese Canadian Bank, SAL*, 673 F.3d 50, 60 (2d Cir. 2012)), “such that there is an ‘articulable nexus’ between the cause of action and the business activity.” *Sound Around Inc. v. Audiobahn, Inc.*,

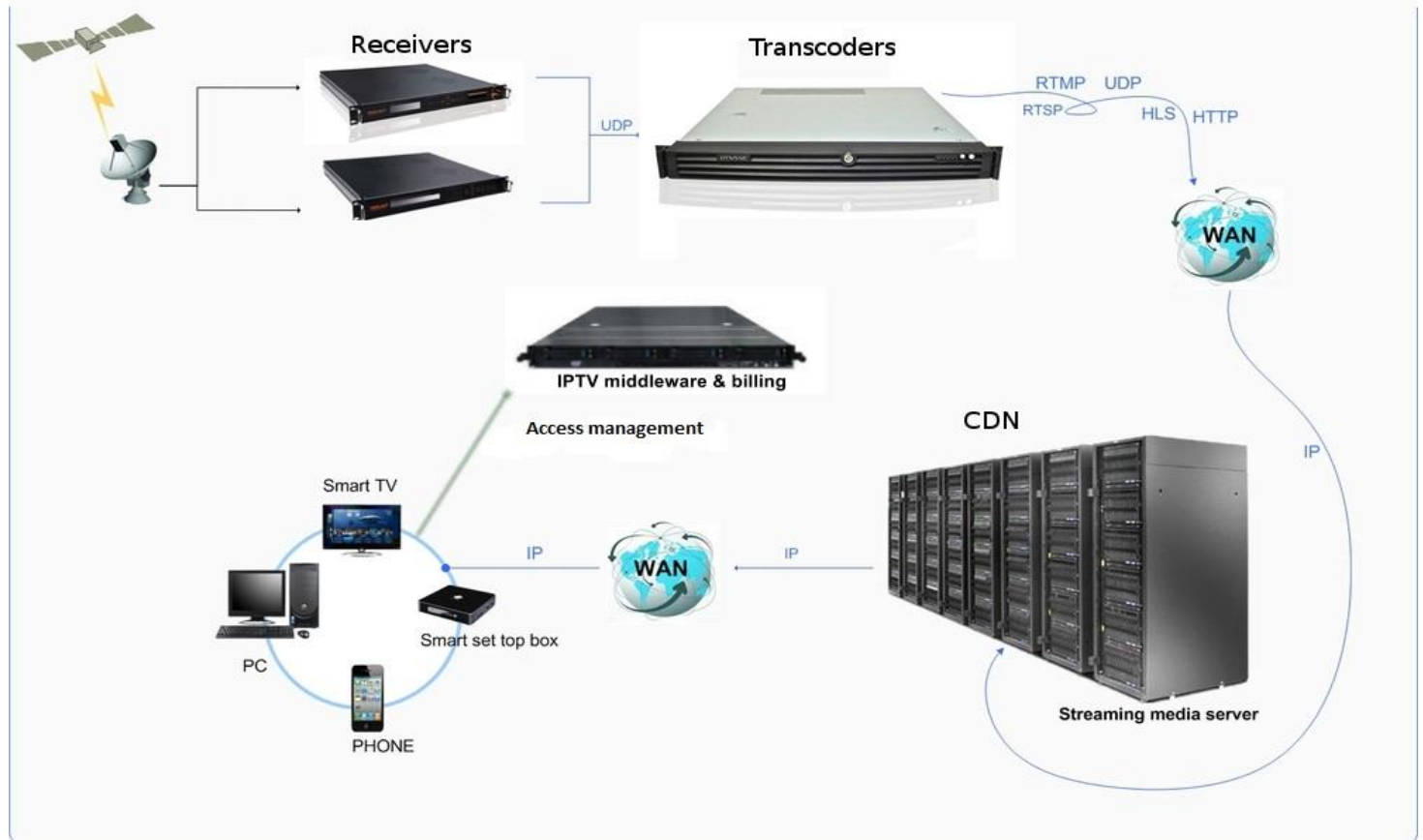
# What Does a Pirate Need?

