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7 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA
8

9 DISH NETWORK L.L.C.,
SLING TV L.L.C., and
10 NAGRASTAR LLC,

Case No. 2:22-cv-01019

PLAINTIFFS' COMPLAINT

11 Plaintiffs,

12 v.

13 SANTINA FULTON and
14 VENTURA'S NEST LLC,

15 Defendants.
16

17 Plaintiffs DISH Network L.L.C. ("DISH"), Sling TV L.L.C. ("Sling"), and NagraStar LLC
18 ("NagraStar" and collectively, "Plaintiffs") file this action against Defendants Santana Fulton and
19 Ventura's Nest LLC for violations of the Federal Communications Act, 47 U.S.C. § 605, and
20 Digital Millennium Copyright Act, 17 U.S.C. § 1201.
21

NATURE OF THE ACTION

22 1. DISH and Sling are television service providers that deliver programming live and
23 on demand by satellite and internet to millions of authorized, fee-paying subscribers in the United
24 States using security technologies provided by NagraStar and other content protection providers.
25 Defendants operate an illicit television streaming service called VNest TV, whereby Defendants or
26 persons working in concert with Defendants acquire DISH and Sling's transmissions of television
27 programming and then retransmit that programming without authorization to users of Defendants'
28 VNest TV service.

PARTIES

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2 2. Plaintiff DISH Network L.L.C. is a Colorado limited liability company having its
3 principal place of business in Englewood, Colorado.

4 3. Plaintiff Sling TV L.L.C. is a Colorado limited liability company having its principal
5 place of business in Englewood, Colorado.

6 4. Plaintiff NagraStar LLC is a Colorado limited liability company having its principal
7 place of business in Englewood, Colorado.

8 5. Defendant Santina Fulton (“Fulton”) is an individual believed to be residing at 5320
9 Bocopa Street, Las Vegas, Nevada 89148.

10 6. Defendant Ventura’s Nest LLC is a Nevada limited liability company believed to
11 have its principal place of business at 1560 Eastern Avenue, Las Vegas, Nevada 89101. Fulton is
12 the sole manager of Ventura’s Nest LLC.

13 7. Upon information and belief, Fulton oversees the day-to-day operations and makes
14 the final decisions concerning the business of Ventura’s Nest LLC. Fulton is believed to authorize,
15 control, participate in, and receive direct financial benefits from the infringing activities of
16 Ventura’s Nest LLC as alleged herein. Upon information and belief, the infringing acts that Fulton
17 engaged in as an agent of Ventura’s Nest LLC were within the scope of that agency. Fulton and
18 Ventura’s Nest LLC are collectively referred to in this complaint as “Defendants.”

JURISDICTION AND VENUE

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20 8. The Court has subject matter jurisdiction under 28 U.S.C. § 1331 because Plaintiffs
21 assert claims for violations of 47 U.S.C. § 605 and 17 U.S.C. § 1201.

22 9. Defendants are subject to personal jurisdiction in this Court pursuant to Fed. R. Civ.
23 P. 4(k)(1)(A) because Defendants reside in Nevada and through the VNest TV service have
24 purposefully directed their conduct toward and purposefully availed themselves of the privilege of
25 conducting business in Nevada, causing injury to Plaintiffs in Nevada.

26 10. Venue is proper in this Court under 28 U.S.C. § 1391 because Defendants reside in
27 this judicial district and a substantial part of the events giving rise to Plaintiffs’ claims occurred in
28 this judicial district.

DISH’S SATELLITE TELEVISION PROGRAMMING

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2 11. DISH delivers television programming to millions of subscribers nationwide using
3 a direct broadcast satellite system (“DISH Programming”). DISH’s satellite transmissions of DISH
4 Programming are secured using a conditional access system (“CAS”) provided by NagraStar. The
5 CAS uses key-based encryption and decryption process to make DISH Programming accessible to
6 only authorized DISH subscribers that purchased access to that DISH Programming and restricts
7 unauthorized access to, copying, and retransmission of DISH Programming.

