

1 QUINN EMANUEL URQUHART & SULLIVAN, LLP

Charles K. Verhoeven (Bar No. 170151)

2 charlesverhoeven@quinnemanuel.com

Sean S. Pak (Bar No. 219032)

3 seanpak@quinnemanuel.com

Eric E. Wall (Bar No. 248692)

ericwall@quinnemanuel.com

4 50 California Street, 22nd Floor

San Francisco, California 94111

5 Telephone: (415) 875 6600

Yury Kapgan (Bar No. 218366)

6 yurykapgan@quinnemanuel.com

Vincent M. Pollmeier (Bar No. 210684)

7 vincentpollmeier@quinnemanuel.com

Adam B. Wolfson (Bar No. 262125)

8 adamwolfson@quinnemanuel.com

865 S Figueroa Street 10th Floor

Los Angeles, California 90017

9 Telephone: (213) 443-3000

10 Attorneys for Plaintiff ViaSat, Inc.

11
12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

14 VIASAT, INC.,
15 VIASAT COMMUNICATIONS, INC.,
f/k/a WILDBLUE
16 COMMUNICATIONS, INC.,

17 Plaintiffs,

18 vs.

19 SPACE SYSTEMS/LORAL, INC.,
LORAL SPACE &
20 COMMUNICATIONS,
INC.,

21 Defendants.

CASE NO. 3:12-cv-00260-H-WVG

PUBLIC REDACTED VERSION

**VIASAT'S OPPOSITION TO
DEFENDANTS' MOTION TO
EXCLUDE OPINIONS OF
VIASAT'S DAMAGES EXPERT
DR. DANIEL SLOTTJE**

Date: January 24, 2014

Time: 9:00 a.m.

Place: Courtroom 15A

TABLE OF CONTENTS

		<u>Page</u>
1		
2		
3		
4	I. PRELIMINARY STATEMENT	1
5	II. APPLICABLE LEGAL STANDARD	2
6	III. FACTUAL BACKGROUND	3
7	A. ViaSat-1's Groundbreaking Technology	3
8	B. SS/L's Misappropriation of ViaSat's Technology	3
9	C. Prof. Slottje's Opinions	5
10	IV. ARGUMENT	6
11	A. ViaSat Is Entitled to Lost Profits	6
12	B. Prof. Slottje's Opinion That ViaSat Has Satisfied the Legal Test	
13	for Lost Profits Is Sound	8
14	1. Prof. Slottje Has Not Used a 100% Capture Rate	9
15	2. Because Satellite Broadband Is a Sub-Market, It Is	
16	Reasonable To Believe that ViaSat Would Have Signed	
17	Up Additional Subscribers But For Competition from	
18	Hughes	10
19	3. Defendants Cannot Assume Away Infringement With	
20	Purported Satellite Design-Arounds	13
21	4. Prof. Slottje's Opinion As To ViaSat's Capacity To Take	
22	On Additional Subscribers Is Well-Founded	14
23	C. Prof. Slottje's Reasonable Royalty Analysis Is Sound	17
24	1. Prof. Slottje's Opinion Is Reasonable When The Full	
	Effect Of Defendants' Infringement Is Considered	17
	2. Prof. Slottje's Reliance on Market Data About the Price of	
	Satellite Capacity Is Well-Founded	22
	D. Prof. Slottje's Reasonableness Checks Are Relevant And Will	
	Be Helpful to the Jury	25
	V. CONCLUSION	25

TABLE OF AUTHORITIES

		<u>Page</u>
	<u>Cases</u>	
1		
2		
3		
4	<i>i4i Ltd. P'ship v. Microsoft Corp.</i> , 598 F.3d 831, 852 (Fed. Cir. 2010)	2, 9, 17
5	<i>DataQuill Ltd. v. High Tech. Computer Corp.</i> , No. 08-cv-543, 2012 WL 1284381 (S.D. Cal. Apr. 16, 2012)	24
6	<i>Datascope Corp. v. SMEC, Inc.</i> , 879 F.2d 820 (Fed. Cir. 1989)	9
7	<i>Fiskars, Inc. v. Hunt Mfg. Co.</i> , 279 F.3d 1378 (Fed. Cir. 2002)	16
8	<i>Fujifilm Corp. v. Benun</i> , 605 F.3d 1366 (Fed. Cir. 2010)	19
9	<i>Georgia-Pacific Corp. v. U.S. Plywood-Champion Papers, Inc.</i> , 446 F.2d 295 (2d Cir. 1971)	22
10	<i>Grain Processing Corp. v. Am. Maize-Prods. Co.</i> , 185 F.3d 1341 (Fed. Cir. 1999)	6
11	<i>Hebert v. Lisle Corp.</i> , 99 F.3d 1109 (Fed. Cir. 1996)	7
12	<i>Heidelberger Druckmaschinen AG v. Hantscho Commercial Prods., Inc.</i> , No. 87 Civ. 4522 (LMM), 1995 WL 693170 (S.D.N.Y. Nov. 22, 1995)	10, 11
13	<i>Kaufman Co. v. Lantech, Inc.</i> , 926 F.2d 1136 (Fed. Cir. 1991)	10
14	<i>King Instruments Corp. v. Perego</i> , 65 F.3d 941 (Fed. Cir. 1995)	6, 7
15	<i>Lindemann Maschinefabrik GmbH v. Am. Hoist & Drrick Co.</i> , 895 F.2d 1403 (Fed. Cir. 1990)	22
16	<i>Micro Chem., Inc. v. Lextron, Inc.</i> , 318 F.3d 1119 (Fed. Cir. 2003)	8
17	<i>Minco, Inc. v. Combustion Eng'g, Inc.</i> , 95 F.3d 1109 (Fed. Cir. 1996)	7, 14
18	<i>Panduit Corp. v. Stahl Bros. Fibre Works, Inc.</i> , 575 F.2d 1152 (6th Cir. 1978)	8, 10
19	<i>Presidio Components, Inc. v. Am. Tech. Ceramics Corp.</i> , 702 F.3d 1351 (Fed. Cir. 2012)	7
20		
21		
22		
23		
24		

