

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA

FOX TELEVISION STATIONS, INC., et al.

Civil No. 1:13-cv-00758 (RMC)
Hon. Rosemary M. Collyer

Plaintiffs/Counter-Defendants,

v.

FILMON X, LLC, et al.

Defendants/Counter-Plaintiffs.

**DEFENDANTS/COUNTER-PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF EMERGENCY MOTIONS**

Pursuant to Federal Rule of Evidence 201, defendants FilmOn X, et al.¹, hereby request that the Court take judicial notice of the identified press releases, *infra*, the docket report for *Hearst Stations Inc. v. Aereo, Inc.*, Case No. 13-cv-11649-NMG and Plaintiffs' Notice of Supplemental Authorities filed in that case. Federal Rule of Evidence 201 provides for judicial notice of facts that are not subject to reasonable dispute and is appropriate when the fact is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." *United States v. Philip Morris USA, Inc.*, 2004 WL 5355971 (D.D.C. Aug. 2, 2004) (granting the plaintiff's request for judicial notice of facts which are capable of "accurate and ready' verification"). Specifically, a court may take judicial notice of historical, political, or statistical facts, or any other facts that are verifiable with certainty. *Mintz v. FDIC*, 729 F. Supp. 2d 276, 278, n. 2 (D.D.C.2010); *see also Farah v. Esquire Magazine, Inc.*, 863 F. Supp. 2d 29, 35 (D.D.C. 2012) (Court took judicial notice of "various Internet postings"); *Gov't of Rwanda v. Rwanda Working Grp.*, 227 F. Supp. 2d 45, 60 (D.D.C. 2002) *aff'd in part, remanded in part sub nom. Gov't of Rwanda v. Johnson*, 409 F.3d 368 (D.C. Cir. 2005) (Court took judicial notice of news article because the court can take notice of "matters of a general public nature"); *Covad Communications Co. v. Bell Atlantic Corp.*, 407 F.3d 1220, 1222 (D.C.Cir.2005) (permitting judicial notice of facts in public records of other proceedings); *Jones v. Lieber*, 579 F. Supp. 2d 175, 179 (D.D.C. 2008) *aff'd sub nom. Jones v. Horne*, 634 F.3d 588 (D.C. Cir. 2011) (same).

FilmOn X seeks judicial notice of the press leases listed below to show that FilmOn X's competitors, specifically Aereo, Inc., is currently providing or has plans to provide in the near future, substantially similar services to those this Court as now enjoined FilmOn X from providing

¹ The defendants in the action are Aereokiller LLC, FilmOn.TV Networks, Inc., FilmOn.TV, Inc. and FilmOn.com, Inc. Aereokiller LLC is now called FilmOn X, LLC pursuant to the State of Delaware Certificate of Amendment filed on May 31, 2013. All defendants in this action shall be referred to collectively as "FilmOn X."

through its September 5, 2013 Order. As the following press releases show, Aereo, Inc.'s services are currently available in Atlanta, Boston, Miami, Salt Lake City (all areas outside of the geographic boundaries of the Second Circuit) as well as within the Second Circuit. Further, as the following press releases show, Aereo, Inc. has publicly announced plans to expand to this very circuit, as well as Austin, Baltimore, Birmingham, Alabama, Chicago, Cleveland, Dallas, Denver, Detroit, Houston, Kansas City, Madison, Wisconsin, Minneapolis, Philadelphia, Pittsburg, Providence, Rhode Island, Raleigh-Durham, North Carolina, and Tampa, Florida. Each of the following press releases were obtained from Aereo, Inc.'s website,

- Attached as Exhibit 1, "Aereo Sets Launch Date for Atlanta," May 14, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130514.pdf.
- Attached as Exhibit 2, "Aereo Sets Launch Date for Boston," April 23, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130423.pdf.
- Attached as Exhibit 3, "Aereo Announces Launch Date for Miami," August 8, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130808_MIA.pdf.
- Attached as Exhibit 4, "Aereo Announces Launch Date for Utah," July 22, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130722.pdf.
- Attached as Exhibit 5, "Aereo Announces Expansion of Consumer Access to its Groundbreaking Technology Across the New York City Greater Metropolitan Area," February 25, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130225.pdf.
- Attached as Exhibit 6, "Aereo Announces Expansion Plans for 22 New U.S. Cities," January 8, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130108.pdf.
- Attached as Exhibit 7, "Aereo Announces Launch Date for Chicago," June 27, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130627.pdf.
- Attached as Exhibit 8, "Aereo Announces Launch Date for Dallas-Ft. Worth Metroplex Region," August 8, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130808_DAL.pdf.

