

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DISH NETWORK L.L.C.,

Plaintiff.

v.

DATACAMP LIMITED d/b/a
CDN77 and DATAPACKET,

Defendant.

Case No. 22-cv-00993

Judge John F. Kness

Magistrate Sheila M. Finnegan

STIPULATION OF VOLUNTARY DISMISSAL WITH PREJUDICE

Plaintiff DISH Network L.L.C. (“DISH”) and Defendant Datacamp Limited d/b/a CDN77 and Datapacket (“Datacamp,” collectively the “Parties”), pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure and the attached Settlement Agreement and Release, hereby stipulate to dismiss all causes of action in DISH’s Complaint (Dkt. 1) against Datacamp, with prejudice. No costs are to be assessed among the Parties.

By: /s/ M. Kelly Tillery

M. Kelly Tillery (*pro hac vice*)
Bijan K. Ghom (*pro hac vice*)
SAXTON & STUMP, LLC
230 South Broad Street, Suite 1100
Philadelphia, PA 19102
717.556.1034
717-441-3810 (Fax)
ktillery@saxtonstump.com
bkg@saxtonstump.com

Sean P. McConnell (*pro hac vice*)
TROUTMAN PEPPER HAMILTON

By: /s/ Stephen M. Ferguson

Stephen M. Ferguson (*pro hac vice*)
Joseph H. Boyle (*pro hac vice*)
Timothy M. Frank (*pro hac vice*)
HAGAN NOLL & BOYLE LLC
820 Gessner, Suite 940
Houston, TX 77024
(713) 343-0478
(713) 758-0146 (Fax)
stephen.ferguson@hnbllc.com
joe.boyle@hnbllc.com
timothy.frank@hnbllc.com

SANDERS LLP
300 Two Logan Square
18th and Arch Streets
Philadelphia, PA 19103
215.981.4000
215.981.4750 (Fax)
sean.mcconnell@troutman.com

Counsel for Datacamp Limited

David M. Lewin
75 W. Jackson Boulevard, Suite 1600
Chicago, IL 60604-2827
(312) 540-7556
(312) 540-0578 (Fax)
dml@lewver.com

Counsel for DISH Network L.L.C.

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (this “Agreement”) is entered into as of January 24, 2024 (the “Effective Date”) by and between Datacamp Limited d/b/a CDN77 and Datapacket (“Defendant”) and DISH Network L.L.C. (“DISH”) (each a “Party,” collectively, the “Parties”).

WHEREAS, on February 25, 2022, DISH filed a Complaint in the action entitled *DISH Network L.L.C. v. Datacamp Limited d/b/a CDN77 and Datapacket*, in the United States District Court for the Northern District of Illinois, Case No. 1-22-cv-00993 (the “Action”).

WHEREAS, the Parties wish to resolve their dispute as more fully set forth herein.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties intending to be legally bound, hereby agree as follows:

1. Stipulation of Voluntary Dismissal with Prejudice. Within five (5) days after DISH’s receipt of the Settlement Payment, as defined below, the Parties will file a Stipulation of Voluntary Dismissal with Prejudice in the form set forth and incorporated as Exhibit 1 hereto, or as modified by the Court or at the Court’s direction. Each Party will bear its own fees, costs, and expenses incurred in the Action.

2. Payment.

a. Defendant shall pay to DISH the sum of three million United States dollars (\$3,000,000) (the “Settlement Payment”). The Settlement Payment is due and payable within ten (10) days following the Effective Date. Time is of the essence for Defendant’s payment under this paragraph 2(a).

b. In the event that Defendant breaches any of its duties or obligations under paragraph 3(a)-(b) of this Agreement and fails to cure any such breach in compliance with paragraph 7, if applicable, then for each such breach, Defendant shall be liable to DISH for two thousand five hundred United States dollars (\$2,500) per channel or VOD title, as identified in DISH’s notices with URLs or other identifying information, per day (or part of a day) that the breach continued (not to exceed two hundred fifty thousand United States dollars (\$250,000) per calendar month). Such amounts shall be due and payable within five (5) days after any such breach and, if applicable, failure to cure in compliance with paragraph 7. Time is of the essence for any payment due as a result of this paragraph 2(b).

c. Payment made to DISH shall be sent by wire transfer to the account to be provided separately by DISH’s counsel or to such other account as DISH may indicate by providing notice to Defendant.