1	<i>Quad/Graphics, Inc. v. One2One Comms., LLC</i> ,	
	No. 09-cv-99-JPS, 2011 WL 4478440 (E.D. Wis. Sep. 23, 2011)	20
2	<i>ResQNet.com, Inc. v. Lans, Inc.</i> ,	
3	594 F.3d 860 (Fed. Cir. 2010)	23
4	<i>Rite-Hite Corp. v. Kelley Co.</i> ,	
	56 F.3d 1538 (Fed. Cir. 1995)	17, 22
5	<i>Shockley v. Arcan, Inc.</i> ,	
	248 F.3d 1349 (Fed. Cir. 2001)	7
6	<i>TWM Mfg. Co. v. Dura Corp.</i> ,	
	789 F.2d 895 (Fed. Cir. 1986)	18
7	<i>Trans-World Mfg. Corp. v. Al Nyman & Sons, Inc.</i> ,	
8	750 F.2d 1552 (Fed. Cir. 1984)	22
9	<i>Uniloc USA, Inc. v. Microsoft Corp.</i> ,	
	632 F.3d 1292 (Fed. Cir. 2011)	23
10	<i>Wechsler v. Macke Int'l Trade, Inc.</i> ,	
	486 F.3d 1286 (Fed. Cir. 2007)	7

Statutes/Rules

12	35 U.S.C. § 284.....	6, 18
13	Fed. R. Evid. 702	2

1 **I. PRELIMINARY STATEMENT**

2 ViaSat's damages expert, Professor Daniel Slottje, has been studying and
3 teaching economics for more than thirty years. He has testified as an expert witness
4 on damages issues scores of times, never having his testimony excluded.
5 Defendants do not dispute Prof. Slottje's qualifications, but rather the results of his
6 analysis. Their critiques are misplaced. Prof. Slottje's expert analysis in this
7 matter is sound and should be admitted.

8 Prof. Slottje's opinion that ViaSat is entitled to roughly \$600 million in
9 damages correctly reflects the full impact of Defendants' willful infringement and
10 breach of contract, including the effects on ViaSat's satellite broadband internet
11 service business. Satellites are massively expensive devices. Their cost can only
12 be justified by the huge return on investment they promise: billions of dollars in
13 revenue from using the satellite to provide internet services. ViaSat's considerable
14 damages are commensurate with the economics of the satellite broadband industry.

15 ViaSat's innovations—which ViaSat deployed in ViaSat-1 and could have
16 used exclusively but for Defendants' infringement—provided a compelling
17 advantage over the only other significant satellite broadband provider in the United
18 States, Hughes Network Systems (“Hughes”). Defendants knew that ViaSat's
19 patented and proprietary technologies were important to its commercial success, and
20 that Hughes should not have access to such technologies. To the great detriment of
21 ViaSat, however, Defendants knowingly used ViaSat's innovations to build a
22 copycat satellite for Hughes—which Hughes now uses to compete against ViaSat.

23 Throughout the Motion, Defendants ignore the foreseeable and substantial
24 harm to ViaSat's business caused by their willful infringement and breach of

1 contract. But that harm must be fully considered and accounted for in any damages
2 analysis. [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 As a direct result of the infringing Jupiter-1 satellite, ViaSat has lost numerous
6 subscribers to Hughes. Prof. Slottje's conservative estimate of the number of
7 subscribers ViaSat lost, and the resulting profits those subscribers would have
8 generated, quantifies ViaSat's minimum lost profit damages.

9 Defendants similarly ignore this competitive harm to ViaSat in their critique
10 of Prof. Slottje's reasonable royalty analysis. Instead, Defendants focus almost
11 exclusively on SS/L's profits from the infringement. But it is well-settled—and
12 admitted by Defendants' own expert—that an accused infringer's profit is no limit
13 on a patentee's damages. It is unreasonable to believe that ViaSat would grant its
14 only meaningful competitor in the multi-billion-dollar satellite broadband space a
15 license to ViaSat's record-breaking technologies for a few million dollars.

16 Defendants' arguments against Prof. Slottje's opinions are, at best, fodder for
17 cross-examination. They do not justify excluding those opinions.

18 **II. APPLICABLE LEGAL STANDARD**

19 Under Rule 702, expert testimony is admissible so long as it is reliable, based
20 on sufficient data, and helpful to the trier of fact. FED. R. EVID. 702. "When the
21 methodology is sound, and the evidence relied upon sufficiently related to the case
22 at hand, disputes about the degree of relevance or accuracy (above this minimum
23 threshold) may go to the testimony's weight, but not its admissibility." *i4i Ltd.*

24 ¹ Ex. 18.

1 *P'ship v. Microsoft Corp.*, 598 F.3d 831, 852 (Fed. Cir. 2010) (affirming trial
2 court's decision to admit damages expert testimony in a patent case).

3 **III. FACTUAL BACKGROUND**

4 **A. ViaSat-1's Groundbreaking Technology**

5 ViaSat's innovations enabled ViaSat to launch the highest-capacity
6 broadband satellite the world had ever seen. (See Ex. 1 at 7-8.)² Significantly,
7 ViaSat's technology also radically altered the per-bit economics of providing
8 internet service, [REDACTED]

9 [REDACTED] (Ex. 2 at
10 VST03334968). The vast increase in relatively cheap satellite capacity enabled
11 ViaSat to provide broadband internet services to more subscribers, and at greater
12 speeds, than anything else in the market. [REDACTED]

13 [REDACTED]

14 [REDACTED] (Ex. 3 at VST03848703; Ex. 4 at VST03848910-11.)

15 **B. SS/L's Misappropriation of ViaSat's Technology**

16 ViaSat went to great lengths to protect its innovations, including filing the
17 applications for the patents asserted in this case. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED] (Ex. 5 at Art. 1.101, 28.)

21
22 ² Citations to "Ex. __" refer to exhibits to the Declaration of Matthew D.
23 Cannon in Support of ViaSat's Opposition to Defendants' Motion to Exclude
24 Opinions of ViaSat's Damages Expert Dr. Daniel Slottje. Prof. Slottje's report,
which is Exhibit 1 to the Cannon Declaration, contains internal exhibits. Those
internal exhibits are cited herein as "Ex. 1 at Exhibit __."