- Attached as Exhibit 9, “Aereo Announces Launch Date for Houston,” August 8, 2013 Aereo, Inc. press release, available at https://aereo.com/assets/marketing/mediakit/press_release_20130808_HOU.pdf.

FilmOn X also seeks judicial notice of the docket report for *Hearst Stations Inc. v. Aereo, Inc.*, Case No. 13-cv-11649-NMG to show that there is a substantially similar pending case in the First Circuit and that there is a hearing on the plaintiff’s motion for preliminary injunction against Aereo, Inc. set for September 18, 2013 (Dkt. No. 64). The docket report evidencing that hearing is attached as Exhibit 10.

Lastly, FilmOn X seeks judicial notice of Plaintiffs’ Notice of Supplemental Authorities, filed in *Hearst Inc v. Aereo, Inc.*, 13-cv-11649-NM, (Dkt. No. 65), notifying the District of Massachusetts of this Court’s September 5, 2013 Order. That notice is attached hereto as Exhibit

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Based on the foregoing, FilmOn X respectfully requests that the Court grant FilmOn X's Request for Judicial Notice.

September 10, 2013

Respectfully submitted,

By: /s/ Ryan G. Baker

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Plaintiffs FilmOn X, LLC, FilmOn.TV, Inc.,
FilmOn.TV Networks, Inc., and FilmOn.com, Inc.*

Exhibit 1



AEREO SETS LAUNCH DATE FOR ATLANTA

Atlanta will be the third city to launch Aereo's groundbreaking technology

More than 5.3 million Atlanta metropolitan-area consumers will have access to Aereo's innovative antenna technology to watch live television online

Starting June 17, pre-registered consumers will begin to receive invitations to join Aereo; General membership access begins on June 24

Atlanta, Georgia (May 14, 2013) – Aereo, Inc., today announced plans to launch its groundbreaking online television technology in the Atlanta metropolitan region. Beginning June 17, consumers who have pre-registered with Aereo will receive a special invitation to join and be one of the first to experience Aereo's technology. After June 24, Aereo will make membership available to all eligible consumers across the Atlanta designated market area (DMA), which includes more than 5.3 million consumers in 55 counties across Georgia, Alabama and North Carolina. Atlanta joins Boston as the third city to launch as part of Aereo's expansion announced in January.

"We're grateful and humbled by the continued support we've received from consumers for our technology," said **Aereo CEO and Founder Chet Kanojia**. "The response and enthusiasm from consumers across all of our expansion cities has been phenomenal. It's clear that consumers want more choice and flexibility in how they watch television and they don't want to be fenced into expensive, outdated technology. Aereo's antenna/DVR technology brings the old-fashioned antenna into the 21st Century, providing consumers access to the over-the-air broadcast signals that belong to them. We're thrilled to be coming to Atlanta and look forward to our launch in June."

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing. In Atlanta, there are 27 over-the-air broadcast channels accessible through Aereo's antenna/DVR technology, including major networks such as WSB-HD (ABC), WAGA-TV (FOX), WXIA-TV (NBC), WGCL-TV (CBS) and WPBA (PBS); special interest channels such as France24, BounceTV, MyTV, and AntennaTV; and Spanish-language broadcast channels such as Univision, MundoFox, and UniMas. In addition, consumers can also add Bloomberg Television, for a total of 28 channels.

Aereo works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices.

(more)

Aereo membership is available to consumers residing in the following counties in Georgia: Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fannin, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Greene, Gwinnett, Habersham, Hall, Haralson, Heard, Henry, Jackson, Jasper, Lamar, Lumpkin, Madison, Meriwether, Morgan, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pike, Polk, Putnam, Rabun, Rockdale, Spalding, Towns, Troup, Union, Upson, Walton and White; Clay County in North Carolina; and Cleburne and Randolph counties in Alabama.