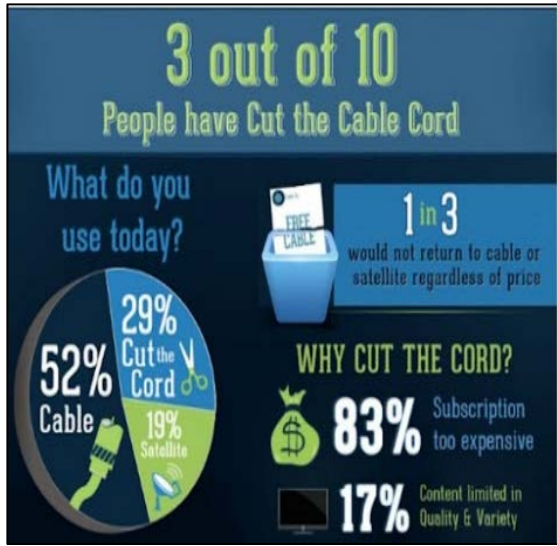
8 12. DISH and Sling deliver television programming to millions of subscribers
9 nationwide using the public internet. DISH’s internet transmissions of DISH Programming and
10 Sling’s internet transmissions of television programming (“Sling Programming”) are secured using
11 digital rights management (“DRM”) technologies that include, based upon the subscriber’s viewing
12 platform, Google’s Widevine DRM, Apple’s FairPlay DRM, and Microsoft’s PlayReady DRM.
13 Each DRM has a key-based encryption and decryption process that is used to make DISH
14 Programming and Sling Programming accessible to only authorized DISH or Sling subscribers that
15 purchased access to that DISH Programming or Sling Programming and restricts unauthorized
16 access to, copying, and retransmission of DISH Programming and Sling Programming.

DEFENDANTS’ REBROADCASTING SCHEME

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18 13. Defendants marketed and sold their VNest TV service to users through the web
19 domains venturasnest.com, vnestiptv.com, and vnestspot.blogspot.com (the “VNest Domains”).
20 On information and belief, Fulton registered the VNest Domains.

21 14. Defendants advertised VNest TV as a subscription-based service providing more
22 than 5,000 channels, movies, sports programs, and other premium content, all for a low monthly
23 fee. According to Defendants, VNest TV offers “the best content and up time than anyone else in
24 the business.” VNest TV advertising emphasized converting customers from legitimate cable or
25 satellite services, such as those provided by DISH, by encouraging customers to “cut the cord.”
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Excerpt from www.vnestspot.blogspot.com

1 Month IPTV

\$ **20**

No discounts pay for each month as you go
Valid for one month

Select

24/7 Live Tv Channels
5,000 Channels
Fast & Stable w/97% up-time
2 Connections Anywhere
HD & 4K Content
Instant Access

Excerpt from www.vnestiptv.com

15. DISH Programming and Sling Programming has been retransmitted to users of Defendants’ VNest TV service without Plaintiffs’ authorization, thereby allowing VNest TV users to receive such programming without paying the requisite subscription fee to DISH or Sling. Periodic monitoring conducted on a sampling of the channels made available to users of the VNest TV service identified more than one hundred instances where VNest TV was configured to retransmit DISH Programming or Sling Programming without authorization.

16. DISH Programming retransmitted to users of the VNest TV service originated from DISH’s satellite communications. Additionally, DISH Programming or Sling Programming received from internet communications of DISH or Sling was retransmitted on the VNest TV service. Watermarks added to DISH’s satellite communications, and other identifiers unique to the television broadcasts of DISH and Sling, were detected when viewing DISH Programming and Sling Programming on the VNest TV service, thereby confirming DISH’s satellite communications and DISH or Sling’s internet communications are the source of the DISH Programming and Sling Programming retransmitted on the VNest TV service.¹