1 [REDACTED]
2 [REDACTED] (See Ex. 6 at 207:11-
3 211:13; Ex. 7; Ex. 8 at 152:24-153:24, 254:6-255:23; Ex. 9 at SSL171547; Ex. 10.)
4 ViaSat and Hughes were (and still are) the only meaningful providers of satellite
5 broadband in the United States at the time. (Ex. 11 at 76:2-77:5; Ex. 6 at 81:9-82:2;
6 Ex. 12 at 267:21-268:14.) [REDACTED] (See Ex. 13 at
7 145:4-146:13.) [REDACTED] (Ex. 14.)
8 That is why the launch of ViaSat-1 was such a threat to Hughes. (See Ex. 15 at
9 HUGHES-274934; Ex. 3 at VST03848703; Ex. 4 at VST03848910-11.) [REDACTED]

10 [REDACTED]
11 [REDACTED] (Ex. 16; Ex. 17; Ex. 18.)

12 Defendants knew that Hughes intended to use its ViaSat-1 clone to compete
13 with ViaSat. [REDACTED]

14 [REDACTED] (Ex. 11 at 117:8-21.)

15 [REDACTED]
16 [REDACTED]
17 [REDACTED] (Ex. 19 at 141:7-142:11; Ex. 20.)

18 Defendants forged ahead with the Jupiter-1 project notwithstanding ViaSat's
19 known concerns. According to analysis performed by ViaSat's technical experts,

20 [REDACTED]
21 [REDACTED] (Ex. 1 at
22 Exhibit 15.) [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 Once ViaSat learned that its patented and proprietary technologies had been
4 given to its main competitor, it had no choice but to file suit.

5 **C. Prof. Slottje's Opinions**

6 Prof. Slottje examined the satellite industry and the transactions involved.
7 He developed a damages model that accurately reflects the harm to ViaSat from
8 Defendants' transfer of ViaSat's technology to Hughes, among other things. With
9 respect to Hughes' Jupiter satellite, his model contains two major components.

10 First, Prof. Slottje identifies profits from subscribers that ViaSat would have
11 enrolled had Hughes not been able to launch the Jupiter-1 satellite with its infringing
12 design. (See Ex. 1 at 41-42, Exhibits 4, 13.) Some of the subscribers who signed
13 up for Hughes' infringing HughesNet Gen4 service would have signed up for
14 ViaSat's Exede service if Hughes had no infringing satellite. [REDACTED]

15 [REDACTED]
16 [REDACTED]
17 [REDACTED] (*Id.* at 27-29.) He did not include
18 any subscribers that could have been serviced by that hypothetical satellite in his
19 lost profits calculation. (*Id.* at Exhibits 4-5.) He further limited the number of lost
20 subscribers based on ViaSat's estimates of the subscriber capacity of ViaSat-1. (*Id.*
21 at Exhibit 5.) The remaining subscribers that Hughes has enrolled for its infringing
22 service constitute lost subscribers for ViaSat—for which Prof. Slottje calculates

23 [REDACTED]
24 [REDACTED] 3 [REDACTED]

(See Ex. 2 at VST03334968.)

1 ViaSat is owed roughly \$175 million. (*Id.* at Exhibits 4, 13.)

2 The second major component of Prof. Slottje's damages model is a
3 reasonable royalty. [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED] or approximately \$460 million if lost profits
7 are awarded and \$587 million if not.⁴ (*Id.* at 61.)

8 **IV. ARGUMENT**

9 **A. ViaSat Is Entitled to Lost Profits**

10 Defendants argue that ViaSat may not seek lost profits damages because
11 ViaSat does not manufacture satellites. (Mot. at 6.) That argument is false. "[A]
12 patent owner who has suffered lost profits is entitled to lost profits damages
13 regardless of whether the patent owner has made, used, or sold the patented device."
14 *King Instruments Corp. v. Perego*, 65 F.3d 941, 947 (Fed. Cir. 1995).

15 A patentee is entitled to "damages adequate to compensate" for the
16 infringement. 35 U.S.C. § 284. "The phrase 'damages adequate to compensate'
17 means 'full compensation for "any damages" [the patent owner] suffered as a result
18 of the infringement.' . . . Full compensation includes any foreseeable lost profits the
19 patent owner can prove." *Grain Processing Corp. v. Am. Maize-Prods. Co.*, 185
20 F.3d 1341, 1349 (Fed. Cir. 1999) (citations omitted). "Section 284 imposes no
21 limitation on the types of harm resulting from infringement that the statute will
22 redress. The section's broad language awards damages for any injury as long as it

23 ⁴ To avoid double-counting if lost profits are awarded, Prof. Slottje prorates
24 the royalty: He calculates a residual royalty only for those periods in which lost
profits are not available. (See Ex. 1 at Exhibit 13.)

1 resulted from the infringement.” *King Instruments*, 65 F.3d at 947.

2 In this case, ViaSat sells a product that practices its patents: the Exede
3 broadband service over ViaSat-1. And that product competes directly with an
4 infringing product: HughesNet Gen4 over the Jupiter-1 satellite. Defendants are
5 liable for ViaSat’s foreseeable loss of broadband subscribers due to Defendants’ sale
6 and Hughes’ infringing use of that satellite.⁵ This case is analogous to *Minco, Inc.*
7 *v. Combustion Eng’g, Inc.*, 95 F.3d 1109 (Fed. Cir. 1996) (*per curiam*). There, the
8 defendant infringed a patent covering a kiln for making an improved fused silica
9 product. 95 F.3d at 1118. The Federal Circuit affirmed damages based on the
10 patentee’s lost profits in the downstream fused silica market, holding it “reasonably
11 foreseeable” that infringement of a patent for a kiln used in making fused silica
12 would hurt the patentee’s downstream sales of fused silica. *Id.* at 1118-19 (noting
13 that defendant also competed in the downstream market).

14 Defendants cite an irrelevant line of cases in arguing that lost profits are not
15 available if ViaSat does not manufacture satellites. (Mot. at 6.) Those cases
16 address situations in which the plaintiff did not lose profits on any product
17 practicing the patent.⁶ Even in one of those cases, *Hebert v. Lisle Corp.*, the Court
18 **denied** judgment of no lost profits because the plaintiff might have practiced the
19 patent in a but-for world. 99 F.3d 1109, 1119-20 (Fed. Cir. 1996).

