

ESTTA Tracking number: **ESTTA561349**

Filing date: **09/25/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following parties oppose registration of the indicated application.

Opposers Information

Name	Cox Communications, Inc
Granted to Date of previous extension	09/25/2013
Address	P.O. Box 78071 Phoenix, AZ 85062-8071 UNITED STATES

Name	CSC Holdings, LLC
Granted to Date of previous extension	09/25/2013
Address	1111 Stewart Avenue Bethpage, NY 11714 UNITED STATES

Name	Time Warner Cable Inc.
Granted to Date of previous extension	09/25/2013
Address	One Time Warner Center New York, NY 10019 UNITED STATES

Attorney information	Douglas N. Masters LOEB & LOEB LLP 321 N. Clark St., Suite 2300 Chicago, IL 60654 UNITED STATES chdocket@loeb.com, dmasters@loeb.com, rasmith@loeb.com, ngosselin@loeb.com
----------------------	---

Applicant Information

Application No	85732373	Publication date	05/28/2013
Opposition Filing Date	09/25/2013	Opposition Period Ends	09/25/2013
Applicant	DISH Network L.L.C. 9601 S. Meridian Blvd. Englewood, CO 80112 UNITED STATES		

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: Digital video recorders; Electronic apparatus and devices for controlling access to pay-television services; communications equipment, namely, set-top boxes for receiving video programming; television receivers; satellite receivers; set-top boxes; universal remote controls for home electronic devices, namely, televisions, VCRs, DVD players, digital video recorders, satellite receivers, stereo receivers, and stereo amplifiers; computer hardware and software for streaming audio, video, image and data information to a variety of network devices, namely, personal computers, tablets, mobile phones, personal digital assistants (PDA), and stand-alone hardware decoders, namely, audio decoders and video decoders; electronic devices, namely, digital media streaming devices; computer software for operating hardware, translating digital signals, transmitting digital data and signals, electronic messaging, data management, hardware and network security, and access to the internet for use in wireless communications systems; computer programs utilizing radio communications networks, local communication networks, and wide area communication networks; computer programs for facilitating wireless communication; computer programs for recording, processing, receiving, reproducing, transmitting, modifying, compressing, broadcasting, merging or enhancing data for use in wireless communications; compression software for voice, data, image, graphic, audio, and video transmissions; computer application software for mobile phones and tablets, namely, software for streaming audio, video, image and data information to a variety of network devices, namely, personal computers, tablets, and mobile devices; communications software, namely, system application and operating software for residential and commercial satellite receiver systems; communications software, namely, networking software for residential and commercial audio, video and telephony systems; satellite receivers, modems, routers, hubs, cabling, and plugs, all for residential and commercial receiver systems; telecommunications equipment, namely, smartphones, wireless and mobile telephones for voice, data, image, graphic, audio, video and fax communications and electronic mail; hand-held devices for wireless access to global communications networks; PC tablets, personal digital assistants, telephones, telephone modems and radio modems; accessories for mobile phones, namely, batteries; battery chargers; electric cigarette lighter adapters for land vehicles; hands-free headsets for mobile phones and hand-held devices; carrying cases and belt clips for electronic equipment, namely, mobile phones and hand-held devices

Grounds for Opposition

The mark is merely descriptive	Trademark Act section 2(e)(1)
Genericness	Trademark Act section 23

Attachments	Notice of Opposition re_ DISH ANYWHERE 373.pdf(19722 bytes)
-------------	--

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Douglas N. Masters/
Name	Douglas N. Masters
Date	09/25/2013

**UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter of Application Serial No. 85/732,373: DISH ANYWHERE

CHARTER COMMUNICATIONS, INC.,)	
COMCAST CORPORATION,)	
COX COMMUNICATIONS, INC.,)	
CSC HOLDINGS, LLC, and)	Opposition No. _____
TIME WARNER CABLE INC.,)	
)	
Opposers,)	
)	
v.)	
)	
DISH NETWORK, LLC,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

Charter Communications, Inc., Comcast Corporation, Cox Communications, Inc., CSC Holdings, LLC, and Time Warner Cable Inc. (collectively, “Opposers”) believe they will be damaged by the registration of DISH ANYWHERE, App. Ser. No. 85/732,373, filed by Dish Network, LLC (“Applicant”), and oppose the same.

As grounds for opposition, Opposers allege that:

1. Opposers and Applicant are each telecommunications companies that provide, among other things, television broadcasting services, delivery of pre-recorded video content, and a variety of interactive television services to subscribers.

