

1 HAROLD J. McELHINNY (CA SBN 66781)
 2 RACHEL KREVANS (CA SBN 116421)
 3 MATTHEW I. KREEGER (CA SBN 153793)
 4 JASON A. CROTTY (CA SBN 196036)
 5 DAVID M. HYMAS (CA SBN 226202)
 6 MORRISON & FOERSTER LLP
 7 425 Market Street
 8 San Francisco, California 94105-2482
 9 Telephone: 415.268.7000
 10 Facsimile: 415.268.7522
 11 hmcclhinny@mofo.com
 12 rkrevans@mofo.com
 13 mkreeger@mofo.com
 14 jcrotty@mofo.com
 15 dhymas@mofo.com

16 Attorneys for Defendants
 17 ECHOSTAR SATELLITE LLC AND
 18 ECHOSTAR TECHNOLOGIES CORPORATION

19 UNITED STATES DISTRICT COURT
 20 NORTHERN DISTRICT OF CALIFORNIA
 21 SAN JOSE DIVISION

22 In re

23 ACACIA MEDIA TECHNOLOGIES
24 CORPORATION

25 Case No. 05-CV-1114 JW

26 **DECLARATION OF DAVID M.
 27 HYMAS IN SUPPORT OF ROUNDS
 28 1& 2 DEFENDANTS' OPPOSITION
 TO ACACIA'S MOTION FOR
 RECONSIDERATION**

Date: August 17, 2007
 Time: 9:00 a.m.
 Courtroom: 8, 4th Floor
 Judge: Hon. James Ware

1 I, DAVID M. HYMAS, declare and state:

2 1. I am an associate at Morrison & Foerster LLP, counsel of record for defendants
3 EchoStar Satellite LLC and EchoStar Technologies Corporation in this case. Unless otherwise
4 stated, I have personal knowledge of the matters stated below and, if called as a witness to testify,
5 could and would do so. I make this declaration in support of the "Rounds 1 & 2 Defendants'
6 Opposition To Acacia's Motion For Reconsideration."

7 2. Attached hereto as Exhibit A is a true and correct copy of "Plaintiff Acacia Media
8 Technologies Corporation's Claim Construction Brief," which Acacia filed on January 8, 2004.

9 3. Attached hereto as Exhibit B is a true and correct copy of this Court's Markman
10 Order dated July 12, 2004 ("*Markman I*"), and filed in *Acacia Media Technologies Corp. v. New*
11 *Destiny Internet Group, Inc., et al.*, No. 02 1040 (C.D. Cal.).

12 4. Attached hereto as Exhibit C is a true and correct copy of "Plaintiff Acacia Media
13 Technologies Corporation's Memorandum Of Points And Authorities In Support Of Its Motion
14 For Reconsideration And Clarification Of The July 12, 2004 Markman Order," which Acacia
15 filed on July 29, 2005.

16 5. Attached hereto as Exhibit D is a true and correct copy of this Court's *Markman*
17 Order dated December 7, 2005 ("*Markman II*"), and filed in *Acacia Media Technologies Corp. v.*
18 *New Destiny Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

19 6. Attached hereto as Exhibit E is a true and correct copy of the "Transfer Order"
20 from the Judicial Panel on Multidistrict Litigation, which was filed in this case on February 23,
21 2006.

22 7. Attached hereto as Exhibit F is a true and correct copy of "Plaintiff Acacia Media
23 Technologies Corporation's Proposed Definitions And Citations To Intrinsic Record For Claim
24 Terms From The '863 And '720 Patents And Terms From The '992 Patent That The Court Has
25 Already Construed," which Acacia served on May 26, 2006.

26 8. Attached hereto as Exhibit G is a true and correct copy of "Plaintiff Acacia Media
27 Technologies Corporation's Legal Memorandum Re The Definitions Of Claim Terms From The
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1 '863 And '720 Patents And Terms From The '992 Patent That The Court Has Already
2 Construed," which Acacia filed on July 21, 2006.

3 9. Attached hereto as Exhibit H is a true and correct copy of "Plaintiff Acacia Media
4 Technologies Corporation's Combined Reply In Support Of Its Legal Memorandum Re The
5 Definitions Of Claim Terms From The '863 And '720 Patents And Terms From The '992 Patent
6 That The Court Has Already Construed," which Acacia filed on August 25, 2006.

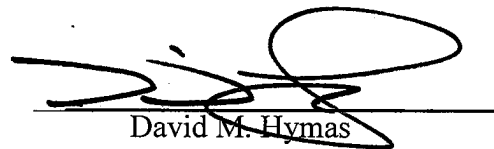
7 10. Attached hereto as Exhibit I is a true and correct copy of this Court's *Markman*
8 Order dated December 14, 2006 ("*Markman III*"), and filed in *Acacia Media Technologies Corp.*
9 *v. New Destiny Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

10 11. Attached hereto as Exhibit J is a true and correct copy of "Plaintiff Acacia Media
11 Technologies Corporation's Combined Opposition To: (1) Claim Construction Brief Of AEBN,
12 Inc.; Ademia Multimedia, LLC; Audio Communications, Inc.; Game Link, Inc.; Innovative Ideas
13 International; Lightspeed Media Group, Inc.; New Destiny Internet Group, Inc.; VS Media, Inc.
14 And (2) Claim Construction Brief Of IWI And Offendale," which Acacia filed on January 22,
15 2004.

16 12. Attached hereto as Exhibit K is a true and correct copy of Robert C. Faber, *Landis*
17 *on Mechanics of Patent Claim Drafting* § 4:1 (5th ed. 2006).

18 13. Attached hereto as Exhibit L is a true and correct copy of this Court's *Markman*
19 Order dated March 2, 2007 ("*Markman IV*"), and filed in *Acacia Media Technologies Corp. v.*
20 *New Destiny Internet Group, Inc., et al.*, No. 05-1114 (N.D. Cal.).

21 14. I declare under penalty of perjury under the laws of the United States of America
22 and the State of California that the foregoing is true and correct and that this declaration was
23 executed on July 18, 2007, in San Francisco, California.

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David M. Hymas