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Exhibit 2



Aereo.

AEREO SETS LAUNCH DATE FOR BOSTON

More than 4.5 million Boston-area consumers will have access to Aereo's groundbreaking antenna technology to watch live television online

Starting May 15, pre-registered consumers will begin to receive invitations to join Aereo; General membership access begins on May 30

CEO Chet Kanojia will give a 'sneak peak' tonight at Boston New Tech Meet Up hosted at StartUp Lab Allston

Boston, Mass. (April 23, 2013) – Aereo, Inc., today announced plans to launch its groundbreaking online television technology in the Boston metropolitan area. Beginning May 15, consumers who have pre-registered with Aereo will receive a special invitation to join and be one of the first to experience Aereo's technology. After May 30, Aereo will make membership available to all eligible consumers across the Boston designated market area (DMA), which includes more than 4.5 million consumers in 16 counties in Massachusetts, New Hampshire and Vermont. Boston is the second city to launch as part of Aereo's expansion announced in January.

"Aereo is simply the easiest, most convenient way for consumers to access broadcast television online using an antenna," **said Aereo CEO and Founder Chet Kanojia**. "Consumers deserve more choice and flexibility in how they experience television and Aereo provides them a high-quality, rationally-priced alternative. This is an exciting step forward for the company. Today's announcement is even more meaningful and special for our more than 60 employees who call the Boston area home, including me. I'm proud of our team and what we've accomplished in such a short period of time."

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing. In Boston, there are 28 over-the-air broadcast channels accessible through Aereo's antenna/DVR technology, including major networks such as WGBH (PBS), WBZ-TV (CBS), WCVB (ABC), WHDH (NBC), WLVI (CW) and WFXT (Fox); special interest channels such as The Country Network, PBS Kids, Ion and Qubo; and Spanish-language broadcast channels such as Univision and Telemundo. In addition, consumers can also add Bloomberg Television, for a total of 29 channels.

Aereo works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices.

(more)

Aereo membership is available to consumers residing in the following counties in Massachusetts: Barnstable, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, and Worcester; in New Hampshire's Belknap, Cheshire, Hillsborough, Merrimack, Rockingham and Strafford counties; and in Vermont's Windham County.

Aereo has offices in Long Island City (Queens), Downtown Brooklyn and in Boston's Innovation District. Aereo employs more than 60 people in the Boston area, primarily engineers and developers. For information on hiring, please visit Aereo.com/careers.

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Exhibit 3



AEREO ANNOUNCES LAUNCH DATE FOR MIAMI

Starting September 2, more than five million South Floridians will have access to Aereo's innovative antenna/DVR technology to record and watch live television online

Long Island City, New York (August 8, 2013) – Aereo, Inc., today announced plans to launch its groundbreaking online television technology in the Miami metropolitan area on September 2, covering Broward, Miami-Dade and Monroe counties. Aereo's announcement follows its expansion earlier this summer to the Boston and Atlanta metropolitan areas. The company also plans to launch its technology in Utah on August 19, Chicago on September 13, Houston on September 16 and Dallas on September 23.

"South Florida is a thriving and dynamic community and we're thrilled to be joining it," said **Aereo CEO and Founder Chet Kanojia**. "Consumers want more choice and flexibility when it comes to how they watch television. Aereo is the easiest, most convenient way for consumers to access broadcast television online using an antenna. Consumers deserve choice and we believe we've built something that will have a meaningful and positive impact for consumers. We're excited for our launch in South Florida and look forward to moving forward with our nationwide expansion."

South Floridians who pre-register at Aereo.com will receive priority access to sign up. Aereo's technology will be available to all consumers in the three-county area on September 2.

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing.

In South Florida, consumers will be able to use Aereo's unique antenna/DVR technology, to record and watch major networks such as WFOR (CBS), WPBT (PBS), WTVJ (NBC), WSVN (FOX) and WPLG (ABC), as well as other over-the-air special interest and foreign language channels, including Telemundo, Univision, EstrellaTV, The CW, AntennaTV, Qubo, ION and many others. In addition, consumers will also have the ability to add Bloomberg Television.

