

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

FOX TELEVISION STATIONS, INC., et al.,

CIVIL ACTION NO. 1:13-cv-00758 (RMC)

Plaintiffs/Counter-Defendants,

v.

FILMON X, LLC, et al.,

Defendants/Counter-Plaintiffs.

**DECLARATION OF ALKIVIADES DAVID IN SUPPORT OF
EMERGENCY MOTIONS**

I, Alkiviades David, declare:

1. I submit this declaration in support of (1) Defendants' Motion for Reconsideration of the Geographic Scope of the Preliminary Injunction and Bond Amount and (2) Defendants' Emergency Motion to Stay the Preliminary Injunction Pending Appeal and to Modify the Scope of the Injunction. I have personal knowledge of the facts set forth herein and, if called as a witness, I could and would testify competently thereto.

2. I am the Founder and CEO of FilmOn TV Networks, Inc. ("FilmOn"). FilmOn offers the service known as FilmOn X.

3. Currently, the only major competitor to FilmOn X in the United States is Aereo, Inc. ("Aereo"). FilmOn X and Aereo both provide consumers with, among other things, the ability to watch and record free, over-the-air television using a remote antenna and DVR system. I previously described FilmOn's technological system in a declaration filed in support of FilmOn's Opposition to Plaintiffs Motion for Preliminary Injunction. (Dkt. 31-1.)

4. FilmOn X currently competes with Aereo in multiple geographic markets across the United States, including Boston, Houston, Dallas, Chicago, Baltimore, Miami, Philadelphia, New York and Denver. It is my understanding from Aereo's public statements that Aereo plans to expand its operations in many other markets where FilmOn currently operates.

5. Since the launch of FilmOn X, FilmOn has spent millions of dollars on marketing and advertising to compete with Aereo and build and retain market share.

6. Based on my personal experience and knowledge in the industry, Aereo is a well-funded business that vigorously competes with FilmOn for market share in markets around the United States.

7. Based on my personal experience, experience in the industry and knowledge as FilmOn's Founder and CEO, the preliminary injunction entered by this Court threatens serious irreparable injury to FilmOn. I fully expect that this preliminary injunction will cause FilmOn to suffer substantial revenue losses, market share losses, loss of brand recognition, loss of customer loyalty, lost opportunities with vendors and sponsors and lost goodwill.

8. Moreover, FilmOn's injuries from the preliminary injunction will be exacerbated by the fact that Aereo is not bound by the injunction. Based on my experience and knowledge in the industry, I expect that Aereo will grow its market share at the expense of FilmOn in various markets in the United States as a result of the preliminary injunction. Further, even if an appeals court ultimately vacates the preliminary injunction, it is highly unlikely that FilmOn will ever be able to recover its earlier market share.

9. I also am concerned that FilmOn will suffer a significant loss of talent and lose sources of capital as a result of the Court's preliminary injunction, which could weaken FilmOn's ability to innovate and effectively compete against Aereo.

10. The irreparable harm that FilmOn will suffer is particularly serious because the geographic scope of the injunction is so broad. If this Court were to limit the scope of the injunction to the D.C. Circuit, then the harm caused to FilmOn's business would be substantially less.

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

Executed on September 10, 2013 at 11.00 PM in Athens, Greece.



By _____

Alkiviades David