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- Source of Programming
- Transcoder
- Content delivery network
- Middleware
- Website
- Set-top boxes
- Web based player/app



# What is IPTV/OTT?



# Fact Discovery

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- Three Depositions & multiple document productions to Discover:
  - Bank records showing payments for Programming
  - Payments to provider that transcoded content and provided middleware
  - Payments to customer support services
  - Panorama had between 1600-4200 Subscribers



# Paying for Source of Programming

ELECTRONIC WITHDRAWALS		
DATE	DESCRIPTION	AMOUNT
02/01	American Express [REDACTED] CCD ID: 1134992250	\$7.95
02/02	Bank of America [REDACTED] CCD ID: 88786005m	2,100.50
02/03	02/03 Online International Wire Transfer Via: Deutsche Bank Trust Company America/0103 A/C: Ab Dnb Bankas Vilnius Lt-2600 Lithuania Ben: Evp International Vilnius 03601 Lt Ref: Evp8310001032870 Business Expenses/Bnf/Payment Purpose: Evp83100010328 70 Ssn: 0364513 Trn: 4685800034Ea	4,000.00
02/06	American Express [REDACTED] CCD ID: 1134992250	195.94
02/07	Bank of America [REDACTED] CCD ID: 88786005m	2,100.00
02/08	02/08 Online International Wire Transfer Via: Deutsche Bank Trust Company America/0103 A/C: Ab Dnb Bankas Vilnius Lt-2600 Lithuania Ben: Evp International Vilnius 03601 Lt Ref: Evp8310001032870 Business Expenses/Bnf/Payment Purpose: Evp83100010328 70 Ssn: 0260179 Trn: 3863300039Ea	2,500.00
02/10	Forti Payments [REDACTED] CCD ID: 5330903520	45.56
02/15	02/15 Online International Wire Transfer Via: Deutsche Bank Trust Company America/0103 A/C: Ab Dnb Bankas Vilnius Lt-2600 Lithuania Ben: Evp International Vilnius 03601 Lt Ref: Evp8310001032870 Business Expenses/Bnf/Payment Purpose: Evp83100010328 70 Ssn: 0272776 Trn: 3530900048Ea	4,000.00
02/17	Chase QuickPay [REDACTED]	910.00
02/22	02/22 Online Wire Transfer Via: Bank of America/0103 11235 US Ref: [REDACTED] CCD ID: 88786005m 3528400053Ea	6,370.00
02/22	American Express [REDACTED] CCD ID: 1134992250	85.95
02/27	Discover [REDACTED] CCD ID: 2510020270	3,955.82
Total Electronic Withdrawals		\$26,271.62

# Panorama's Service Provider

Case 1:16-cv-01318-GBD-BCM Document 473-11 Filed 12/15/17 Page 8 of 21  
REDACTED

Setplex LLC

lionel@setplex.com  
www.SETPLEX.com



## INVOICE

### BILL TO

Asaf Yevdayev  
PolskaHD

### SHIP TO

Asaf Yevdayev  
PolskaHD

INVOICE # 1130

DATE 06/01/2017

DUE DATE 06/01/2017

TERMS Due on receipt

ACTIVITY	QTY	RATE	AMOUNT
PolskaTVClients Polska Monthly Client Fee MAY 2017			
PanoramaTV PanoramaTV Monthly Client Fee MAY 2017	4,241	3.00	12,723.00
BenimTVClients BenimTV Monthly Client Fee MAY 2017			
VistaTVClients VistaTV Monthly Client Fee MAY 2017	85	3.00	255.00
ServerRentalAMS Server Rental Amsterdam			
ServerRentalGRE Server Rental Greece			

PAID

Money Transfer Information\*:

Bank Name: Chase Bank  
Routing Number: Account number:  
SETPLEX address: 1 Barker Ave Suite 290 White Plains, NY

