

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FOX TELEVISION STATIONS, INC., et al.

Case No. 1:13-cv-00758 (RMC)

Plaintiffs & Counter-
Defendants,

v.

AEREOKILLER LLC, et al.

Defendants & Counter-
Plaintiffs.

DECLARATION OF DANIEL M. KUMMER

I, Daniel M. Kummer, declare as follows:

1. I am employed by NBCUniversal Media, LLC (“NBCUniversal”) as Vice President, Litigation & Content Protection.
2. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Injunction. This declaration is based on my own personal knowledge, my review of NBCUniversal’s books and records, and/or on information provided to me in my capacity as Vice President, Litigation & Content Protection, at NBCUniversal. If called as a witness, I will provide testimony regarding the subject matter addressed in this declaration.
3. NBC Subsidiary (WRC-TV) LLC and Telemundo Network Group LLC are wholly-owned subsidiaries of NBCUniversal.
4. Attached hereto as Exhibit 1 is a true and correct copy of a non-exhaustive list of television programs in which NBC Subsidiary (WRC-TV) LLC and Telemundo Network Group LLC hold the copyrights, and which I am informed and believe were broadcast between May 27,

2013, and May 29, 2013. I am informed and believe that the programs in which NBC Subsidiary (WRC-TV) LLC holds the copyrights were broadcast on the NBC Network Station WRC-TV in Washington D.C., and the program in which Telemundo Network Group LLC holds the copyright was broadcast on Telemundo station WNJU-TV in New York, as well as on other stations affiliated with the Telemundo Network.

5. Attached hereto as Exhibit 2 are true and correct copies of notices that I sent to defendants in care of their counsel on May 23, 2013, which informed defendants, pursuant to Section 411(c) of United States Copyright Act and Section 201.22 of the Copyright Office's regulations, of their potential copyright infringement related to the programming listed in Exhibit 1 and of NBC Subsidiary (WRC-TV) LLC's and Telemundo Network Group LLC's intent to register copyrights for that programming.

6. NBC Subsidiary (WRC-TV) LLC and Telemundo Network Group LLC have submitted applications to register their copyrights in the programming listed in Exhibit 1, and have sent the requisite deposit copies of the relevant works to the Copyright Office. True and correct copies of those applications are attached hereto as Exhibit 3.

7. NBC Subsidiary (WRC-TV) LLC and Telemundo Network Group LLC have not licensed to any of the defendants the right to publicly display or perform, distribute or reproduce copies of any of its television programs or other works in which they own the copyrights,

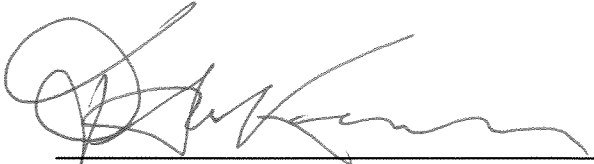
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including those works listed in Exhibit 1.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 17th day of July, 2013 at New York, New York.

A handwritten signature in black ink, appearing to read "Daniel M. Kummer", written over a horizontal line.

Daniel M. Kummer

EXHIBIT 1

No.	Program Title	Broadcast Date	Copyright Owner	Application Number
1.	News4 at 11pm 5/27/2013	5/27/2013	NBC Subsidiary (WRC-TV) LLC	1-963282941
2.	News4 at 11pm 5/28/2013	5/28/2013	NBC Subsidiary (WRC-TV) LLC	1-963283069
3.	Al Rojo Vivo 5/29/2013	5/29/2013	Telemundo Network Group LLC	1-963283104

EXHIBIT 2

NBCUniversal

May 23, 2013

VIA FIRST CLASS MAIL and EMAIL

To: Aereokiller LLC
400 E. 58th Street, Apt. 8B
New York, NY 10022

FilmOn.tv, Inc.
FilmOn.tv Networks, Inc.,
FilmOn.Com, Inc.
301 N. Canon Drive
Beverly Hills, CA 90210
-and-
copyright@filmon.com.

c/o Jaime W. Marquart, Esq.
10990 Wilshire Blvd., 4th Floor
Los Angeles, CA 90024
jmarquart@bakermarquart.com

ADVANCE NOTICE OF POTENTIAL INFRINGEMENT

On behalf of NBC Subsidiary (WRC-TV) LLC (“Owner”) we submit this advance notice of potential infringement pursuant to Section 411(c) (formerly 411(b)) of the United States Copyright Act, 17 U.S.C. § 411(c), and Section 201.22 of the Copyright Office’s regulations, 37 C.F.R. § 201.22 (2009).