20 These cases do not apply to a situation like the present, in which ViaSat uses

21 ⁵ Indirect infringers, like Defendants, are jointly and severally liable with
22 direct infringers, like Hughes, for damages from the direct infringer’s actions.
Shockley v. Arcan, Inc., 248 F.3d 1349, 1364 (Fed. Cir. 2001).

23 ⁶ See *Wechsler v. Macke Int’l Trade, Inc.*, 486 F.3d 1286, 1293-94 (Fed. Cir.
24 2007); *Presidio Components, Inc. v. Am. Tech. Ceramics Corp.*, 702 F.3d 1351,
1360 (Fed. Cir. 2012).

1 its patented technology to provide a service on which it earns a profit. The
 2 infringing Jupiter-1 satellite made by SS/L and used by Hughes to compete against
 3 ViaSat directly cuts into ViaSat's profits. Those profits are thus fairly compensable
 4 patent damages.⁷

5 **B. Prof. Slottje's Opinion That ViaSat Has Satisfied the Legal Test for**
 6 **Lost Profits Is Sound**

7 Although not the only test for lost profits, the most common formulation is
 8 the four-factor inquiry of *Panduit Corp. v. Stahl Bros. Fibre Works, Inc.*, 575 F.2d
 9 1152 (6th Cir. 1978). According to that test, "but for" causation of lost profits can
 10 be inferred when the patentee proves four factors by a preponderance of the
 11 evidence: (1) demand for the patented product; (2) the absence of acceptable non-
 12 infringing substitute products; (3) manufacturing and marketing capacity to exploit
 13 the demand; and (4) the amount of profits lost. 575 F.2d at 1156.

14 The Federal Circuit has relaxed the *Panduit* test in certain market
 15 circumstances. For example, where only two parties compete in the relevant
 16 product market, the absence of acceptable non-infringing substitute products is
 17 implicit in the market definition. *See Micro Chem., Inc. v. Lextron, Inc.*, 318 F.3d
 18 1119, 1124-25 (Fed. Cir. 2003). It is a "reasonable inference" in such a two-
 19 supplier market that the patentee would have made the sales made by the infringer
 20 had the latter not infringed. *Datascope Corp. v. SMEC, Inc.*, 879 F.2d 820, 826
 21 (Fed. Cir. 1989) (reversing lower court's denial of lost profits).

22 ⁷ Defendants' assertion that ViaSat and SS/L do not compete is also factually
 23 mistaken. [REDACTED]

24 [REDACTED] (See, e.g., Ex. 21 at 174:10-182:18.)

1 Defendants do not dispute much of Prof. Slottje's lost profits analysis. It is
 2 undisputed that there is demand for high-capacity broadband satellites and the high-
 3 speed internet services those satellites can provide. And Defendants do not
 4 challenge Prof. Slottje's calculation of ViaSat's or Hughes' projected subscriber
 5 growth, nor the amount of profit per subscriber he calculates that ViaSat has lost.

6 Defendants dispute two components of Prof. Slottje's lost profits model: the
 7 subscriber capture rate in the but-for world and the capacity of the ViaSat-1 satellite.
 8 But Defendants have not independently calculated either a capture rate or the
 9 capacity of the ViaSat-1 satellite. Their unsubstantiated quibbles with the precision
 10 of Prof. Slottje's model go to weight, not admissibility. *See i4i*, 598 F.3d at 852.

11 **1. Prof. Slottje Has Not Used a 100% Capture Rate**

12 Defendants' critique of the purported 100% capture rate in Prof. Slottje's lost
 13 profits model rests on a flawed premise: Prof. Slottje has not merely assumed that
 14 all of the subscribers to Hughes' infringing service would otherwise have gone to
 15 ViaSat. This can be deduced by [REDACTED]

16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED] (*Compare* Ex. 1 at Exhibit 10 and Exhibit 5A.)

19 Instead, Prof. Slottje identified a subset of the projected Jupiter-1 subscribers
 20 that ViaSat would have been able to capture if Hughes had not entered the market
 21 with an infringing satellite that has incremental capacity attributable to ViaSat's
 22 patented and proprietary inventions. Prof. Slottje's model is actually quite
 23 conservative: [REDACTED]
 24 [REDACTED]

1 [REDACTED] (See Ex. 22 at
 2 9:18-10:23.) [REDACTED]

3 [REDACTED]
 4 [REDACTED] (*Id.* at 199:1-200:9, 217:5-218:22.)

5 Though misplaced, Defendants’ criticisms (even if credited) are more than
 6 overcome by Prof. Slottje’s numerous conservative assumptions. (*Id.* at 226:2-19.)

7 2. **Because Satellite Broadband Is a Sub-Market, It Is**
 8 **Reasonable To Believe that ViaSat Would Have Signed Up**
 Additional Subscribers But For Competition from Hughes

9 Even had Prof. Slottje adopted a 100% capture rate (which he did not), that
 10 would have been justified here. The satellite broadband market is a distinct two-
 11 player submarket within the larger broadband space. (Ex. 1 at 19-21.) Treating
 12 satellite broadband separately is thus justified in both legal and economic terms.

13 Legally, the Federal Circuit has made clear that the relevant market for
 14 purposes of patent damages includes only products that are strong substitutes for one
 15 another. *See, e.g., Kaufman Co. v. Lantech, Inc.*, 926 F.2d 1136, 1143 (Fed. Cir.
 16 1991) (reversing district court’s determination that there were acceptable non-
 17 infringing substitutes where those substitutes did not share the advantages of the
 18 patented invention and were priced higher than the patented invention); *see also*
 19 *Heidelberger Druckmaschinen AG v. Hantscho Commercial Prods., Inc.*, No. 87
 20 Civ. 4522 (LMM), 1995 WL 693170, at *2 (S.D.N.Y. Nov. 22, 1995) (finding
 21 plaintiff had satisfied second *Panduit* factor despite the presence of “many other
 22 suppliers with comparable folding devices” due to “the unique advantages and
 23 distinctive characteristics of the patented chopper in terms of speed and accuracy”).
 24

1 Here, terrestrial broadband is not a strong substitute for satellite broadband, so
 2 terrestrial broadband is properly excluded from the relevant market in a lost profits
 3 analysis. [REDACTED]

4 [REDACTED]⁸ (Ex. 23
 5 at 52:9-54:3.) [REDACTED]

6 [REDACTED]
 7 [REDACTED]⁹ (*Id.*
 8 at 61:15-63:19 (discussing lower data caps for satellite broadband).)