PAYMENT  
BALANCE DUE

\$

# Setplex Payments

SKYPER GROUP LLC  
2219 AVENUE X  
BROOKLYN, NY 11235-2507

1-9  
210

DATE 1/23/16 116

PAY TO THE ORDER OF Set Plex \$ 4000<sup>00</sup>

four thousand DOLLARS

CHASE  
JPMorgan Chase Bank, N.A.  
www.Chase.com

MEMO # 1078

*[Signature]*

MEDIA ALLIANCE INC  
1702 AVENUE Z STE C92  
BROOKLYN, NY 11235-3615

4735

DATE Jan 22, 16 1-2/210

PAY TO THE ORDER OF Set Plex \$ 6318<sup>00</sup>

Six thousand three hundred DOLLARS

CHASE  
JPMorgan Chase Bank, N.A.  
www.Chase.com

MEMO 1400000 # 1031

*[Signature]*

# Setplex Services



**TURNKEY**

## End-To-End IPTV Solutions

We provide all the components to deliver a complete IPTV solution, including on-prem or on-cloud deployments.

*Our solution includes:*

- Encoding/Transcoding
- Content & User Management
- CDN
- Ad Monetization
- Analytics
- Billing
- Security
- API Integration

*We offer a full suite of applications, to support all the major app stores.*

<https://setplex.com/en/why-setplex.html>

# Setplex Services

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TURNKEY

## IPTV Middleware

Nora Middleware is a highly-intuitive administration interface designed to be straightforward and easy to use. Control all aspects of your IPTV/OTT platform from the dashboard, including:

- Subscribers
- Usage Analytics
- Content Management
- Reports & Payments
- Interface Customization
- And Much More

*Utilizing microservices architecture with docker containers makes our software highly-scalable on demand.*



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<https://setplex.com/en/why-setplex.html>

# Distribution of IPTV Services

Transactions		Trans. Date	Post Date		
Payments and Credits		Jan 27	Jan 28	MEDIA ALLIANCE BROOKLYN NY	\$ -1.00
Award and Rebate Credits					
Merchandise					
		Feb 10	Feb 10	AMAZON WEB SERVICES AWS.AMAZON.COM CCHD3FMQ1FA	119.18
Restaurants					
Gasoline					
Automotive					
Travel/Entertainment					
Services					
		Jan 26	Jan 26	MEDIA ALLIANCE BROOKLYN NY	1.00
		Feb 20	Feb 20	STAMPS.COM *USPOSTAGE 877-782-6785 CA RA3867498	300.00
Supermarkets		Feb 20	Feb 20	FEDEx 98228649 800-4633339 TN	478.68

# June 16, 2020 Panorama Judgment

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(1) Four Million Two Hundred Forty-One Thousand Dollars (\$4,241,000.00) in statutory damages pursuant to the Federal Communications Act (the “FCA”), 47 U.S.C. § 605~~(e)~~(3)(c)(i)(II);

(2) Eight Million Four Hundred and Eighty-Two Thousand Dollars (\$8,482,000.00) in enhanced damages pursuant to the FCA, 47 U.S.C. § 605(e)(3)(C)(ii); and

of Twelve Million Seven Hundred Fifty Three Thousand Six Hundred Seven Dollars and Fifty Cents (\$12,753,607.50) jointly and severally against Panorama Defendants (ECF 787); and