Owner owns and operates the television station identified by the call letters WRC, the signal of which is broadcast to viewers over-the-air on channel 4 in the Washington, D.C. market. Next week, WRC will telecast the following programs:

<u>Program</u>	<u>Date</u>	<u>Time (Eastern Standard Time)</u>
News4 at 11pm	May 27, 2013	11:00 p.m. – 11:30 p.m.
News4 at 11pm	May 28, 2013	11:00 p.m. – 11:30 p.m.

Each telecast will be a copyrighted work consisting of sounds and images, the first fixation of which will be made simultaneously with its transmission. Owner, which will be considered the author of these works upon their fixation, intends to secure a copyright in

Aereokiller LLC et al.
May 23, 2013
Page 2

these telecasts upon their fixation and to file an application for copyright registration in such telecasts within three months of their first transmission.

Your transmission of these telecasts to subscribers and users of the Aereokiller retransmission service, from the website located at www.filmon.com or any other website owned or controlled by you would, if carried out, result in an infringement of the copyright in such telecasts. Owner objects to such activities which, if carried out, would subject you to liability for copyright infringement. In view of this notice, such infringement would be willful.

This notice does not purport to be a full or complete statement of the facts or the law and is without prejudice to any rights, claims and remedies available to Owner, whether legal or equitable in nature, all of which are expressly reserved.

Very truly yours,

A handwritten signature in cursive script that reads "Daniel M. Kummer / jr".

Daniel M. Kummer
Attorney for Owner

May 23, 2013

NBCUniversal

VIA FIRST CLASS MAIL and EMAIL

To: Aereokiller LLC
400 E. 58th Street, Apt. 8B
New York, NY 10022

FilmOn.tv, Inc.
FilmOn.tv Networks, Inc.,
FilmOn.Com, Inc.
301 N. Canon Drive
Beverly Hills, CA 90210
-and-
copyright@filmon.com.

c/o Jaime W. Marquart, Esq.
10990 Wilshire Blvd., 4th Floor
Los Angeles, CA 90024
jmarquart@bakermarquart.com

ADVANCE NOTICE OF POTENTIAL INFRINGEMENT

Telemundo Network Group LLC (the "Owner") hereby submits this advance notice of potential infringement pursuant to Section 411(c) (formerly 411(b)) of the United States Copyright Act, 17 U.S.C. § 411(c), and Section 201.22 of the Copyright Office's regulations, 37 C.F.R. § 201.22 (2009).

The Federal Communications Commission has licensed WNJU-TV Broadcasting LLC, an affiliate of Owner, to operate the television station identified by the call letters WNJU, the signal of which is broadcast to viewers over-the-air on channel 47 in the New York City market. Next week, WNJU (and other television stations affiliated with Owner) will telecast the following programs owned by Owner (among others):

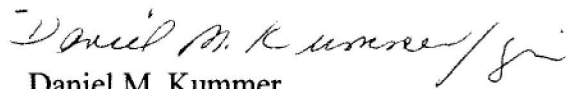
<u>Program</u>	<u>Date</u>	<u>Time (Eastern Daylight)</u>
Al Rojo Vivo	May 29, 2013	5:00 p.m. – 6:00 p.m.
Al Rojo Vivo	May 30, 2013	5:00 p.m. – 6:00 p.m.

Each telecast will be a copyrighted work consisting of sounds and images, the first fixation of which will be made simultaneously with its transmission. The Owner, which will be considered the author of these works upon their fixation, intends to secure a copyright in these telecasts upon their fixation and to file an application for copyright registration in such telecasts within three months of their first transmission.

Your transmission of these telecasts to subscribers and users of the Aereokiller retransmission service, from the website located at www.filmon.com or any other website or service owned or controlled by you would, if carried out, result in an infringement of the copyright in such telecasts. The Owner objects to such activities which, if carried out, would subject you to liability for copyright infringement. In view of this notice, such infringement would be willful.

This notice does not purport to be a full or complete statement of the facts or the law and is without prejudice to any rights, claims and remedies available to the Owner, whether legal or equitable in nature, all of which are expressly reserved. Please contact the undersigned duly authorized agent of the Owner if you have any questions about this notice.