3. Notice & Takedown.

a. Upon receiving a notice from DISH identifying infringing channels or works (whether airing on channels or offered as VOD), Defendant shall identify its client transmitting such channels or works and contact the client to demand that the client remove the

subject channels or works and confirm such removal to Defendant by the date that is three (3) Business Days¹ following Defendant's receipt of DISH's notice of infringement.

(i) If Defendant's client confirms the removal within the deadline set forth in paragraph 3(a), Defendant shall inform DISH accordingly by email to the email address that sent the notice of infringement and asking DISH for confirmation. If DISH provides Defendant notice that the client's removal confirmation for the complained of content is false and the content has not been removed (in whole or in part), then within forty-eight (48) hours following receipt of such notice from DISH, Defendant shall both (1) permanently shut down and not restart the client's servers/accounts and (2) provide DISH the client's identity and contact information by email to the email address that sent the notice of infringement. For clarity, Defendant's obligations under the immediately preceding sentence do not begin to run until Defendant is notified by DISH that the client's removal confirmation for the complained of content is false and the content has not been removed (in whole or in part).

(ii) If, within the deadline allowed in paragraph 3(a), Defendant receives a counter-notice from the client including (a) all the information required by 17 U.S.C. § 512(g)(3); (b) a license agreement clearly showing the client's rights in the content in the United States; and (c) Defendant has a good faith belief that the license agreement grants the client rights in the content in the United States, then within forty-eight (48) hours following receipt of such counter-notice, Defendant shall forward the counter-notice and license agreement to DISH by email to the email address that sent the notice of infringement, along with the client's identity and contact information. If DISH responds to this communication notifying Defendant that the channels or works have not been removed (in whole or in part) and that DISH filed suit against the client, has an existing suit against the client, or has a prior suit against the client, then within forty-eight (48) hours following receipt of such notice from DISH, Defendant shall ensure the channels or works are removed pursuant to 17 U.S.C. § 512(g)(2)(c) or Defendant shall permanently shut down and not restart the client's servers/accounts.

(iii) If, within the three (3) Business Days allowed in paragraph 3(a), the client does not confirm the removal or a counter-notice does not satisfy requirement (a), (b), or (c) of the prior paragraph 3(a)(ii), then within forty-eight (48) hours following the client's deadline under this paragraph 3(a), Defendant shall permanently shut down and not restart the client's servers/accounts and shall provide DISH the client's identity and contact information by email to the email address that sent the notice of infringement.

(iv) Pursuant to 17 U.S.C. § 512(c)(3), each notice of infringement shall include: (a) the URLs, partial URLs (removing any identifying information of the monitoring device or subscription) or IP addresses corresponding with the channels or works claimed infringed or containing claimed infringing works, (b) a statement that the sender of the notice of infringement has a good faith belief that the distribution or public performance is not authorized, and (c) a statement that the information in the notice of infringement is accurate, and under penalty of

¹ The term "Business Day" means Monday through Friday except for legal holidays in the United Kingdom. As used here, if a notice of infringement is received on a Saturday, Sunday, or legal holiday in the United Kingdom, the time period will begin to run on the next day that is not a Saturday, Sunday, or a legal holiday in the United Kingdom.

perjury that the sender is authorized to act on behalf of the owner or exclusive licensee of the works.

b. Within two (2) Business Days following Defendant's receipt of a notice of infringement for a client that has been provided three deadlines to remove channels or works under paragraph 3(a), Defendant shall permanently shut down and not restart the client's servers/accounts and shall provide DISH the client's identity and contact information by email to the email address that sent the notice of infringement. For clarity, this paragraph shall apply regardless of whether the client previously removed channels or works during the prior deadlines to remove channels or works under paragraph 3(a).

c. Any notice of infringement sent under this paragraph 3 shall be sent to tomas.bacik@cdn77.com, simon@datapacket.com, support@cdn77.com, and ktillery@saxtonstump.com or such other email address as Defendant may indicate by providing written notice to DISH pursuant to paragraph 8. Any notice shall be deemed received when sent.