Aereo membership begins at \$8 per month, for access to Aereo's cloud-based antenna/DVR technology and 20 hours of DVR storage. For an additional \$4, consumers can upgrade their subscription and receive 60 hours of DVR storage for a total of \$12 per month. Consumers who join Aereo will get their first of month of access for free.

(more)

Aereo's technology works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices. Android support is expected later this summer.

To learn more about Aereo's technology and how to pre-register, visit Aereo.com.

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Exhibit 4



AEREO ANNOUNCES LAUNCH DATE FOR UTAH

Starting August 19, more than 2.8 million Utahns will have access to Aereo's innovative antenna/DVR technology to record and watch live television online

Long Island City, New York (July 22, 2013) - Aereo, Inc., today announced plans to launch its groundbreaking online television technology in Utah on August 19. Aereo's announcement follows its expansion earlier this summer to the Boston and Atlanta metropolitan areas. The company also plans to launch its technology in Chicago on September 13.

"We're excited to be launching our technology in Utah, or what is fast becoming known as the Silicon Slopes," said **Aereo CEO and Founder Chet Kanojia**. "Utahns are connected, tech-savvy and interested in innovations that can add value to their lives. When it comes to how you watch television, Aereo's technology will bring more choice and flexibility to Utahns across the state, whether you live in Salt Lake City, St. George or Ogden. We believe consumers want and deserve a better television experience and our work is focused on delivering the best customer experience with the highest quality technology."

Utahns who pre-register at Aereo.com will receive priority access to sign up. Aereo's technology will be available to all consumers across all 29 counties on August 19.

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing.

In Utah, consumers will be able to use Aereo's unique antenna/DVR technology, to record and watch major networks such as KSTU-HD (FOX), KSL-DT (NBC), KUTV-HD (CBS), KTVX-HD (ABC) and KUED-HD (PBS), as well as other over-the-air special interest and foreign language channels, including BYU-TV, AntennaTV, ION, Qubo, Estrella TV and others. In addition, consumers will also have the ability to add Bloomberg Television.

Aereo membership begins at \$8 per month, for access to Aereo's cloud-based antenna/DVR technology and 20 hours of DVR storage. For an additional \$4, consumers can upgrade their subscription and receive 60 hours of DVR storage for a total of \$12 per month. Consumers who join Aereo will get their first of month of access for free.

(more)

Aereo's technology works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices. Android support is expected later this summer.

To learn more about Aereo's technology and how to pre-register, visit Aereo.com.

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Exhibit 5



AEREO ANNOUNCES EXPANSION OF CONSUMER ACCESS TO ITS GROUNDBREAKING TECHNOLOGY ACROSS THE NEW YORK CITY GREATER METROPOLITAN AREA

Aereo's technology is now available to more than 19 million people in 29 counties across the New York City greater metropolitan area, providing consumers increased access to free-to-air, local broadcast television

New York, NY (February 25, 2013) – [Aereo, Inc.](#), today announced that its groundbreaking television technology is now available to the more than 19 million people living in the New York City metropolitan area. The New York City metropolitan region, commonly referred to as a designated market area (DMA), includes 29 counties across New York, New Jersey, Connecticut and Pennsylvania. Previously, Aereo was only available to residents of New York City's five boroughs. The expansion into the NYC metropolitan area comes less than two months after the company's announcement in January of its intention to expand to 22 additional markets in 2013.

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing. Getting started with Aereo is easy. Simply go online to [aereo.com](#) to create an account. There is no box to install and no wires to connect, so consumers don't have to worry about installing equipment or waiting for the 'cable guy.' No cable subscription is required to use Aereo and membership plans begin at \$1/day, \$8/month or \$80/year.

Aereo works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices. In the New York City metro area, there are 30 over-the-air broadcast channels available to consumers using Aereo's technology. In addition, consumers can also add Bloomberg Television, for a total of 31 channels.

"Creating more choice and a competitive marketplace is a good thing for consumers," said **Chet Kanojia, Aereo CEO and Founder**. "Today, consumers are tethered to expensive and outdated technology that limits how, when and where they can enjoy their own television programming. Aereo's technology now lets us provide simplicity, ease of use and rational pricing – three things that have all but disappeared for the consumer. We believe that consumers deserve better and we're committed to delivering on that promise."

