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 13 **UNITED STATES DISTRICT COURT**
FOR THE EASTERN DISTRICT OF CALIFORNIA
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15 DISH NETWORK L.L.C., ECHOSTAR
 TECHNOLOGIES L.L.C., and NAGRASTAR
 16 LLC,

17 Plaintiffs,

18 v.

19 INTELLIGENT TECHNOLOGY, INC., and
 20 BYONG YONG KIM,

21 Defendants.

Case No. 2:09-CV-03436-WBS-KJM

**AGREED FINAL JUDGMENT AND
PERMANENT INJUNCTION**

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1 **I. INTRODUCTION & NATURE OF THE ACTION**

2 1. Plaintiffs brought this action against Defendants Intelligent Technology, Inc. and
3 Byong Yong Kim (collectively “Defendants”) for unlawfully manufacturing, distributing and
4 otherwise trafficking in devices, components, and technologies intended to facilitate the illegal
5 and unauthorized reception and decryption of DISH Network’s satellite television programming.

6 2. DISH Network is a multi-channel video provider, providing video, audio, and data
7 services to customers throughout the United States, Puerto Rico, and the U.S. Virgin Islands via a
8 Direct Broadcast Satellite system. DISH Network uses satellites to broadcast, among other
9 things, movies, sports, and general entertainment services to consumers who have been
10 authorized to receive such services after payment of a subscription fee (or in the case of a pay-
11 per-view movie or event, the purchase price).

12 3. To provide customers with a variety of programming channels, DISH Network
13 contracts with and purchases the distribution rights of copyrighted programming from network
14 affiliates, pay and specialty broadcasters, cable networks, motion picture distributors, sports
15 leagues, event promoters, and other content providers, including HBO, SHOWTIME, ESPN,
16 Cinemax, and Disney.

17 4. Because DISH Network generates revenues through the sale of subscription
18 packages and pay-per-view programming, and because the ability to attract and retain distribution
19 rights for programming is dependent upon preventing the unauthorized reception of DISH
20 Network programming, DISH Network’s video channels, except for certain promotional
21 channels, are all digitally secured and encrypted.

22 5. Plaintiffs protect their DISH Network Programming from unauthorized viewing by
23 using a management and security system, which serves two interrelated functions: (1) subscriber-
24 management—allowing DISH Network to “turn on” or “turn off” Programming that a customer
25 ordered, cancelled, or changed; and (2) encryption—preventing individuals or entities who have
26 not purchased DISH Network programming from viewing it.

27 6. The security system is comprised of two parts. First, DISH Network encrypts
28 (electronically scrambles) its satellite signals using proprietary technology provided by

1 NagraStar. Essentially, NagraStar provides DISH Network with “smart cards” (“Access Cards”) 2 that contain a microprocessor component that functions as a security computer to a “conditional 3 access system” known as Digital Nagra Advanced Security Process (“DNASP”). These Access 4 Cards and related encryption technology are utilized in the satellite receivers that customers either 5 purchase or lease. Second, the DNASP uses a complex encryption system that is combined with 6 a Digital Video Broadcasting (“DVB”) scrambler/encoding system to effectively protect and 7 encrypt DISH Network programming.

8 7. Defendants violated federal law by manufacturing, offering to the public, 9 providing, or otherwise engaging in the traffic of devices, components, and technologies that are 10 primarily designed to circumvent and defeat Plaintiffs’ security system and ultimately facilitate 11 the unauthorized reception of Plaintiffs’ encrypted satellite signals and copyrighted DISH 12 Network Programming. Such devices, components, and technologies include: Visionsat branded 13 satellite television receivers, firmware and software designed or used for piracy in connection 14 with Visionsat receivers, and dongles. Defendants acknowledge and admit that each of the 15 foregoing was primarily designed, marketed, and used to facilitate piracy of DISH Network 16 programming.

17 **II. FINAL JUDGMENT & PERMANENT INJUNCTION**

18 Upon stipulation by the Parties, the Court, having reviewed the evidence and arguments in 19 this matter hereby ORDERS and ADJUDGES as follows:

20 (1) Defendants and anyone acting in active concert or participation with, or at the 21 direction or control of Defendants are hereby PERMANENTLY ENJOINED from:

22 (a) offering to the public, providing, or otherwise trafficking in any satellite 23 television receivers or set-top-boxes, software, firmware, dongles, or any other 24 device, component, or technology, or part thereof, through any means including 25 Internet key sharing (also known as Control Word Sharing), that:

26 (i) is primarily designed or produced for the purpose of circumventing 27 Plaintiffs’ security system, including the encryption and access control 28 protection contained in the software on DISH Network Access Cards, or

1 any other technological measure adopted by Plaintiffs that effectively
2 controls access to copyrighted programming on the DISH Network
3 platform;

4 (ii) has only a limited commercially significant purpose or use other
5 than to circumvent Plaintiffs' security system, including the encryption and
6 access control protection contained in the software on DISH Network
7 Access Cards, or any other technological measure adopted by Plaintiffs that
8 effectively controls access to copyrighted programming on the DISH
9 Network platform;

10 (iii) is marketed by any Defendant and/or others acting in concert with
11 any Defendant for use in circumventing Plaintiffs' security system,
12 including the encryption and access control protection contained in the
13 software on DISH Network Access Cards, or any other technological
14 measure adopted by Plaintiffs that effectively controls access to
15 copyrighted programming on the DISH Network platform; and

16 (b) assembling, modifying, selling, importing, and/or distributing any satellite
17 television receivers, set-top-boxes, software, firmware, dongles, or other device,
18 technology or part thereof knowing or having reason to know that such device,
19 technology or part thereof is primarily of assistance in the unauthorized decryption
20 of direct-to-home satellite services through any means including Internet Key
21 Sharing (also known as Control Word Sharing);

22 (c) intercepting Plaintiffs' satellite transmissions without Plaintiffs'
23 authorization through any means including Internet Key Sharing (also known as
24 Control Word Sharing);

25 (d) assisting others in intercepting Plaintiffs' satellite transmissions without
26 Plaintiffs' authorization through any means including Internet Key Sharing (also
27 known as Control Word Sharing);
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1 (e) Testing, analyzing, reverse engineering, manipulating or otherwise
2 extracting codes or other technological information or data from Plaintiffs'
3 satellite television receivers, access cards, data stream or any other part or
4 component of Plaintiffs' security system or other technology used to gain access to
5 DISH Network programming including through the use of Internet Key Sharing
6 (also known as Control Word Sharing); and

7 (f) Operating any website or URL that markets, promotes, distributes, or
8 provides any information or discussion forums related to the products, devices,
9 technology, codes, software, hardware, firmware, dongles, or components thereof
10 which Defendants are permanently enjoined from manufacturing, promoting,
11 distributing, or trafficking in pursuant to section (1)(a)-(e) above of this Final
12 Judgment and Permanent Injunction.

13 (2) This Permanent Injunction takes effect immediately.

14 (3) Should any Defendant breach any part of this Final Judgment or Permanent
15 Injunction, that Defendant shall be subject to damages in the amount of \$110,000 for each such
16 breach or violation, which is the maximum statutory damage permitted per violation under 47
17 U.S.C. § 605(e)(3)(C)(i)-(ii). For purposes of assessing damages under this section, each "device,
18 product, file, technology or part or component thereof" that is distributed by Defendants or others
19 acting in active participation or concert with Defendants in violation of this Final Judgment and
20 Permanent Injunction shall constitute a separate and discrete violation. In the case of any
21 software, firmware, or other file distributed or posted by Defendants or others acting in active
22 participation or concert with Defendants, each time that software, firmware or other file is
23 downloaded by an end-user shall constitute a separate and discrete "violation" for purposes of
24 quantifying damages set forth in this section.

25 (4) The Court further ORDERS judgment in favor of Plaintiffs DISH Network L.L.C.,
26 EchoStar Technologies L.L.C. and NagraStar LLC on each of Plaintiffs' claims under 17 U.S.C.
27 § 1201, 47 U.S.C. § 605, and 18 U.S.C. 2511 (Counts 1-5 in Plaintiffs' Complaint) in the
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1 aggregate amount of Sixteen Million Seven Hundred Sixty Six Thousand Four Hudred Dollars
2 (\$16,766,400.00) as to Defendants.

3 (5) The Court retains jurisdiction over this action for the purposes of enforcing this
4 Final Judgment and Permanent Injunction and adjudicating any disputes regarding the Parties'
5 underlying settlement agreement, including but not limited to disputes regarding the enforcement
6 or scope of the settlement agreement.

7 (6) Each of the Parties is to bear its own costs and attorney's fees.

8 (7) This is a final judgment. Any and all relief not expressly granted herein is denied.
9 It is so ORDERED.

10 SIGNED and ENTERED this 12th day of November, 2010.

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12 WILLIAM B. SHUBB
13 UNITED STATES DISTRICT JUDGE
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1 Dated: November 11, 2010

HAGAN NOLL & BOYLE LLC

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