9 These market characteristics support Prof. Slottje's reliance on the economic
 10 doctrine of "revealed preferences." As he explains, in the absence of the infringing
 11 HughesNet Gen4 service, the most likely alternative for a subscriber to select would
 12 be the only other satellite broadband service in the market: ViaSat's Exede service.
 13 (Ex. 22 at 227:9-228:17.) [REDACTED]

14 [REDACTED] (*Id.*; see also
 15 Ex. 1 at 21.) [REDACTED]

16 [REDACTED]
 17 [REDACTED]¹⁰ (Ex. 22 at 241:10-244:3.)

18 ⁸ This analysis focuses on **broadband** wireline options, unlike the data cited in
 19 Defendants' brief. (Mot. at 8.) Non-broadband options obviously would not be
 20 strong substitutes for satellite broadband service.

21 ⁹ This differentiation extends to the supply side of the equation as well: [REDACTED]

22 [REDACTED]
 23 [REDACTED] (See Ex. 23 at 56:5-57:6; Ex. 1 at 20.)

24 ¹⁰ [REDACTED]
 [REDACTED] (Ex. 1 at 36-37.)

1 From an economic perspective, then, Prof. Slottje reasonably concludes that satellite
2 broadband is a distinct submarket in which only ViaSat and Hughes compete
3 meaningfully. (Ex. 1 at 18; Ex. 22 at 229:2-230:23.)

4 Prof. Slottje's differentiation of the market is consistent with ViaSat's
5 independent assessment.¹¹ (Ex. 24 at 33:7-34:5.) [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 (*Id.* at 32:7-16.)

10 In the distinct satellite broadband submarket, it is reasonable to believe that
11 ViaSat would see its number of subscribers increase with Hughes out of the market.
12 (See Ex. 22 at 228:1-17.) ViaSat and Hughes are the only meaningful players in the
13 satellite broadband market. (See, e.g., Ex. 26 at VST03848827.) ViaSat and
14 Hughes compete directly against one another, such that an advantage for one
15 typically is a disadvantage for the other. [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED] (See Ex. 25 at 161:19-162:12; Ex. 15 at HUGHES-274934; Ex. 3 at

19 ¹¹ [REDACTED]

20 (Mot. at 10-11.) [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

(See Ex. 25 at 150:15-151:4.)

1 VST03848703; Ex. 4 at VST03848910-11.) [REDACTED]

2 [REDACTED]
3 [REDACTED] (See Ex. 27 at
4 HUGHES-003157-58.)

5 It is beyond reasonable dispute that arming ViaSat's main satellite broadband
6 competitor with a high-capacity satellite would result in ViaSat losing some
7 subscribers. The only question is how many such subscribers ViaSat lost.
8 Defendants have not calculated that figure for themselves, and Prof. Slottje has
9 offered a highly conservative calculation of that sum. It should be up to the jury to
10 determine whether his analysis supports ViaSat's damages claims.

11 **3. Defendants Cannot Assume Away Infringement With**
12 **Purported Satellite Design-Arounds**

13 Defendants also fault Prof. Slottje for failing to consider alternative satellite
14 technologies that Defendants could have built for Hughes. (Mot. at 8-9.) But Prof.
15 Slottje did take such satellite alternatives into account. [REDACTED]

16 [REDACTED]
17 [REDACTED] (Ex. 1 at 27-29; Ex. 22 at 34:25-35:9.)

18 Defendants' critique of Prof. Slottje is based on his purported failure to
19 consider non-infringing alternative satellite designs that were identified by
20 Defendants only after Prof. Slottje submitted his report and have still not been fully
21 disclosed. (Mot. at 8-9.) That Defendants criticize Prof. Slottje for failing to rebut
22 allegations that had not yet been made highlights the prejudice to ViaSat from
23 Defendants' late disclosure of those alternatives. (See Dkt. 533.)
24

1 It is for the lawyers and technical experts to debate, and the jury to decide,
 2 whether alternative technologies were available and acceptable. If they were,
 3 Defendants can argue to the jury how the presence of those alternatives affects the
 4 accuracy of Prof. Slottje's lost profits calculation. The possibility that Defendants
 5 "might have been able to design around a patent does not, in itself, defeat a claim for
 6 lost profits." *Minco*, 95 F.3d at 1119. In any event, Prof. Slottje has testified that
 7 his approach permits adjustments to the damages calculations if, for example, the
 8 incremental capacity parameter changes. (Ex. 22 at 22:24-23:3.)

9 **4. Prof. Slottje's Opinion As To ViaSat's Capacity To Take On**
Additional Subscribers Is Well-Founded

10 Defendants also criticize Prof. Slottje's assessment of the subscriber capacity
 11 of ViaSat-1. (Mot. at 11-13.) But Prof. Slottje amply justified his reliance on
 12 ViaSat's conservative subscriber capacity calculations. Defendants' arguments at
 13 best go to the weight of Prof. Slottje's opinions—not to their admissibility.

14 It is important to note at the outset that Defendants have not offered any
 15 opinion as to the actual subscriber capacity of the ViaSat-1 satellite. Defendants'
 16 purported expert on satellite capacity never calculated the actual subscriber capacity
 17 of ViaSat-1. (Ex. 23 at 6:11-15, 15:12-16.) [REDACTED]

18 [REDACTED]
 19 [REDACTED] (Ex. 28 at 14, 18.)

20 [REDACTED]
 21 [REDACTED] (Ex. 23 at 69:15-70:24.) One expert's doubts
 22 about the evidence relied upon by another expert cannot possibly justify exclusion.
 23
 24

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] (See Ex. 24
5 192:12-194:19; *see also* Ex. 21 at 80:13-16.) Prof. Slottje's reliance on the
6 subscriber capacity model that ViaSat uses for business planning is appropriate.

7 ViaSat goes to great lengths to ensure that its subscriber capacity calculations
8 are, if anything, conservative. [REDACTED]

9 [REDACTED]
10 [REDACTED] (Ex. 24 at 83:6-84:12.) [REDACTED]

11 [REDACTED]
12 [REDACTED] (*See id.*) Prof. Slottje's reliance on such a conservative
13 estimate is reasonable.