Aereo today also announced the launch of its first advertising campaign, which debuts on city billboards, phone kiosks and at key city transit points, including waterways, commuter trains and PATH transit hubs this week.

(more)

Aereo membership is available to consumers residing in the following counties in New York State: New York, Bronx, Kings, Queens, Richmond, Nassau, Suffolk, Westchester, Putnam, Rockland, Ulster, Sullivan, Orange, Dutchess; in Connecticut's Fairfield County; in Pennsylvania's Pike County; and in the following counties in New Jersey: Bergen, Warren, Union, Sussex, Somerset, Passaic, Ocean, Morris, Monmouth, Middlesex, Hunterdon, Hudson, and Essex. For a full list of eligible zip codes, visit: aereo.com/zips.

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Exhibit 6



AEREO ANNOUNCES EXPANSION PLANS FOR 22 NEW U.S. CITIES

Aereo closes a \$38 million round of Series B financing, led by IAC and Highland Capital Partners to fund the company's rapid growth and expansion plans;

Aereo's expansion will provide more than 97 million American consumers with more choice, flexibility and ability to access over-the-air broadcast television

Las Vegas, Nevada (January 8, 2013) – Building on its successful 2012 launch in New York City, **Aereo, Inc.**, today announced that it plans to expand its operations to 22 U.S. cities in 2013, making its groundbreaking remote antenna/DVR technology accessible to more than 97 million consumers. Those cities identified for expansion are: **Boston, Miami, Austin, Atlanta, Chicago, Dallas, Houston, Washington, DC, Baltimore, Detroit, Denver, Minneapolis, Philadelphia, Pittsburgh, Tampa, Cleveland, Kansas City, Raleigh-Durham (NC), Salt Lake City, Birmingham (AL), Providence (RI), and Madison (WI)**. Using Aereo's technology, consumers in these markets will be able to record and watch live, local over-the-air broadcast television online, on their compatible, internet-connected devices, subject to capacity. These 22 markets represent the first phase of Aereo's planned nationwide expansion.

Aereo also today announced that it has closed on a \$38 million Series B round of financing, led by existing investors IAC and Highland Capital Partners. Previous investors from Aereo's Series A funding round, including FirstMark Capital, First Round Capital, High Line Venture Partners, and select individuals, also participated in this second round of financing. Today's announcements were made by Aereo's CEO and Founder, Chet Kanojia, at the Citi Global Internet, Media & Telecommunications Conference in Las Vegas. To watch a replay of the event, visit: <http://www.veracast.com/webcasts/citigroup/imt2013/65204406.cfm>.

"Aereo's technology is simply one of the easiest, most convenient ways for consumers to access broadcast television," said **CEO and Founder Chet Kanojia**. "We've been working hard to bring Aereo to consumers across the country and we're excited to expand our reach to these 22 new cities. Consumers want and deserve choice. Watching television should be simple, convenient and rationally priced. Aereo's technology provides exactly that: choice, flexibility and a first-class experience that every consumer deserves."

Aereo's innovative technology enables consumers to access live broadcast television on compatible Internet connected devices, at home or on the go. Aereo's innovative remote antenna/DVR technology makes watching television simple. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing, just as you can with a home DVR. There are no wires to connect and no box to install, so consumers don't have to worry about installing equipment or waiting for the 'cable guy.' No cable subscription is required to use Aereo and membership plans begin at \$1/day, \$8/month or \$80/year.

(more)

Aereo plans to launch its technology in these 22 cities over the course of 2013, starting in late spring. Access to Aereo will be available initially via invitation. Consumers can request invitations through the Aereo website. Aereo also plans to provide in each market Aereo's Try for Free feature, which allows consumers the ability to access Aereo's technology to watch television for a continuous one-hour period each day, free of charge.

Aereo is currently supported on iPad, iPhone, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV and Roku.