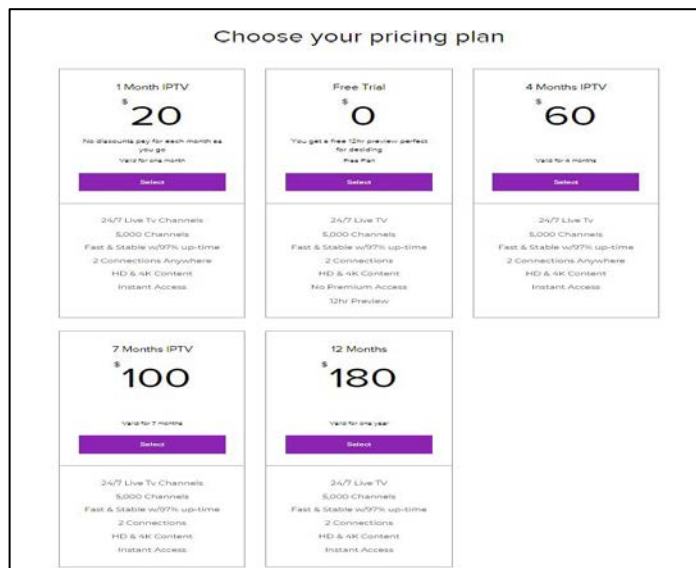
¹ On information and belief, Defendants obtained numerous channels for VNest TV from the Nitro TV service, as shown by the services having the same channel offerings and users of the services accessing the same server to receive the channels. Nitro TV has been the subject of separate litigation. *See DISH Network L.L.C. v. Galindo*, No. 3:21-cv-00218, Dkt. 19 (S.D. Tex.) (granting default judgment against Galindo family members and awarding damages of \$100,363,000 for violations of the FCA and DMCA).

1 17. On information and belief, Defendants directly engage in, aid and abet, or act within
 2 the scope of a principal-agent relationship with other persons to obtain the DISH Programming and
 3 Sling Programming retransmitted to users of Defendants’ VNest TV service.

4 18. On information and belief, Defendants directly engage in, aid and abet, or act within
 5 the scope of a principal-agent relationship with other persons in the circumvention of DRMs that
 6 control access to the internet communications of DISH Programming and Sling Programming in
 7 order to retransmit DISH Programming and Sling Programming on the VNest TV service. The
 8 DRMs are believed to be circumvented using either a differential fault analysis attack where faults
 9 are injected into the DRM to disrupt its operation and create pathways to extract the keys necessary
 10 to decrypt DISH Programming and Sling Programming, or a man-in-the-middle attack whereby
 11 customized software is used to bypass the DRM by intercepting DISH Programming or Sling
 12 Programming passing from the DRM’s decryption library to the user’s viewing platform.

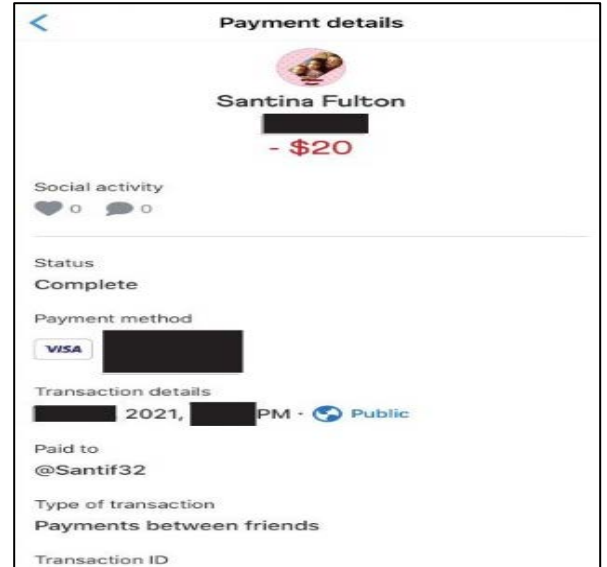
13 19. Defendants profit from the VNest TV service through the sale of codes that are
 14 designed and produced to enable a set-top box or other internet-enabled device to access servers
 15 used to retransmit DISH Programming and Sling Programming on the VNest TV service (a “Device
 16 Code”).

17 20. Defendants sold Device Codes for approximately \$20 per month of access to the
 18 VNest TV service. Defendants also sold Device Codes that were valid for longer periods of time at
 19 varying prices.



Excerpt from www.vnestiptv.com

21. Device Code payments were received by either Fulton or Ventura’s Nest LLC depending on the method used to purchase the Device Code.



1 month Device Code via PayPal

1 month Device Code via Venmo

22. Defendants were notified that their VNest TV service violated federal laws and were asked to cease and desist from such activity, as early as October 10, 2021, but VNest TV has continued to operate.

