

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

Judge David Folsom

TIVO

V.

ECHOSTAR

§
§
§
§
§

CIVIL ACTION NO. 2:04CV1

ATTORNEY FOR PLAINTIFFS: **Morgan Chu; Sam Baxter; Andrei Iancu**

ATTORNEY FOR DEFENDANTS: **Damon Young; John Pickett; Joe Patino; Harold McElhinny**

LAW CLERK: **Jennifer Orgeron**

COURTROOM DEPUTY: Mel Martin

COURT REPORTER: Libby Crawford

STATUS CONFERENCE
May 30, 2008 @ 10:00 a.m.

OPEN: 9:53

ADJOURN: 10:17

9:53 ct opens; ct/ what remains to be undone; correspondence is part of the record;

9:53 Chu/ have some good news; have reached agreement on bill of costs;

9:53 ct/ discovery and time frame from plfs standpoint and then will hear from dft; 2 unresolved issues

9:54 Chu/ 1st issue if injunction has been violated;

9:55 ct/ what time period/ time frame and if discovery needed;

9:55 Chu/ responds; 2nd part of injunction question;

- 9:56 ct/ that need not be taken up until after ruling on initial issue re: injunction;
- 9:57 Chu/ accelerated briefing schedule
- 9:57 ct/ my schedule doesn't allow for two weeks it would be more like a couple of months; how much time to file motion a week, 10 days;
- 9:58 Chu/ 10 days;
- 9:58 McElhinny/ responds;
- 9:59 ct/ correct procedure; filing of motion might clarify that;
- 10:00 McElhiny/ one contempt motion;
- 10:01 ct/ damage issue;
- 10:01 McElhinny/ damage issue is very interesting;
- 10:01 ct/ discovery if any
- 10:02 McElhinny/ if mini-trial we would like discovery;
- 10:02 ct/ Paice order; would that arrangement be appropriate;
- 10:02 ptys agree that would be appropriate
- 10:03 ct/ re: injunction and Mr. McElhinny feels you don't need to do this in two bites;
- 10:03 Chu/ responds;
- 10:03 ct/ file motion within 10 days; no more than 25 pages; brief in connection with motion no more than 20 pages; response how long with normal response time; reply not to exceed 10 pages; if sur-reply you will need leave of court; potential date to hear this; it will be August to September before we can set this;
- 10:05 Chu/ dates that are good for me;
- 10:05 ct/ a date the week of August 25th, how does 8/26 or 27th;
- 10:06 Chu/ both dates are good
- 10:06 McElhinny/ could I have one more week;
- 10:07 ct/ how is Thursday, 9/4th; ptys agree; 10am; how much time might be needed;

- 10:07 Chu/ will not need witness'; 30 mins each side should be fine;
- 10:07 McElhinny/ 2 issues;
- 10:07 ct/ approach; do you envision any more interrogatories;
- 10:08 Chu/ responds; for purpose of injunction we don't need further discovery, right now;
- 10:09 ct/ no additional discovery unless leave of court;
- 10:09 Chu/ separate issue; they have stated that they have swapped out boxes;
- 10:10 ct/ what do you think you need
- 10:10 Chu/ responds;
- 10:10 ct/ don't need discovery for hearing that we have set; no discovery until you request leave of court;
- 10:11 Chu/ responds;
- 10:11 ct/ in what form and how much;
- 10:11 Chu/ responds; basic documentation;
- 10:12 ct/ is this going to be addressed in motion;
- 10:12 Chu/ no
- 10:12 McElhinny/ this is what we don't want;
- 10:13 ct/ will look at correspondence and give some guidance; damages same process, what time period are we talking about for discovery;
- 10:14 Chu/ 45 days or so;
- 10:14 ct/ look at Paice order for roadmap and do scheduling order; within 14 days; what else needs attention; ct/ hearing on 9/4th how much time
- 10:14 McElhinny/ 30 mins;
- 10:15 ct/ 30 mins each side for hrg set 9/4th;
- 10:15 McElhinny/ repair of boxes; will file motion for clarification and can hear it on the same day;

10:15 Chu/ responds;

10:16 ct/ file that motion in same time period as motion for injunction; technical advisor for this phase of the case;

10:16 Chu/ don't feel we need one; strictly a legal question;

10:16 McElhinny/ agrees;

10:17 adjourned;