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Exhibit 7



AEREO ANNOUNCES LAUNCH DATE FOR CHICAGO

Aereo CEO and Founder Chet Kanojia announces launch date at the third annual TechWeek Chicago, the Midwest's largest technology conference

More than 9.5 million Chicagoland consumers will have access to Aereo's innovative antenna/DVR technology to record and watch live television online

Chicago, Illinois (June 27, 2013) – Aereo, Inc., today announced plans to launch its groundbreaking online television technology in the Chicagoland area on September 13, continuing the company's nationwide rollout. The expansion to Chicago will cover 16 counties across Illinois and Indiana. Aereo's technology is currently available to consumers residing in the New York City, Boston and Atlanta designated market areas (DMA). Aereo's CEO and Founder, Chet Kanojia, will make the announcement today during a main stage Q&A at TechWeek Chicago, the annual technology summit held at Chicago's famed Merchandise Mart.

"There's no place like Chicago and we're excited to be launching in this world-class city in September," said **Aereo CEO and Founder Chet Kanojia**. "Consumers want more choice and flexibility when it comes to how they watch television and the enthusiastic response to our technology from people across the country has been humbling. At Aereo, we feel that we've built something meaningful for consumers and we're proud of the work we've accomplished. However, there's still much more to come as we continue our expansion into new cities throughout the summer and fall."

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing. In Chicago, consumers will be able to use Aereo's unique antenna/DVR technology, to record and watch major networks such WLS-TV (ABC), WFLD-TV (FOX), WMAQ-TV (NBC), WBBM-TV (CBS) and WYCC (PBS), as well as other other-the-air special interest and foreign language channels. In addition, consumers can also add Bloomberg Television.

Aereo works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices. Android support is expected later this year.

(more)

Aereo membership will be available to consumers residing in the following counties in Illinois: Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, La Salle, Lake, McHenry and Will counties and in Jasper, La Porte, Lake, Newton and Porter counties in Indiana.

Aereo membership begins at \$8 per month, for access to Aereo's cloud-based antenna/DVR technology and 20 hours of DVR storage. For an additional \$4, consumers can upgrade their membership and receive 60 hours of DVR storage for a total of \$12 per month. Consumers who join Aereo will get their first of month of access for free. To learn more about Aereo's technology and how to pre-register, visit Aereo.com.

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Exhibit 8



AEREO ANNOUNCES LAUNCH DATE FOR DALLAS-FT. WORTH METROPLEX REGION

Starting September 23, more than 6.7 million Metroplex area residents will have access to Aereo's innovative antenna/DVR technology to record and watch live television online

Long Island City, New York (August 8, 2013) – Aereo, Inc., today announced plans to launch its groundbreaking online television technology in the Dallas-Fort Worth Metroplex region on September 23. The Metroplex region includes 31 counties across North Texas. Aereo's announcement follows its expansion earlier this summer to the Boston and Atlanta metropolitan areas. The company also plans to launch its technology in Utah on August 19, Miami on September 2, Chicago on September 13 and Houston on September 16.

"We are thrilled to be launching our technology in North Texas," said **Aereo CEO and Founder Chet Kanojia**. "The Dallas-Fort Worth Metroplex region is the fastest growing metropolitan area in the country and its residents are tech-savvy and wired for the 21st Century. When it comes to how you watch television, Aereo's technology will bring more choice and flexibility to consumers across the region. Consumers deserve better. They deserve alternatives and we believe, a better experience. Our work is focused on delivering the best customer experience with the highest quality technology and we can't wait to get started in the great state of Texas."

Metroplex area residents who pre-register at Aereo.com will receive priority access to sign up. Aereo's technology will be available to all consumers across the 31-county area on September 23.

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing.

In the Dallas-Fort Worth region, consumers will be able to use Aereo's unique antenna/DVR technology to record and watch major networks such as KDFW (FOX), KXAS-TV (NBC), WFAA (ABC), KTVT (CBS) and KERA-TV (PBS), as well as other over-the-air special interest and foreign language channels including COZI-TV, ME-TV, UniMas, Telemundo, EstrellaTV, ION, The CW, AntennaTV and Qubo. In addition, consumers will also have the ability to add Bloomberg Television.

(more)

Aereo membership begins at \$8 per month, for access to Aereo's cloud-based antenna/DVR technology and 20 hours of DVR storage. For an additional \$4, consumers can upgrade their subscription and receive 60 hours of DVR storage for a total of \$12 per month. Consumers who join Aereo will get their first of month of access for free.

Aereo's technology works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices. Android support is expected later this summer.