CLAIMS FOR RELIEF

COUNT I

Violations of the FCA, 47 U.S.C. § 605(a), Asserted by DISH

23. DISH repeats and incorporates the allegations in paragraphs 1-22.

24. Defendants divulged, used, and assisted others to receive DISH Programming that originated from DISH’s satellite communications through their VNest TV service, without the authorization of DISH and for the benefit of Defendants and users of their VNest TV service that were not entitled to receive such DISH Programming, in violation of 47 U.S.C. § 605(a).

25. Defendants’ sale of Device Codes assisted users of their VNest TV service to receive DISH Programming, without the authorization of DISH and for the benefit of Defendants and users

1 of their VNest TV service that were not entitled to receive such DISH Programming, in violation
2 of 47 U.S.C. § 605(a).

3 26. Defendants violated 47 U.S.C. § 605(a) willfully and for the purpose of commercial
4 advantage and private financial gain.

5 27. Defendants were aware or had reason to believe that their actions violated 47 U.S.C.
6 § 605(a). Such violations damaged DISH in an amount to be proven at trial. Unless restrained and
7 enjoined, Defendants will continue to violate 47 U.S.C. § 605(a).

8 **COUNT II**

9 **Violations of the FCA, 47 U.S.C. § 605(e)(4), Asserted by DISH and NagraStar**

10 28. DISH and NagraStar repeat and incorporate the allegations in paragraphs 1-22.

11 29. Defendants sell and distribute Device Codes for purposes of divulging, using, and
12 assisting others to receive DISH Programming originating from DISH's satellite communications
13 as part of their VNest TV service, in violation of 47 U.S.C. § 605(e)(4). Defendants intended for
14 Device Codes to be used in divulging and receiving DISH Programming, without authorization
15 from DISH and for the benefit of Defendants and users of their VNest TV service that were not
16 entitled to receive such DISH Programming, which is activity proscribed by 47 U.S.C. § 605(a).

17 30. Defendants violated 47 U.S.C. § 605(e)(4) willfully and for purposes of commercial
18 advantage and private financial gain.

19 31. Defendants were aware or had reason to believe that their actions violated 47 U.S.C.
20 § 605(e)(4). Such violations damaged DISH and NagraStar in an amount to be proven at trial.
21 Unless restrained and enjoined, Defendants will continue to violate 47 U.S.C. § 605(e)(4).

22 **COUNT III**

23 **Violations of the DMCA, 17 U.S.C. § 1201(a)(2), Asserted by DISH and Sling**

24 32. DISH and Sling repeat and incorporate the allegations in paragraphs 1-22.

25 33. DISH and Sling use technological protection measures such as DRMs to effectively
26 control access to their internet communications of DISH and Sling Programming that include works
27 protected under the Copyright Act. DISH and Sling are authorized to protect the copyrighted works
28

1 aired on their internet communications from unauthorized reception and viewing and implement
2 these technological protection measures with the copyright owner's consent.

3 34. The DRMs implemented by DISH and Sling are circumvented to acquire the DISH
4 Programming and Sling Programming that is retransmitted without authorization on the VNest TV
5 service. On information and belief, the DRMs are circumvented using either a differential fault
6 analysis attack or a man-in-the-middle attack carried out as part of the operation of the VNest TV
7 service. The VNest TV service, or at least a component or part thereof, is primarily designed and
8 produced for the purpose of circumventing the DRMs implemented by DISH and Sling and has
9 only limited commercially significant purpose or use other than to circumvent such DRMs.
10 Defendants violate 17 U.S.C. § 1201(a)(2) by manufacturing, offering to the public, providing, or
11 otherwise trafficking in the VNest TV service.

12 35. Defendants' actions that constitute violations of 17 U.S.C. § 1201(a)(2) have been
13 performed without the authorization or consent of DISH or Sling or, on information and belief, any
14 owner of the copyrighted works provided by DISH or Sling.

15 36. Defendants' violations of 17 U.S.C. § 1201(a)(2) were willful and for purposes of
16 commercial advantage and private financial gain.