# Recent FCA Developments

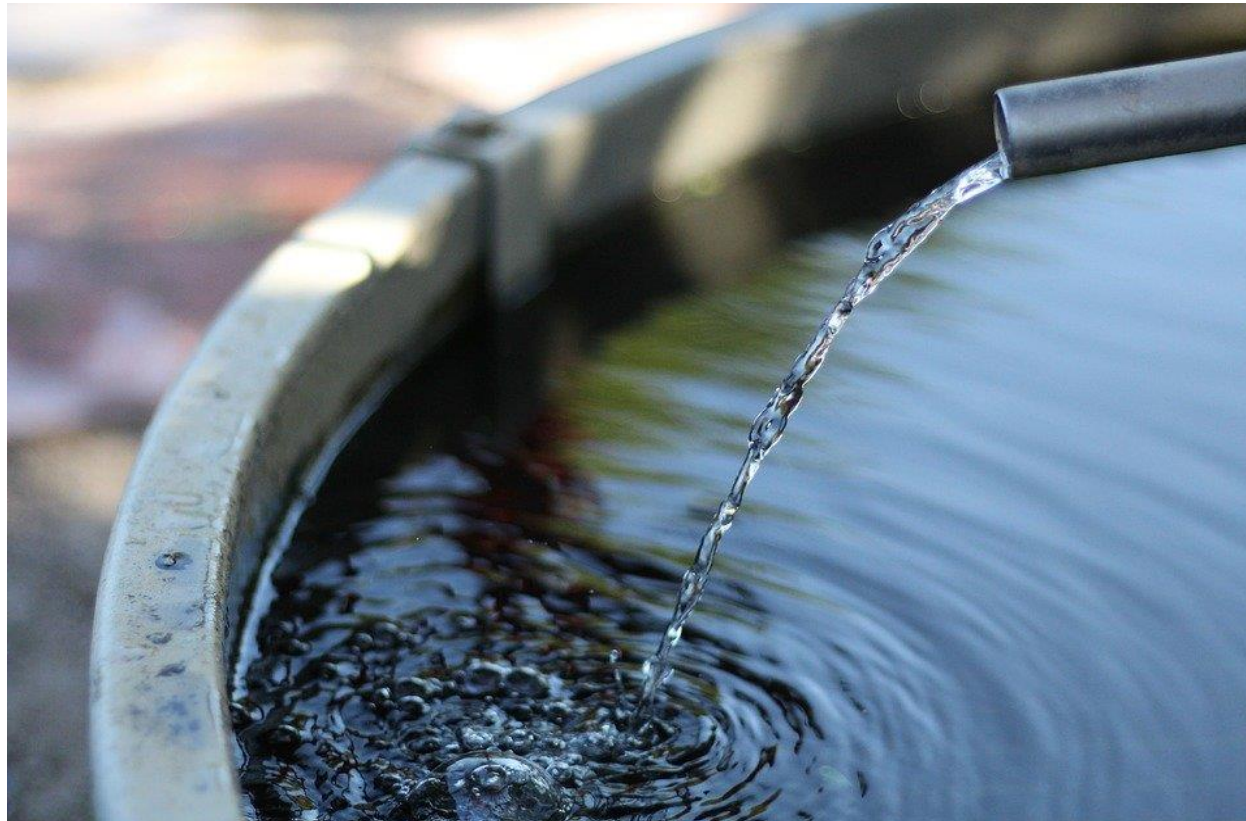
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- 47 U.S.C. § 605(e)
- OTT Access Codes = Device?
- DISH Network, LLC v. Henderson, No. 519CV1310MADATB, 2020 WL 2543045, at \*4 (N.D.N.Y. May 19, 2020)



**\$12.7 Million v. \$4.2 Billion**

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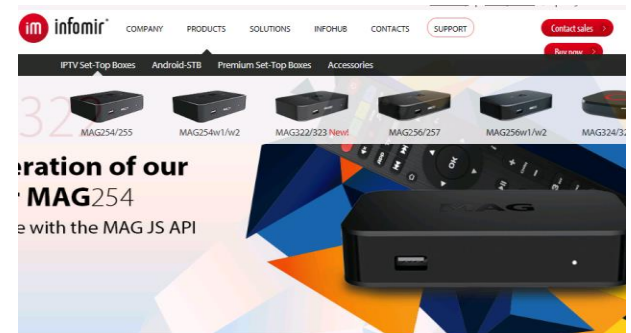
# IPTV Device/Software Litigation

## Copyright Act and Federal Communications Act (It's Time to Think Inside The Box)



### END TO END OTT/IPTV SOLUTION

Setplex is the first company in the world to offer a true A-Z, end to end OTT/IPTV solution with your own custom branding.