d. The terms of paragraph 3(a)-(b) of this Agreement shall apply to all notices of infringement sent from the Effective Date through and including the date five (5) years from the Effective Date and during all Extensions, if any, pursuant to paragraph 3(e) (collectively the "Takedown Period"). After the Takedown Period, Defendant shall comply with all applicable law, including the DMCA (17 U.S.C. § 512). Defendant agrees and stipulates that DISH's notices of infringement that include the information identified in paragraph 3(a)(iv) of this Agreement shall be effective under the DMCA, and Defendant shall not claim that such notices of infringement are ineffective or fail to comply with the DMCA. Defendant agrees and stipulates that notices of infringement that identify a channel shall be deemed to identify all copyrighted works that air on that channel during the relevant time period.

e. The Takedown Period shall be extended by one (1) year (an "Extension") for every three (3) notices of breach that DISH sends to Defendant and that Defendant fails to timely cure under paragraph 7 of this Agreement. For clarity, there may be multiple Extensions pursuant to this paragraph 3(e).

f. Nothing in this paragraph 3 or this Agreement, including compliance with these notice and takedown procedures, shall preclude DISH from filing an action against Defendant for infringement occurring after the Effective Date.

4. Discovery. Nothing in this Agreement shall preclude DISH from seeking discovery from Defendant in any other action or proceeding. Defendant agrees to accept service of subpoenas from DISH served on M. Kelly Tillery, or such other attorney or agent located in the United States as Defendant may indicate by providing written notice to DISH pursuant to paragraph 8. Defendant agrees to maintain such an attorney or agent in the United States and to provide written notice to DISH of any change to such attorney or agent.

5. Releases.

a. DISH. DISH, on behalf of itself and its predecessors, successors, and assigns, hereby absolutely, unconditionally, and irrevocably releases and forever discharges Defendant and its past and present direct and indirect parents, subsidiaries, affiliates,

representatives, heirs, and assigns; the predecessors, successors and assigns of each of the foregoing persons and entities; and the past and present owners, agents, directors, officers, employees, shareholders, members, joint venturers, representatives, attorneys, vendors, insurers, guarantors, successors and assigns of all of the foregoing persons and entities from any and all claims for infringement of copyrights that DISH alleged or could have alleged in the Complaint, and arising from the prosecution and defense of the Action.²

b. Defendant. Defendant, on behalf of itself and its predecessors, successors, and assigns, hereby absolutely, unconditionally, and irrevocably releases and forever discharges DISH and its past and present direct and indirect parents, subsidiaries, affiliates, representatives, heirs, and assigns; the predecessors, successors and assigns of each of the foregoing persons and entities; and the past and present owners, agents, directors, officers, employees, shareholders, members, joint venturers, representatives, attorneys, vendors, insurers, guarantors, successors and assigns of all of the foregoing persons and entities from any and all claims or counterclaims that were or could have been asserted in the Action, and arising from the prosecution and defense of the Action.

c. The Parties acknowledge that they may hereafter discover facts different from or in addition to the facts now known or believed to be true with respect to the subject matter of this Agreement or any of the facts, contentions, or issues alleged in the Action. The Parties agree that, notwithstanding the discovery of the existence of any such additional or different facts that, if known, may have materially affected the decision to enter into this Agreement, the Parties' releases given herein shall be and remain in effect as full, final, and complete releases by DISH to Defendant and by Defendant to DISH, and that no Party shall be entitled to modify or set aside this Agreement, in whole or in part, by reason thereof.

6. No Confidentiality. The Parties agree that this Agreement and its terms of settlement are not confidential and may be made public.

7. Notice of Breach and Period to Cure. In the event of an alleged violation of paragraph 3 of this Agreement by Defendant, DISH shall notify Defendant of the alleged breach and provide Defendant a period of five (5) Business Days to cure such alleged breach. In the event of any alleged violation of any other paragraph of this Agreement by Defendant, DISH shall notify Defendant of the alleged breach and provide Defendant a period of ten (10) Business Days to cure such alleged breach. For purposes of this Agreement, a notification to Defendant shall be deemed received when sent by email to tomas.bacik@cdn77.com, zdenek@cdn77.com, and ktillery@saxtonstump.com. The foregoing email addresses of Defendant may change from time to time without prejudice upon written notice to DISH pursuant to paragraph 8.