17 37. Defendants were aware or had reason to believe their actions violated 17 U.S.C. §
18 1201(a)(2). Such violations have caused damage to DISH and Sling in an amount to be proven at
19 trial. Unless restrained and enjoined, Defendants will continue to violate 17 U.S.C. § 1201(a)(2).

20 **PRAYER FOR RELIEF**

21 Plaintiffs request a judgment against Defendants as follows:

22 A. For a permanent injunction under 47 U.S.C. § 605(e)(3)(B)(i), 17 U.S.C. §
23 1203(b)(1), and Fed. R. Civ. P. 65 that prohibits Defendants, and any officer, agent, servant,
24 employee, or other person acting in active concert or participation with any of them that receives
25 actual notice of the order, from:

26 1. Receiving or assisting others in receiving DISH's satellite communications
27 or the content of such communications without DISH's authorization, including through the VNest
28 TV service or any similar internet streaming service; and

1 2. Selling or distributing any device or equipment that is intended for receiving
2 or assisting others in receiving DISH’s satellite communications of television programming or the
3 content of such communications, including codes or credits used to access the VNest TV service
4 or any similar internet streaming service;

5 3. Manufacturing, offering to the public, providing, or otherwise trafficking in
6 the VNest TV service or any similar streaming service, codes or credits used to access the VNest
7 TV service or any similar streaming service, or any other technology, product, service, device,
8 component, or part thereof that:

9 a. is primarily designed or produced for circumventing a technological
10 measure employed by DISH or Sling that controls access to copyrighted works;

11 b. has only limited commercially significant purpose or use other than
12 circumventing a technological measure employed by DISH or Sling that controls access to
13 copyrighted works;

14 c. is marketed for purposes of circumventing a technological measure
15 employed by DISH or Sling that controls access to copyrighted works;

16 B. For an order allowing Plaintiffs to take possession of and destroy all Device Codes
17 and any other device or equipment in Defendants’ possession, custody, or control that the Court
18 believes to have been involved in a violation of the FCA or DMCA, pursuant to 47 U.S.C. §
19 605(e)(3)(B)(i) and 17 U.S.C. § 1203(b)(2);

20 C. For an order permanently transferring each web domain that Defendants used in
21 connection with the VNest TV service to Plaintiffs;

22 D. For an order requiring Defendants to preserve and turn over to Plaintiffs all hard
23 copy and electronic records regarding persons involved in the VNest TV service, including records
24 concerning the Device Codes that were purchased and sold;

25 E. Award DISH the greater of (1) its actual damages together with Defendants’ profits
26 that are attributable to the violations identified in Count I, or (2) statutory damages up to \$10,000
27 for each violation of 47 U.S.C. § 605(a), pursuant to 47 U.S.C. § 605(e)(3)(C)(i)(I)-(II). In either
28

1 scenario, damages should be increased by \$100,000 per violation, in accordance with 47 U.S.C. §
2 605(e)(3)(C)(ii);

3 F. Award DISH and NagraStar collectively the greater of (1) their combined actual
4 damages together with Defendants' profits that are attributable to the violations identified in Count
5 II, or (2) statutory damages up to \$100,000 for each violation of 47 U.S.C. § 605(e)(4), pursuant to
6 47 U.S.C. § 605(e)(3)(C)(i)(I)-(II);

7 G. Award DISH and Sling collectively the greater of (1) their combined actual damages
8 together with Defendants' profits that are attributable to the violations identified in Count III, or
9 (2) statutory damages up to \$2,500 for each violation of 17 U.S.C. § 1201(a)(2), pursuant to 17
10 U.S.C. § 1203(c)(2) and (c)(3)(A);

11 H. Award Plaintiffs their attorneys' fees and costs under 47 U.S.C. § 605(e)(3)(B)(iii)
12 and 17 U.S.C. § 1203(b)(4)-(5);

13 I. For a complete and accurate accounting of all profits and other benefits received by
14 Defendants as a result of the wrongful conduct identified in this complaint;

15 J. For pre and post-judgment interest on all damages awarded by the Court, from the
16 earliest date permitted by law at the maximum rate permitted by law; and

17 K. For such additional relief as the Court deems just and equitable.

18 Dated this 28th day of June 2022.

19 ALVERSON TAYLOR & SANDERS

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