Infomir — manufacturer of MAG set-top boxes for IPTV/OTT

## **New Help For Copyright Lawyers? How The Federal Communications Act Should Transform Television Antipiracy Strategies In The IPTV and OTT Era**

**Raymond J. Dowd**  
**Dunnington Bartholow & Miller LLP**

Copyright lawyers may soon be dusting off an old antipiracy tool. Using a descrambler box to steal cable television became largely a thing of the past when the Federal Communications Act of 1934 (the “FCA”) was deployed. With the growth of IPTV as a revenue source and a corresponding rise in Pay TV piracy, and in light of a recent court decision applying this powerful law to new technology suggests that counsel for television broadcasters and content owners should work with outside counsel to rethink antipiracy strategies.

As new technologies for delivering television and video content over the internet emerge, so too do piracy methods and depriving broadcasters and content owners of revenue. Piracy is traditionally expensive and difficult to identify and police. Law and policing methods have a hard time keeping up with changes in technology and with tech-savvy pirates. Many content owners have been frustrated with the cost, delay and burdens associated with the Digital Millennium Copyright Act (“DMCA”). Pirates have moved offshore, frustrating team of lawyers in multiple jurisdictions. A recent Sandvine report found that 6.5% of all U.S. households access illegal television-streaming services every month.<sup>1</sup> Now that television viewers are cancelling traditional cable and satellite subscriptions in favor of streaming services, it is critical that content producers develop new methods to counteract online piracy to avoid losing revenues.

The Federal Communications Act provides for statutory damages and mandatory legal fees. Our team won a recent victory by successfully applying the FCA to IPTV technology for the first time. Our winning strategy suggests that broadcasters and content owners should consider adopting nimble, cost-efficient antipiracy strategies to maximize revenues.

### **A. Infringers Have Taken Advantage Of The Regulatory Gap And Are Using Emerging Technologies To Violate Content Producers’ Rights**

Content producers are afforded the exclusive right to perform their works publicly under the Copyright Act, which includes the right to control the transmissions of copyrighted material. Many content producers have successfully litigated against infringers who can be located or who can be shut down through traditional methods.<sup>2</sup> Those online infringers who have sought to apply novel legal arguments to internet retransmissions have failed.<sup>3</sup> However, with new means of stealing television content emerging in the internet age, content owners should look to

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<sup>1</sup> Sandvine Report, 2017 Global Internet Phenomena Spotlight: Subscription Television Piracy (Oct. 27, 2017), <https://www.sandvine.com/hubfs/downloads/archive/2017-global-internet-phenomena-spotlight-subscription-television-piracy.pdf>.

<sup>2</sup> *Am. Broad. Companies, Inc. v. Aereo, Inc.*, 134 S. Ct. 2498, 2502, 189 L. Ed. 2d 476 (2014) *citing* 17 U.S.C. § 106(4).

<sup>3</sup> *Fox Television Stations, Inc. v. FilmOn X LLC*, 150 F. Supp. 3d 1, 31 (D.D.C. 2015).

establish antipiracy strategies to combat piracy operations that may be difficult, expensive or unwieldy to enforce through claims brought under the Copyright Act, DMCA or Lanham Act.

Recently developed technologies including over-the-top or “OTT” delivery methods and internet protocol television (“IPTV”) enable streaming content to be delivered without the need for a traditional cable or satellite provider.<sup>4</sup> Accordingly, infringers operating around the world have been quick to capitalize from these largely unregulated technologies in the United States and elsewhere.<sup>5</sup> Among other things, infringers are using set-top boxes (“STB”) that are pre-loaded with apps enabling consumers to easily access software that enables end-users to access pirated content broadcast over the internet.