8. Notice. All notices to DISH that are required or permitted to be given pursuant to this Agreement must be given in writing and must be sent by email to info@hnbllc.com and by FedEx, UPS, DHL, USPS Priority Mail, or USPS Certified Mail to:

² For clarity, DISH is not releasing claims against any one or more of the alleged direct infringers identified in the Action, any of Defendant's clients, or any obligations created by this Agreement.

DISH Network L.L.C.
Attn: General Counsel
9601 South Meridian Blvd.
Englewood, Colorado 80112

9. Enforcement. Defendant agrees to accept service of process for any lawsuit filed by DISH, by serving M. Kelly Tillery at his law office, or such other attorney or agent located in the United States as Defendant may indicate by providing written notice to DISH pursuant to paragraph 7. Defendant agrees to maintain such an attorney or agent in the United States and to provide written notice to DISH of any change to such attorney or agent.

10. No Admission of Liability. Entering this Agreement shall not constitute in any manner an admission of liability, infringement, or non-infringement by Defendant or DISH.

11. Successors. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns.

12. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties concerning the subject matter hereof, and supersedes all prior negotiations and proposed agreements, written or oral, regarding that subject matter. This Agreement may not be amended or modified except in a separate writing executed by each of the Parties that specifically references this Agreement by name and date. Except as expressly set forth in this Agreement, neither Party will be bound by any communications between them on the subject matter of this Agreement unless the communication: (i) is in writing; (ii) references this Agreement; (iii) bears a date that is contemporaneous with or subsequent to the Effective Date; and (iv) is executed by each of the Parties.

13. Severability. If any provision of this Agreement is held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, which shall continue in full force and effect without being impaired or invalidated in any way.

14. Authority and Acknowledgment. Each individual signing this Agreement on behalf of a corporation, partnership, proprietorship, association, limited liability company, or other organization, hereby represents and warrants that he or she has read this entire Agreement, understands all of its terms and provisions, and has authority to enter into this Agreement on behalf of such corporation, partnership, proprietorship, association, limited liability company, or organization.

15. Choice of Law; Jurisdiction. This Agreement shall be interpreted, construed, and enforced in accordance with, and governed by the laws of the State of Illinois, without regard to conflict of law principles. In the event that there is a lawsuit between the Parties arising from or related to this Agreement, including but not limited to its interpretation or performance, then the Parties agree that such lawsuit shall be venued in the United States District Court for the Northern District of Illinois, provided that court has subject matter jurisdiction, or if that court does not have subject matter jurisdiction, then in the appropriate Illinois state court in Cook County, and all Parties consent to personal jurisdiction in such courts.

16. Agreement Jointly Drafted. This Agreement has been negotiated between unrelated Parties who are sophisticated and knowledgeable in the matters contained in this Agreement and who have acted in their own self-interest. In addition, each Party has been represented by legal counsel. This Agreement shall be deemed to have been jointly drafted by the Parties and no ambiguity or claimed ambiguity shall be resolved against any Party on the basis that such Party drafted the language claimed to be ambiguous.

17. No Waiver. No failure or delay on the part of any Party in the exercise or enforcement of any right or privilege hereunder shall operate as a waiver of such right or privilege, or of any other right or privilege hereunder. No single or partial exercise or enforcement of any right or privilege hereunder shall preclude other or further exercise or enforcement thereof or of any other right or privilege.

18. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument. Digital and electronic signatures shall be treated as valid, original signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

Datacamp Limited **Datacamp Limited**
9 Coldbath Square
London, United Kingdom, EC1R 5NL
VAT number: GB157027123
www.datacamp.co.uk
By: 31.01.2024 

Name: Zdenek Cendra
Title: CEO and Founder

DISH Network L.L.C.
By: _____

Name: Lawrence R. Katzin
Title: Senior Vice President & Deputy
General Counsel

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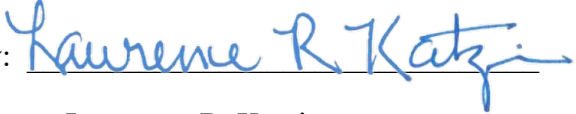
Datacamp Limited

By: _____

Name: Zdenek Cendra

Title: CEO and Founder

DISH Network L.L.C.

By: 

Name: Lawrence R. Katzin

Title: Senior Vice President & Deputy
General Counsel

EXHIBIT 1

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Counsel for Datacamp Limited

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