Very truly yours,

A handwritten signature in cursive script that reads "Daniel M. Kummer / jr".

Daniel M. Kummer
Attorney for Owner

EXHIBIT 3

-APPLICATION-

Title _____

Title of Work: News4 at 11pm 5/27/2013

Completion/Publication _____

Year of Completion: 2013

Date of 1st Publication: May 27, 2013

Nation of 1st Publication: United States

Author _____

▪ **Author:** NBC Subsidiary (WRC-TV) LLC

Author Created: entire motion picture

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: NBC Subsidiary (WRC-TV) LLC

4001 Nebraska Ave., NW, Washington, DC, 20016, United States

Limitation of copyright claim _____

Material excluded from this claim: commercials

New material included in claim: all other cinematographic material

Rights and Permissions _____

Organization Name: NBC Subsidiary (WRC-TV) LLC

Address: 4001 Nebraska Ave., NW

Washington, DC 20016 United States

Certification _____

Name: Jonathan Coronel

Date: July 12, 2013

Registration #:

Service Request #: 1-963282941

Priority: Routine

Application Date: July 12, 2013 07:18:15 PM

Correspondent _____

Organization Name: NBCUniversal Media, LLC

Name: Daniel M. Kummer

Email: daniel.kummer@nbcuni.com

Address: 30 Rockefeller Plaza
Rm. 75-615N
New York, NY 10112 United States

Mail Certificate _____

NBCUniversal Media, LLC
Daniel M. Kummer
30 Rockefeller Plaza
Rm. 75-615N
New York, NY 10112 United States

-APPLICATION-

Title _____

Title of Work: News4 at 11pm 5/28/2013

Completion/Publication _____

Year of Completion: 2013

Date of 1st Publication: May 28, 2013

Nation of 1st Publication: United States

Author _____

▪ **Author:** NBC Subsidiary (WRC-TV) LLC

Author Created: entire motion picture

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: NBC Subsidiary (WRC-TV) LLC

4001 Nebraska Ave., NW, Washington, DC, 20016, United States

Limitation of copyright claim _____

Material excluded from this claim: commercials

New material included in claim: all other cinematographic material

Rights and Permissions _____

Organization Name: NBC Subsidiary (WRC-TV) LLC

Address: 4001 Nebraska Ave., NW

Washington, DC 20016 United States

Certification _____

Name: Jonathan Coronel

Date: July 12, 2013

Registration #:

Service Request #: 1-963283069

Priority: Routine

Application Date: July 12, 2013 07:18:27 PM

Correspondent _____

Organization Name: NBCUniversal Media, LLC

Name: Daniel M. Kummer

Email: daniel.kummer@nbcuni.com

Address: 30 Rockefeller Plaza
Rm. 75-615N
New York, NY 10112 United States

Mail Certificate _____

NBCUniversal Media, LLC
Daniel M. Kummer
30 Rockefeller Plaza
Rm. 75-615N
New York, NY 10112 United States

-APPLICATION-

Title _____

Title of Work: Al Rojo Vivo 5/29/2013

Completion/Publication _____

Year of Completion: 2013

Date of 1st Publication: May 29, 2013

Nation of 1st Publication: United States

Author _____

▪ **Author:** Telemundo Network Group LLC

Author Created: entire motion picture

Work made for hire: Yes

Citizen of: United States

Domiciled in: United States

Copyright claimant _____

Copyright Claimant: Telemundo Network Group LLC

2290 West 8th Ave., Hialeah, FL, 33010, United States

Limitation of copyright claim _____

Material excluded from this claim: commercials

New material included in claim: all other cinematographic material

Rights and Permissions _____

Organization Name: Telemundo Network Group LLC

Address: 2290 West 8th Ave.

Hialeah, FL 33010 United States

Certification _____

Name: Jonathan Coronel

Date: July 12, 2013

Registration #:

Service Request #: 1-963283104

Priority: Routine

Application Date: July 12, 2013 07:18:38 PM

Correspondent _____

Organization Name: NBCUniversal Media, LLC

Name: Daniel M. Kummer

Email: daniel.kummer@nbcuni.com

Address: 30 Rockefeller Plaza
Rm. 75-615N
New York, NY 10112 United States

Mail Certificate _____

NBCUniversal Media, LLC
Daniel M. Kummer
30 Rockefeller Plaza
Rm. 75-615N
New York, NY 10112 United States