2. On September 18, 2012, Applicant filed an application to register DISH ANYWHERE, App. Ser. No. 85/732,373, covering “Digital video recorders; Electronic apparatus and devices for controlling access to pay-television services; communications equipment, namely, set-top boxes for receiving video programming; television receivers; satellite receivers; set-top boxes; universal remote controls for home electronic devices, namely,

televisions, VCRs, DVD players, digital video recorders, satellite receivers, stereo receivers, and stereo amplifiers; computer hardware and software for streaming audio, video, image and data information to a variety of network devices, namely, personal computers, tablets, mobile phones, personal digital assistants (PDA), and stand-alone hardware decoders, namely, audio decoders and video decoders; electronic devices, namely, digital media streaming devices; computer software for operating hardware, translating digital signals, transmitting digital data and signals, electronic messaging, data management, hardware and network security, and access to the internet for use in wireless communications systems; computer programs utilizing radio communications networks, local communication networks, and wide area communication networks; computer programs for facilitating wireless communication; computer programs for recording, processing, receiving, reproducing, transmitting, modifying, compressing, broadcasting, merging or enhancing data for use in wireless communications; compression software for voice, data, image, graphic, audio, and video transmissions; computer application software for mobile phones and tablets, namely, software for streaming audio, video, image and data information to a variety of network devices, namely, personal computers, tablets, and mobile devices; communications software, namely, system application and operating software for residential and commercial satellite receiver systems; communications software, namely, networking software for residential and commercial audio, video and telephony systems. satellite receivers, modems, routers, hubs, cabling, and plugs, all for residential and commercial receiver systems; telecommunications equipment, namely, smartphones, wireless and mobile telephones for voice, data, image, graphic, audio, video and fax communications and electronic mail; hand-held devices for wireless access to global communications networks; PC tablets, personal digital assistants, telephones, telephone modems and radio modems; accessories for mobile phones,

namely, batteries; battery chargers; electric cigarette lighter adapters for land vehicles; hands-free headsets for mobile phones and hand-held devices; carrying cases and belt clips for electronic equipment, namely, mobile phones and hand-held devices” in Class 9 based upon an intent to use the term in commerce.

3. On information and belief, Applicant has used the applied-for term in connection with goods, including digital video recorders and other communications equipment, and services which enable television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers.

4. On information and belief, Applicant intends to use the applied-for term in connection with goods, including digital video recorders and other communications equipment, and services which enable television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers.

5. Others have used the term ANYWHERE in connection with goods and services other than Applicant’s, including digital video recorders and other communications equipment, and services which enable television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers.

6. Applicant was aware prior to publication of the applied-for term that others had used ANYWHERE in connection with goods and services other than Applicant’s, including digital video recorders and other communications equipment, and services which enable

television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers.

7. Applicant is aware that others are continuing to use the term ANYWHERE in connection with goods and services other than Applicant's, including digital video recorders and other communications equipment, and services which enable television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers.

8. ANYWHERE is descriptive of the applied-for goods and related services, including digital video recorders and other communications equipment and services which enable television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers, or it is a term which has become the common name of such goods and services.

9. ANYWHERE has not become distinctive of Applicant's goods in commerce.

10. ANYWHERE is so highly descriptive so as not to be capable of acquiring distinctiveness for Applicant's goods.

11. ANYWHERE does not function as a trademark but is merely informational as applied to Applicant's goods.

12. ANYWHERE is a generic term for the applied-for goods and related services, including digital video recorders and other communications equipment and services which enable television programming and other content to be broadcast and transmitted to, or accessed from, a variety of display devices including computers, mobile devices, and televisions to subscribers.

13. If Applicant were granted registration of DISH ANYWHERE without a disclaimer of ANYWHERE, Applicant would obtain certain statutory rights, including *prima facie* rights, to the exclusive use of ANYWHERE, all to the damage of Opposers.

14. Registration by Applicant of Application Serial No. 85/732,373 without a disclaimer of ANYWHERE would be inconsistent with Opposers' and others' right to use ANYWHERE descriptively, informationally, or generically.

WHEREFORE, registration by Applicant of Application Serial No. 85/732,373 for the applied-for goods would be damaging to Opposers.

Please debit our Deposit Account No. 502876 for the filing fee and any additional necessary fees.

Please address all correspondence to Douglas N. Masters, Loeb & Loeb LLP, 321 North Clark Street, Suite 2300, Chicago, Illinois 60654.

Date: September 25, 2013

LOEB & LOEB LLP

By: /Douglas N. Masters/
Douglas N. Masters
Regan A. Smith
321 North Clark Street, Suite 2300
Chicago, Illinois 60654
Telephone: (312) 464-3100
Facsimile: (312) 464-3111
Attorneys for Opposers

CERTIFICATE OF SERVICE

I, Noreen Gosselin, hereby certify that a copy of the **NOTICE OF OPPOSITION** has been served upon:

Max S. Gratton
Dish Network, LLC
9601 S. Meridien Blvd.
Englewood, CO 80112-5905

via first class mail, postage prepaid, this 25th day of September, 2013.

/Noreen Gosselin/