14 Defendants suggest, despite the conservative nature of ViaSat's calculations,
15 [REDACTED]
16 [REDACTED] (Mot. at 11-13.) This is false. [REDACTED]

17 [REDACTED]
18 [REDACTED] (Ex. 24 at 103:4-104:13.) [REDACTED]
19 [REDACTED] (*Id.* at 84:23-
20 85:5.) [REDACTED]

21 [REDACTED] (*Id.* 107:13-108:10, 213:1-13.)
22 Prof. Slottje's reliance on the calculation, in light of this unequivocal testimony, is
23 not unreasonable.

24

1 The last of Defendants’ scattershot attacks on Prof. Slottje’s analysis of
 2 ViaSat’s capacity to take on additional subscribers relates to beam-by-beam
 3 variation in satellite fill rates. (Mot. at 11-12.) The satellites in question are “spot-
 4 beam” satellites, which direct multiple beams toward the Earth’s surface.
 5 Defendants argue that certain beams may be more or less full, such that there may
 6 be some variation in the number of Hughes’ subscribers ViaSat-1 could
 7 accommodate in the but-for world. (*Id.*) Again, however, Defendants make no
 8 effort to quantify the effect of this variation on Prof. Slottje’s model—their criticism
 9 is founded on nothing more than speculation. [REDACTED]

10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED] (See Ex. 24 at 83:6-84:12.)

13 In any event, Defendants’ beam-by-beam criticism is mistaken. [REDACTED]
 14 [REDACTED]
 15 [REDACTED] (Ex. 1 at 38-39.) [REDACTED]
 16 [REDACTED]
 17 [REDACTED] (Ex. 22 at 261:5-264:6; *see also* Ex. 30 at 109:2-21; Ex. 24 at 100:14-19.)

18 Defendants raise a number of issues that *might* affect Prof. Slottje’s lost
 19 profits analysis, but which they cannot definitively state have any material effect at
 20 all. At most, Defendants dispute the precision of the evidence on which Prof.
 21 Slottje relies. Such is the stuff of cross-examination. *See Fiskars, Inc. v. Hunt*
 22 *Mfg. Co.*, 279 F.3d 1378, 1383 (Fed. Cir. 2002) (“Although the parties must support
 23 their positions with sound economic proof, absolute certainty is not required, for
 24 reconstruction of the but for market is by definition a hypothetical enterprise based

on the evidence introduced at trial.”) (internal quotations omitted).

C. Prof. Slottje’s Reasonable Royalty Analysis Is Sound

Defendants’ challenges to Prof. Slottje’s reasonable royalty opinions are just as weak as their misplaced attacks on his lost profits opinions. In effect, Defendants complain that Prof. Slottje’s calculated royalty is too large—because Defendants would not want to pay so much. But “what an infringer would prefer to pay is not the test for damages.” *Rite-Hite Corp. v. Kelley Co.*, 56 F.3d 1538, 1555 (Fed. Cir. 1995). Were it so, no defendant would ever pay for infringing a patent.

Prof. Slottje offers a different view of the relevant factors in the hypothetical negotiation than that presented by the Defendants. In Prof. Slottje’s view, any hypothetical negotiation would take into account the full economic reality of the parties’ relationships, including the fact that Defendants sold the Jupiter-1 satellite to ViaSat’s main competitor for use in the marketplace against ViaSat. Defendants would ignore the fact of downstream competition entirely, and focus solely on their profits from the infringing sale. This is not a dispute that can justify excluding expert testimony on damages: “Questions about what facts are most relevant or reliable to calculating a reasonable royalty are for the jury.” *i4i*, 598 F.3d at 856.

1. Prof. Slottje’s Opinion Is Reasonable When The Full Effect Of Defendants’ Infringement Is Considered

Section 284 of the Patent Act provides that damages for patent infringement must be “adequate to compensate for the infringement, but in no event less than a reasonable royalty for the use made of the invention by the infringer.” 35 U.S.C. § 284. In this case, “the use made by the infringer” includes Defendants’ sale of a satellite embodying ViaSat’s patented technologies to ViaSat’s principal competitor

1 in the satellite broadband market. Defendants' sale of the Jupiter-1 satellite to
2 Hughes, like their inducement of Hughes' infringing use of the satellite, [REDACTED]
3 [REDACTED]—at ViaSat's expense. It was this complete
4 picture of the economic relationships involved that was the basis for Prof. Slottje's
5 well-reasoned analysis. (See Ex. 22 at 47:3-48:5, 68:3-70:5.)

6 Indeed, Prof. Slottje's reasonable royalty calculations (\$459.9 million if lost
7 profits are awarded; \$587.1 million if no lost profits are awarded) are commensurate
8 with the scale of investments and profits in the satellite industry. Prof. Slottje bases
9 his calculations in part on the market value of satellite capacity, which will be
10 discussed in greater detail below. But his calculations are also reasonable when
11 they are judged from any angle wide enough to encompass the economic reality of
12 the satellite market. For example, [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED] (Id. at 39:7-40:1; 101:7-102:16.) As
16 Defendants' damages expert concedes, a patentee negotiating a royalty would take
17 into account both actual and perceived costs of competing against an opponent
18 strengthened by use of infringing technology. (Ex. 31 at ¶ 37.)

19 A substantial royalty rate is also independently justified under the so-called
20 "analytical approach" to reasonable royalty damages, which bases damages on the
21 incremental profits gained by the accused infringer due to infringement. See *TWM*
22 *Mfg. Co. v. Dura Corp.*, 789 F.2d 895, 899 (Fed. Cir. 1986) (discussed in Ex. 1 at
23 62). As explained above in Section III.A, the per-Gbps cost of satellite capacity
24 falls by an order of magnitude when ViaSat's patented and proprietary technologies

1 are employed. A \$587 million royalty, paid by a direct competitor, is a “reasonable
2 royalty” given that [REDACTED]

3 [REDACTED]
4 Even if the focus were restricted solely to Defendants—ignoring completely
5 that Defendants knowingly sold the Jupiter-1 satellite to ViaSat’s competitor for use
6 against ViaSat—Prof. Slottje’s royalty analysis would still be reasonable.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED] (Mot. at 1.) But the fact
10 that SS/L **might** not have made an infringing satellite for Hughes is irrelevant. An
11 infringing satellite **was** made, and a royalty must be determined. *See Fujifilm Corp.*
12 *v. Benun*, 605 F.3d 1366, 1372 (Fed. Cir. 2010) (“To determine a reasonable royalty,
13 a jury must find the royalty that would have been agreed to in a hypothetical
14 negotiation between a willing licensee and willing licensors at the time infringement
15 began.”). Even Defendants’ damages expert recognizes that she must assume that
16 the patents have been infringed. (Ex. 31 at ¶ 36.)

