

ESTTA Tracking number: **ESTTA561208**

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                                  | Charter Communications, Inc.                                    |
| Granted to Date of previous extension | 09/25/2013  |
| Address                               | 12405 Powerscourt Drive<br>St. Louis, MO 63131<br>UNITED STATES |

|                                       |   |
|---------------------------------------|---|
| Name                                  | Comcast Corporation   |
| Granted to Date of previous extension | 09/25/2013  |
| Address                               | 1701 John F. Kennedy Boulevard<br>Philadelphia, PA 19103<br>UNITED STATES |

|                                       |   |
|---------------------------------------|---|
| Name                                  | Cox Communications, Inc                                       |
| Granted to Date of previous extension | 09/25/2013  |
| Address                               | 1550 W. Deer Valley Rd.<br>Phoenix, AZ 85027<br>UNITED STATES |

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

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

|                      |                                       |
|----------------------|---------------------------------------|
| Attorney information | Douglas N. Masters<br>LOEB & LOEB LLP |
|----------------------|---------------------------------------|

|  |  |
|--|--|
|  | 321 N. Clark Street, Suite 2300<br>Chicago, IL 60654<br>UNITED STATES<br>chdoCKET@loeb.com, dMasters@loeb.com, rasMith@loeb.com,<br>ngosselin@loeb.com |
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## Applicant Information

|                        |   |                        |            |
|------------------------|---|------------------------|------------|
| Application No         | 85732379  | Publication date       | 05/28/2013 |
| Opposition Filing Date | 09/25/2013  | Opposition Period Ends | 09/25/2013 |
| Applicant              | DISH Network L.L.C.<br>9601 S. Meridian Blvd.<br>Englewood, CO 80112<br>UNITED STATES |                        |            |

## Goods/Services Affected by Opposition

|   |
|---|
| Class 042.<br>All goods and services in the class are opposed, namely: Non-downloadable computer 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; non-downloadable 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; non-downloadable computer software for recording, processing, receiving, reproducing, transmitting, modifying, compressing, broadcasting, merging or enhancing data for use in wireless communications |
|---|

## Grounds for Opposition

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

|             |  |
|-------------|--|
| Attachments | Revised Notice of Opposition re_ DISH ANYWHERE 379.pdf(17040 bytes ) |
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## 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. 85/732,379: 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. 85/732,379, 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. 85/732,379, covering “Non-downloadable computer 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; non-downloadable 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; non-downloadable computer software for recording, processing, receiving, reproducing, transmitting, modifying, compressing, broadcasting, merging or enhancing data for use in wireless communications” in Class 42 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 services and related 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, 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 services in commerce.

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

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

12. ANYWHERE is a generic term for the applied-for services and related 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.

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. 85/732,379 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. 85/732,379 for the applied-for services 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  
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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 25<sup>th</sup> day of September, 2013.

/Noreen Gosselin/