

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DISH TECHNOLOGIES L.L.C. and SLING
TV L.L.C.

Plaintiffs,

v.

LULULEMON ATHLETICA INC. and
CURIOUSER PRODUCTS INC. (d/b/a
MIRROR)

Defendant.

C.A. No. _____

JURY TRIAL DEMANDED

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiffs DISH Technologies L.L.C. and Sling TV L.L.C. (collectively, “DISH”) allege against Defendants lululemon athletica inc. and Curiouser Products Inc. (d/b/a MIRROR) (collectively, “Defendants”) as follows:

PARTIES

1. Plaintiff DISH Technologies L.L.C. is a limited liability company organized and existing under the laws of the State of Colorado, with its principal place of business at 9601 South Meridian Boulevard, Englewood, Colorado 80112. It provides innovation and technology services and products to, among others, the DISH Network® satellite pay TV service operated by DISH Network L.L.C. and the Sling TV® streaming pay TV service operated by Sling TV L.L.C.

2. Plaintiff Sling TV L.L.C. is a limited liability company organized and existing under the laws of the State of Colorado, with its principal place of business at 9601 South Meridian Boulevard, Englewood, Colorado 80112. It operates the Sling TV® streaming pay TV service.

3. On information and belief, Defendant lululemon athletica inc. (“lululemon”) is a corporation existing under the laws of the State of Delaware, with its principal place of business

at 1818 Cornwall Avenue, Vancouver, British Columbia V6J 1C7. lululemon athletica has appointed The Corporation Trust Company at 1209 Orange St., Wilmington DE 19801 as its agent for service of process.

4. On information and belief, Defendant MIRROR is a corporation existing under the laws of the State of Delaware, with its principal place of business at 1261 Broadway #208, New York, New York 10001. MIRROR has appointed The Corporation Trust Company at 1209 Orange St., Wilmington DE 19801 as its agent for service of process.

5. In June 2020, Defendant lululemon announced its intention to acquire Defendant MIRROR for \$500 million. Exhibit 1. As recognized by lululemon and MIRROR, the potential acquisition provided synergistic opportunities for both companies. For example, such acquisition would facilitate expansion of the “content creation partnership” which brought lululemon “sweat and meditation classes to the MIRROR platform.” *Id.* As another example, such acquisition would enable MIRROR to “strengthen its position and accelerate its growth” by leveraging lululemon’s infrastructure “including its store network and ecommerce channels.” *Id.*; *see also* Exhibit 2 at 10 (noting that lululemon could bring, as a benefit to MIRROR, the opportunity to “leverage distribution channels to scale growth”).

6. lululemon completed the acquisition of MIRROR on July 7, 2020, with MIRROR surviving the acquisition as a wholly-owned subsidiary of lululemon. Exhibit 3 at 2; Exhibit 4 at 9.

7. On information and belief, Defendants operate online streaming services through the Mirror Application and a flat panel fitness device marketed and sold as the “Mirror.” The Mirror is a “nearly invisible home gym” that allows users to stream live and on-demand workouts on an immersive display. Exhibit 5; *see also* Exhibit 6; Exhibit 7.

JURISDICTION AND VENUE

8. DISH asserts a claim for patent infringement against lululemon and MIRROR arising under the patent laws of the United States, Title 35 of the United States Code. Accordingly, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

9. This Court has personal jurisdiction over lululemon for at least the following reasons: (1) lululemon athletica inc. is incorporated in Delaware; (2) lululemon has committed acts of patent infringement and contributed to and induced acts of patent infringement by others in this District; (3) lululemon regularly does business or solicits business in this District; (4) lululemon engages in other persistent courses of conduct and derives substantial revenue by its offering of infringing products and services and providing infringing products and services in this District; and (5) lululemon has purposefully established substantial, systematic, and continuous contacts with this District and should reasonably expect to subject to suit here by its offering of infringing products and services and providing infringing products and services in this District.