17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED] (Ex. 32 at Art. 15.1(5), 15.1(7)), [REDACTED]

23 [REDACTED]
24 [REDACTED] (Ex. 19 at 141:7-142:11; Ex. 20.) [REDACTED]

1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]¹²
 4 That sum does not even take into account the reputational harm SS/L would suffer if
 5 it pulled the plug on the Jupiter-1 project on the eve of infringement.

6 Defendants fault Prof. Slottje for relying on reputational harm, but that is a
 7 real cost to Defendants that must be taken into account. (Ex. 1 at 44-45.) [REDACTED]
 8 [REDACTED]
 9 [REDACTED]

10 [REDACTED] (Ex. 22 at 36:8-37:5; 40:6-41:1.) [REDACTED]
 11 [REDACTED]
 12 [REDACTED]

13 [REDACTED]¹³ The record is clear that this reputational effect would be a salient
 14 concern for the Defendants. [REDACTED]
 15 [REDACTED] (Ex. 19 at 134:22-135:16.) [REDACTED]
 16 [REDACTED]

17 [REDACTED] (See Ex. 33 at 277:5-11, 283:17-284:16; Ex. 34.) [REDACTED]
 18 [REDACTED]
 19 [REDACTED]¹²
 20 [REDACTED]
 21 [REDACTED]¹³ The case Defendants cite as justifying exclusion of testimony on
 22 “reputational damage” as “entirely speculative” is not to the contrary. (Mot. at 17-
 23 18 (citing *Quad/Graphics, Inc. v. One2One Comms., LLC*, No. 09-cv-99-JPS, 2011
 24 WL 4478440, at *1 (E.D. Wis. Sep. 23, 2011)).) Unlike Prof. Slottje, the expert
 there opined that \$1 million in damages were due solely for reputational harm.
 2011 WL 4478440, at *5. It was the expert’s quantification of reputational damage
 without basis that made his opinion unreliable, not the mere mention of reputation
 effects. Reputation effects are well known to economists. (Ex. 22 at 65:7-67:20.)

1 [REDACTED]
 2 [REDACTED] (Ex. 35 at 23:5-16.) [REDACTED]
 3 [REDACTED] (*Id.* at 24:1-18.)
 4 [REDACTED]
 5 [REDACTED] (*Id.* at 33:17-34:6; Ex. 11 at 24:21-25:6.) Against this backdrop,
 6 Prof. Slottje cannot ignore reputation effects in a hypothetical negotiation.

7 Implicit throughout Defendants' criticisms is the idea that a royalty greater
 8 than SS/L's profit from the Jupiter-1 deal would be unreasonable. For the reasons
 9 discussed above, such a restriction on ViaSat's damages is not economically
 10 reasonable in light of the far-reaching harm to ViaSat from the infringing sale to
 11 Hughes. Nor is such a limit legally appropriate. Defendants' own damages expert
 12 admits that an accused infringer's profits are not a limit on damages, citing Federal
 13 Circuit case law. (Ex. 31 at ¶ 40 n.70.) Such a limit would be even more
 14 inappropriate here, given Defendants' minimal bargaining power. [REDACTED]

15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED] (Ex. 1 at 44.)

18 Although Defendants cite cases in which damages opinions that call for an
 19 award higher than the infringer's profits have been excluded, the cases they cite are
 20 limited to their facts, which do not pertain here.¹⁴ In fact, Defendants cite a case

21 _____
 22 ¹⁴ *Lindemann Maschinefabrik GmbH v. Am. Hoist & Drrick Co.*, 895 F.2d
 23 1403 (Fed. Cir. 1990), cited on page 15 of Defendants' brief, was expressly limited
 24 to its facts, which involved an expert whose "opinion was based on a nonexistent or
 at best woefully incomplete understanding of the market and on an estimate of
 anticipated profits that bore no relation to actual profits." 895 F.2d at 1408.

1 that actually supports ViaSat's position. In *Trans-World Mfg. Corp. v. Al Nyman &*
 2 *Sons, Inc.*, 750 F.2d 1552 (Fed. Cir. 1984), the Federal Circuit ruled that the trial
 3 court erred in **excluding** evidence of the infringer's profits from selling eyeglasses
 4 using the patented eyeglass display racks. "If, for example, sales were increased
 5 because of the infringing use of the displays, that fact could affect the amount of
 6 royalties a potential licensee would be willing to pay." 750 F.2d at 1568. And
 7 Defendants cannot dispute that there are multiple cases affirming damages awards
 8 that are greater than the infringer's profits. See, e.g., *Rite-Hite*, 56 F.3d at 1554-55
 9 (collecting cases). Prof. Slottje should be permitted to testify regarding all profits
 10 from infringing use of the Jupiter-1 satellite.

11 The extent of harm to ViaSat and risk to Defendants confirms that Prof.
 12 Slottje's royalty analysis is reasonable. To the extent Defendants disagree with the
 13 results of that analysis, they may explore their issues on cross-examination at trial.

14 **2. Prof. Slottje's Reliance on Market Data About the Price of**
Satellite Capacity Is Well-Founded

15 As discussed above, the reasonableness of Prof. Slottje's royalty analysis in
 16 this case is confirmed by multiple data points. The primary data on which he relies
 17 in his report, however, are data regarding the market value of satellite capacity.
 18 Such data are particularly relevant here, given that the benefit of ViaSat's patented
 19 and proprietary technologies is a significant incremental gain in satellite capacity.

20 (Ex. 1 at 53-59.) [REDACTED]
 21 [REDACTED]
 22 [REDACTED]

23 The "basic error" in *Georgia-Pacific Corp. v. U.S. Plywood-Champion Papers,*
 24 *Inc.*, 446 F.2d 295, 299 (2d Cir. 1971), cited on the same page of Defendants' brief,
 was that the trial court said it intended to award a royalty below the infringer's
 profits but did not do so.

