

DISH Network Wins Multiple Victories in High-Profile Copyright Infringement Matter

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After more than two years of legal battles, a California federal judge found that **DISH Network's (DISH)** innovative **Hopper** set-top box and DVR does not infringe the copyrights of **Fox Broadcasting Company's (Fox)** television programming. In her ruling on motions for summary judgment made by both parties, **District Court Judge Dolly M. Gee** cited the findings of Analysis Group affiliate John Hauser to conclude that the use of the Hopper's "PrimeTime Anytime" (PTAT) and "AutoHop" features were "fair use" under U.S. copyright law. With the PrimeTime Anytime feature, users have the ability to easily record the primetime shows on up to each of the four broadcast networks (ABC, CBS, NBC, and Fox) and save them for up to eight days. The AutoHop feature can be enabled by users to play back certain PrimeTime Anytime recordings commercial-free.

Professor Hauser and counsel for DISH analyzed viewer behavior from various perspectives and using a wide variety of industry and survey data. Professor Hauser rebutted opinions and surveys offered by Fox's experts. Although Judge Gee ruled for Fox on certain contract claims, the scope of liability and damages was significantly reduced by the Judge's rulings. DISH's general counsel has praised the decision as having "far reaching significance." Fox and DISH recently agreed to put the long-running litigation on hold, anticipating that "the negotiation later this year of a renewal of their 2010 [retransmission consent] agreement will result in resolution of this lawsuit."

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