

# **Exhibit 9**

**Patterson Belknap Webb & Tyler LLP**

1133 Avenue of the Americas New York, NY 10036-6710 212.336.2000 fax 212.336.2222 www.pbwt.com

June 24, 2022

H. Gregory Baker  
(212) 336-2871  
hbaker@pbwt.com**VIA EMAIL**Shaila R. Diwan  
King & Spalding LLP  
1185 Avenue of the Americas  
34th Floor  
New York, NY 10036  
[sdiwan@kslaw.com](mailto:sdiwan@kslaw.com)**Re: EarthLink LLC v. Charter Communications Operating, LLC,  
654332/2020**

Dear Shaila:

I write on behalf of Charter Communications Operating, LLC and its affiliates (“Charter”) in response to your letter, dated June 23, 2022, concerning certain discovery-related matters in connection with the above referenced case.

In your letter, you provided “proposed search terms for Charter’s document collection, review and production,” and expressed an interest in working “cooperatively to negotiate search terms and custodians in order to facilitate efficient and timely review of responsive documents.” EarthLink LLC issued its First Set of Document Requests to Charter on April 8, 2022, and its Second Set of Document Requests to Charter on May 27, 2022. In light of the July 15, 2022 deadline set by the Court, Charter’s efforts to collect documents is well underway, and Charter has already identified search terms that it intends to run across custodians. While we believe there is substantial overlap between Charter’s search terms and the terms you have provided, we will review your list and consider modifications. We will also review your list of proposed custodians.

Separately, we welcome the invitation to provide our own list of search terms to EarthLink. Charter will compile a list of search terms and provide it to EarthLink early next week, and we propose conducting the meet and confer during the week of July 5<sup>th</sup> to allow the parties time to adequately prepare for the meeting.

In your letter, you also ask that Charter “confirm that no materials relating to the allegations and issues in this case have been deleted or lost, including any audio files or recordings, after the July 27, 2020 date.” Charter confirms that a legal hold was implemented shortly after the receipt of the letter from Mr. Dykhous. Charter’s document collection and review is ongoing. If we learn that any documents, including audio files, were deleted or lost, we

June 24, 2022

Page 2

will update EarthLink accordingly, just as we expect EarthLink to inform Charter if any of its own documents have been deleted or lost.

We will review your proposed edits to the Confidentiality Agreement and ESI protocol and respond in due course. We believe it is premature to discuss file formats not captured by the ESI protocol, as Charter's collection and review of documents is ongoing. If necessary, the parties may subsequently seek a modification of the ESI, if it is determined that there are file formats not covered by the existing protocols.

Finally, with respect to the status report, we recommend that EarthLink prepare a draft status report for our review by June 29th, so that we may provide comments.

Best regards,

A handwritten signature in black ink, appearing to read "H. Gregory Baker". The signature is fluid and cursive, with the first name "H." and last name "Baker" clearly distinguishable.

H. Gregory Baker

Cc:

Via Email

Damien Marshall (dmarshall@kslaw.com)

Alexander Noble (anoble@kslaw.com)

Lauren Devendorf (ldevendorf@kwlaw.com)