10. This Court has personal jurisdiction over MIRROR for at least the following reasons: (1) Curiouser Products, Inc. is incorporated in Delaware; (2) MIRROR has committed acts of patent infringement and contributed to and induced acts of patent infringement by others in this District; (3) MIRROR regularly does business or solicits business in this District; (4) MIRROR engages in other persistent courses of conduct and derives substantial revenue by its offering of infringing products and services and providing infringing products and services in this District; and (5) MIRROR has purposefully established substantial, systematic, and continuous contacts with this District and should reasonably expect to be subject to suit here by its offering of infringing products and services and providing infringing products and services in this District.

11. Venue is proper in the District of Delaware under at least 28 U.S.C. §§ 1391(b), (c) and/or 1400(b) at least because both lululemon athletica inc. and Curiouser Products, Inc. are incorporated in Delaware. Additionally, on information and belief, lululemon and MIRROR have committed acts of infringement in the State of Delaware, including but not limited to offering products or services that infringe one or more of DISH's asserted patents to customers located in Delaware and/or for use in Delaware.

THE ABR PATENTS

12. On August 2, 2016, the PTO duly and lawfully issued United States Patent No. 9,407,564 ("the '564 Patent"), entitled "Apparatus, system, and method for adaptive-rate shifting of streaming content." A true and correct copy of the '564 Patent is attached as Exhibit A. Subject to the exclusive license referenced below, all rights, title, and interest in and to the '564 Patent have been assigned to DISH Technologies L.L.C., which is the sole owner of the '564 Patent.

13. On November 5, 2019, the PTO duly and lawfully issued United States Patent No. 10,469,554 ("the '554 Patent"), entitled "Apparatus, system, and method for multi-bitrate content streaming." A true and correct copy of the '554 Patent is attached as Exhibit B. Subject to the exclusive license referenced below, all rights, title, and interest in and to the '554 Patent have been assigned to DISH Technologies L.L.C., which is the sole owner of the '554 Patent.

14. On November 5, 2019, the PTO duly and lawfully issued United States Patent No. 10,469,555 ("the '555 Patent"), entitled "Apparatus, system, and method for multi-bitrate content streaming." A true and correct copy of the '555 Patent is attached as Exhibit C. Subject to the exclusive license referenced below, all rights, title, and interest in and to the '555 Patent have been assigned to DISH Technologies L.L.C., which is the sole owner of the '555 Patent.

15. On March 19, 2013, the PTO duly and lawfully issued United States Patent No. 10,757,156 (“the ’156 Patent”), entitled “Apparatus, system, and method for multi-bitrate content streaming.” A true and correct copy of the ’156 Patent is attached as Exhibit D. Subject to the exclusive license referenced below, all rights, title, and interest in and to the ’156 Patent have been assigned to DISH Technologies L.L.C., which is the sole owner of the ’156 Patent.

16. On March 16, 2021, the PTO duly and lawfully issued United States Patent No. 10,951,680 (“the ’680 Patent”), entitled “Apparatus, system, and method for multi-bitrate content streaming.” A true and correct copy of the ’680 Patent is attached as Exhibit E. Subject to the exclusive license referenced below, all rights, title, and interest in and to the ’680 Patent have been assigned to DISH Technologies L.L.C., which is the sole owner of the ’680 Patent.

17. DISH Technologies has entered into an exclusive license with Sling TV L.L.C. granting substantial rights in the above-identified patents to Sling TV L.L.C., including the right to sue thereon.

18. Certain of Sling TV L.L.C.’s products and services practice one or more of the Asserted Patents. In compliance with 35 U.S.C. § 287(a), Sling TV L.L.C. marks its practicing products and requires its sublicensees to do the same.

19. Additionally, certain products and services offered by DISH Technologies’ affiliate DISH Network L.L.C. (“DISH Network”) also practice the Asserted Patents. DISH Network marks its practicing products and maintains a webpage identifying a listing of patents applicable to DISH Network’s products. *See Intellectual Property*, DISH NETWORK, <https://www.dish.com/ip/> (last visited Feb. 23, 2021).

20. The claimed inventions in these patents are directed to various novel aspects and improvements to adaptive bitrate streaming (“ABR”) technology. The ’564, ’554, ’555, ’156,

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