1 [REDACTED] (*Id.* at 50.) The market value of the needed,
 2 infringing incremental capacity therefore would have been a salient concern in any
 3 royalty negotiation. (Ex. 22 at 84:24-85:8, 85:17-86:13, 89:21-90:14.)¹⁵

4 Prof. Slottje focused on two transactions that he found particularly relevant:
 5 leases of capacity by Barrett (a Canadian internet service provider) on the ViaSat-1
 6 and Jupiter-1 satellites. (Ex. 1 at 55-56, 58.) Prof. Slottje opines that these
 7 transactions are the best possible sources of market data on the value of satellite
 8 capacity. Because the transactions are for capacity on ViaSat-1 and Jupiter-1, they
 9 involve the exact patented and proprietary technology at issue here, with its lower
 10 per-bit costs. (*Id.*) Indeed, [REDACTED]

11 [REDACTED]
 12 [REDACTED] (Ex. 11 at 137:10-16.)

13 Defendants argue that Prof. Slottje's reliance on this market data is
 14 impermissible, but their argument is based on a series of inapposite cases.¹⁶ Prof.
 15 Slottje uses leases of satellite capacity as market data on the value of incremental
 16 capacity—the benefit of the patents-in-suit. He does not opine that these leases are

17
 18 ¹⁵ Defendants misunderstand Prof. Slottje's reference to capacity leases: He
 19 does not opine that any lease would actually have been signed in the but-for world.
 20 (Mot. at 21-22.) Rather, the prices paid to lease capacity are one market-based data
 21 point in his royalty analysis—a particularly salient data point in a world where
 22 Defendants do not provide Hughes with the [REDACTED] of incremental infringing
 23 capacity that Hughes evidently needed. (Ex. 22 at 155:9-156:8.)

24 ¹⁶ See, e.g., *Uniloc USA, Inc. v. Microsoft Corp.*, 632 F.3d 1292, 1318 (Fed.
 Cir. 2011) (finding plaintiff's reliance on 25% rule of thumb inadmissible);
ResQNet.com, Inc. v. Lans, Inc., 594 F.3d 860, 870-72 (Fed. Cir. 2010) (determining
 that cited licenses bore no relation to claimed invention). Prof. Slottje reasonably
 tied his analysis of the value of the incremental satellite capacity provided by
 ViaSat's patents to the market value of such capacity.

1 comparable patent licenses. (*Compare* Ex. 1 at 46 and 53-59.) Moreover, he does
 2 not simply adopt the effective per-Gbps prices in these transactions as his royalty
 3 rate, but instead uses them as a factor in bounding the negotiating range: [REDACTED]

4 [REDACTED]
 5 [REDACTED]¹⁷ (*Id.* at 54-58, 61.)

6 Defendants cannot tenably maintain that consulting market data on the value
 7 of the incremental benefit of patented technology is impermissible, since that is
 8 what their damages expert did in analyzing Defendants' counterclaims. [REDACTED]

9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED] (Ex. 31 at ¶¶ 61-62 [REDACTED])

12 [REDACTED]
 13 [REDACTED].) However, because
 14 the agreement on which Defendants rely for their damages opinion involves
 15 technologies different from what Defendants patented, the link to this case is far
 16 more attenuated than that to Prof. Slottje's market data, which involves the same
 17 satellites and same technology as ViaSat's asserted patents. Defendants cannot
 18 reasonably dispute that it is a reliable and admissible technique for an economist to
 19 consult market data on the value of the incremental gains from infringement.

20 ¹⁷ This distinguishes Prof. Slottje's analysis from that in *DataQuill Ltd. v.*
 21 *High Tech. Computer Corp.*, No. 08-cv-543, 2012 WL 1284381 (S.D. Cal. Apr. 16,
 22 2012). In that case, the expert used a revenue sharing agreement as the basis for
 23 applying a "customary royalty rate of 3.91%." 2012 WL 1284381, at *7. Prof.
 24 Slottje did not simply adopt a rate from the leases he consulted—he considered
 those lease rates as one data point among others in determining a royalty based on
 the incremental value of the patented technology. The royalty he calculated is
 smaller than the per-Gbps lease prices in those leases. (*See* Ex. 1 at 61.)

D. Prof. Slottje's Reasonableness Checks Are Relevant And Will Be Helpful to the Jury

Defendants' final attack on Prof. Slottje is based on certain "reasonableness checks" he employs to confirm that his damages calculations are not out of line with the economics of the satellite industry. Those reasonableness checks are additional data points that will be helpful to the jury:

- [REDACTED] (Ex. 1 at 62-63.)
- [REDACTED] (*Id.* at 63-64.)
- That ViaSat had to pay hundreds of millions of dollars for WildBlue's established distribution network and customer base to enter into the internet service business and compete with Hughes also explains why ViaSat would seek a high royalty. (*Id.* at 63.)

Again, Defendants' own expert opinion belies their critique: [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] (Ex. 31 at

¶¶ 59-60.) Defendants cannot proffer such an opinion on one side of the case and condemn it on the other. Prof. Slottje's reasonableness checks are admissible.

V. CONCLUSION

For the foregoing reasons, ViaSat respectfully requests that the Court deny Defendants' Motion to Exclude the Testimony of Dr. Daniel Slottje in its entirety.

¹⁸ Prof. Slottje uses ViaSat's profit numbers to estimate Hughes' expected profits from operating the infringing satellite. Defendants mischaracterize this check as the value of ViaSat's (rather than Hughes') use of the technology (Mot. at 24), but the value to ViaSat would itself be relevant in any event.

1 DATED: January 6, 2014

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

2
3
4 By /s/ Sean S. Pak

Sean S. Pak

5
6 Attorneys for Plaintiff ViaSat, Inc.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

CERTIFICATE OF SERVICE

I hereby certify that, on January 6, 2014, I caused the foregoing **VIASAT'S
OPPOSITION TO DEFENDANTS' MOTION TO EXCLUDE OPINIONS OF
VIASAT'S DAMAGES EXPERT DR. DANIEL SLOTTJE** to be served on
Defendants' counsel via the Court's ECF system and via e-mail.

DATED: January 6, 2014

By /s/ Sean S. Pak

Sean S. Pak