Notice and registration provisions of the Copyright Act and safe harbor provisions of the DMCA have provided significant hurdles for broadcasters seeking to counteract OTT and IPTV piracy. Further complicating the circumstances for content providers is the fact that OTT piracy may originate in a foreign jurisdiction leaving providers and their counsel struggling with how to tailor anti-piracy efforts to target offshore entities profiting from new technology.<sup>6</sup>

Rather than wait for law enforcement to act, content providers should consider deploying existing legal tools to combat pirates and increase revenues.<sup>7</sup> One potential source of relief is the Federal Communications Act of 1934, 47 U.S.C. § 151 *et seq.*, (“FCA”), which focuses more on *how* content is acquired as opposed to the Copyright Act which requires formalities, such as registration, to successfully assert a claim or qualify for statutory damages and attorneys’ fees.<sup>8</sup> The FCA prohibits unauthorized distribution of a satellite or radio communication. By establishing theft, unauthorized distribution of a signal or trading in devices like STBs that enable infringement, a content producer may be able to quickly and effectively target infringers as well as those that aid and abet them such as payment processors as well as equipment and software providers from whom judgments may be enforced.

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<sup>4</sup> As determined by one federal court, “‘IPTV’ is the electronic delivery of video programming via internet protocol over a service provider’s infrastructure—such as AT & T’s ‘U-verse.’ ‘OTT’ is the delivery of video programming using an internet connection that is not owned, managed, or operated by the party delivering the programming—i.e., Netflix.” *China Cent. Television v. Create New Tech. (HK) Ltd.*, No. CV 15-01869 MMM MRWX, 2015 WL 3649187, at \*1 (C.D. Cal. June 11, 2015).

<sup>5</sup> Traditional cable and satellite providers are “multi-channel programming video distributor” as defined by the Federal Communications Commission (“FCC”). 47 C.F.R. § 76.1000.

<sup>6</sup>Article 29 Working Party publishes Opinion on review of E-Privacy Directive, Practical Law UK Legal Update 3-631-6346

<sup>7</sup>Ownership of the patents underlying OTT technology were filed in the District of Delaware in 2014 and, after transfer to the Northern District of California and summary motion practice, the claims were settled. *OpenTV, Inc. v. Netflix, Inc.*, No. CV 12-1733 (GMS), 2014 WL 1292790, at \*1 (D. Del. Mar. 31, 2014); *OpenTV, Inc. v. Netflix Inc.*, 76 F. Supp. 3d 886, 889 (N.D. Cal. 2014)

<sup>8</sup>*Fox Broad. Co. v. Dish Network L.L.C.*, 747 F.3d 1060, 1067 (9th Cir. 2014) *citing Cartoon Network LP v. CSC Holdings, Inc.* (“*Cablevision*”), 536 F.3d 121 (2d Cir.2008) (affirming denial of preliminary injunction because the end user creates the copy and Fox could not establish direct copyright infringement and Fox did not own the copyrights in the advertisements being skipped and could not prove a likelihood success for secondary copyright infringement). A motion to compel discovery concerning Dish Network’s efforts to create an OTT network was previously denied by the district court. *Fox Broad. Co., Inc. v. DISH Network, L.L.C.*, No. CV 12-04529-DMG (SH), 2014 WL 12558792, at \*1 (C.D. Cal. July 30, 2014).

## **B. The FCA Is Applied By The Southern District of New York To IPTV/OTT Infringement**

The Federal Communications Act of 1934 has long been utilized to combat theft of television signals. For instance, the FCA was used in the 1990s and early 2000s as a very powerful tool against consumers stealing cable services through descrambling boxes and other devices.<sup>9</sup> The FCA includes powerful anti-piracy provisions against infringers and against those using a mechanical device to make unauthorized retransmission. The FCA authorizes private rights of action; authorizes the recovery of actual or statutory damages and permits the Court to enhance damages by up to \$100,000.00 per violation in cases of willfulness. 47 U.S.C.A. § 605(e)(3) and (4). Our legal team is the first to apply the FCA to OTT and IPTV.

A 2017 case decided by the Southern District of New York suggests that tried-and-true strategies used in pursuing cable television thefts may be viable in the era of OTT and IPTV.<sup>10</sup> Specifically, Judge Barbara Moses found:

I conclude that the third sentence of § 605(a) does not require pleading or proof that the defendant intercepted a satellite transmission or other radio communication. The statute reaches the unauthorized retransmission of a signal that originated as a satellite transmission, even when it is thereafter received or transmitted over the internet.

In applying the FCA to IPTV delivered by OTT, the Court looked to older cases that applied existing laws to novel means of infringing television broadcasting. *Id. citing Int'l Cablevision, Inc. v. Sykes*, 997 F.2d 998, 1008 (2d Cir. 1993) (“The term ‘radio communication,’ as used in the Communications Act, has long been understood to include satellite transmissions.”) This lone decision suggests that the FCA may be an effective tool to use against those infringers hiding behind OTT and IPTV technology.

## **C. Content Producers Should Establish Anti-Piracy Policy Using Various Methods of Prevention**

Telltale signs of piracy include (i) the availability of channels that are exclusively licensed to another provider or not available on a given jurisdiction; (ii) the advertising of “free” or below market prices; (iii) the need to purchase separate hardware; (iv) the need to download or install software to view the content; (v) required prepayment of subscription fees; (vi) provider’s use of “virtual offices” that often house many entities; (vii) inefficient payment

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<sup>9</sup>*Int'l Cablevision, Inc. v. Sykes*, 75 F.3d 123, 133 (2d Cir. 1996) (applying FCA to cable descrambling devices); *DIRECTV, Inc. v. Bates*, 393 F. Supp. 2d 147, 150 (N.D.N.Y. 2005) (applying FCA to “pirate access devices” or PAD and awarding statutory damages including attorneys’ fees).

<sup>10</sup>*Joint Stock Co. Channel One Russia Worldwide v. Infomir LLC*, No. 16-CV-1318 (GBD) (BCM), 2017 WL 696126, at \*7 (S.D.N.Y. Feb. 15, 2017), *report and recommendation adopted sub nom.* 2017 WL 2988249 (S.D.N.Y. Mar. 27, 2017).

methods such as the requirement of payment in person or over the phone; (vii) low-image and sound quality; and (viii) last but certainly not least, the origination of the source signal.

One of the most important aspects of developing a strong anti-piracy and litigation strategy is for content providers to choose an experienced team of lawyers, paralegals and investigators to implement a cost-effective strategy.

There are a number of tools that content providers can use to combat piracy. As part of a comprehensive anti-piracy campaign, content producers should consider pursuing entities selling, importing, or manufacturing the STBs or other infringing devices. According to the Sandvine report, almost 95% of illegal television streaming is completed by using STBs from only a few foreign manufacturers. These often poorly engineered boxes continuously stream the illegal content unless the box is physically turned off, which Sandvine found could lead to users using around 1 terabyte of “phantom bandwidth” a month.

Other possible tools to combat piracy include pursuing (i) sources of the infringing code such as web-portals and domain registrars; (ii) payment processors involved with the illegal transaction; and (iii) other accomplices such as local STB distributors. Traditional enforcement methods relied on by Copyright holders such as cease-and-desist letters targeted at app stores, payment processors and content distribution networks (“CDNs”) may be considered as part of an anti-piracy plan. Emerging technologies may help in a content producer’s initiative to combat piracy. Developing a good rapport with in-house investigators and outside counsel can make the difference between a costly endeavor that yields no results or a proactive measure that increases revenues, gaining positive attention from the C-Suite.

#### **D. Conclusion**

As the cord-cutting movement kicks into high gear in 2018, content providers should wake up to loss of revenues from television and video piracy. In-house counsel should consider adopting strategies to combat content piracy of waiting. Using the FCA to supplement existing enforcement measures may lead to powerful results.

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