Aereo membership will be available to consumers residing in the following counties in North Texas: Anderson, Bosque, Collin, Comanche, Cooke, Dallas, Delta, Denton, Ellis, Erath, Fannin, Freestone, Hamilton, Henderson, Hill, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Navarro, Palo Pinto, Parker, Rains, Rockwall, Somervell, Tarrant, Van Zandt and Wise.

To learn more about Aereo's technology and how to pre-register, visit Aereo.com.

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Exhibit 9



AEREO ANNOUNCES LAUNCH DATE FOR HOUSTON

On September 16, more than 5.6 million consumers in the Greater Houston area will have access to Aereo's innovative antenna/DVR technology to record and watch live television online

Long Island City, New York (August 8, 2013) – Aereo, Inc., today announced plans to launch its groundbreaking online television technology in the Greater Houston area on September 16, covering a 20-county area in Texas. Aereo's announcement follows its expansion earlier this summer to the Boston and Atlanta metropolitan areas. The company also plans to launch its technology in Utah on August 19, Miami on September 2, Chicago on September 13 and Dallas on September 23.

"Texas is the fastest growing state in the nation and the Greater Houston area is a large driver of that growth. That's why we're excited to be expanding into Texas," said **Aereo CEO and Founder Chet Kanojia**. "Consumers deserve more choice and flexibility in how they experience television and Aereo provides a high-quality, rationally-priced alternative. We believe we've built something meaningful for consumers and the overwhelming enthusiasm and response we've received has been humbling. We're thrilled to be expanding into the great state of Texas."

Houstonians who pre-register at Aereo.com will receive priority access to sign up. Aereo's technology will be available to all consumers in the Greater Houston area on September 16.

Aereo's innovative remote (cloud-based) antenna/DVR technology makes watching television simple and user-friendly. Using Aereo's technology, consumers can pause, rewind and fast-forward any program that they are watching live, or save a program for future viewing.

In Houston, consumers will be able to use Aereo's unique antenna/DVR technology, to record and watch major networks such as KRIV-DT (FOX), KPRC-HD (NBC), KTRK-HD (ABC), KUHT-DT (PBS), KHOU-DT (CBS), and KIAH-DT (CW) as well as other over-the-air special interest and foreign language channels, including MundoFox, Telemundo, AntennaTV, ION, Qubo, COZI-TV, Saigon TV and many others. In addition, consumers will also have the ability to add Bloomberg Television.

(more)

Aereo membership begins at \$8 per month, for access to Aereo's cloud-based antenna/DVR technology and 20 hours of DVR storage. For an additional \$4, consumers can upgrade their subscription and receive 60 hours of DVR storage for a total of \$12 per month. Consumers who join Aereo will get their first of month of access for free.

Aereo's technology works on 'smart' devices from tablets to phones to laptop computers. Aereo is currently supported on iPad, iPhone, iPod Touch, Chrome, Internet Explorer 9, Firefox, Safari, Opera, AppleTV (via airplay) and Roku devices. Android support is expected later this summer.

Aereo membership will be available to consumers residing in the following counties in Texas: Trinity, Polk, Walker, Grimes, Jacinto, Liberty, Montgomery, Washington, Austin, Waller, Colorado, Harris, Chambers, Galveston, Fort Bend, Wharton, Brazoria, Matagorda, Jackson and Calhoun.

To learn more about Aereo's technology and how to pre-register, visit Aereo.com.

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Exhibit 10

COPYRT

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:13-cv-11649-NMG**

Hearst Stations Inc. v. Aereo, Inc.
Assigned to: Judge Nathaniel M. Gorton
Cause: 17:101 Copyright Infringement

Date Filed: 07/09/2013
Jury Demand: None
Nature of Suit: 820 Copyright
Jurisdiction: Federal Question

Plaintiff

Hearst Stations Inc.
doing business as
WCVB-TV

represented by **James D. Smeallie**
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V.

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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
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07/09/2013	<u>1</u>	COMPLAINT against Aereo, Inc. Filing fee: \$ 400, receipt number 0101-4535038 (Fee Status: Filing Fee paid), filed by Hearst Stations Inc., d/b/a WCVB-TV. (Attachments: # <u>1</u> Civil Cover Sheet, # <u>2</u> Category Form, # <u>3</u> Exhibit 1, # <u>4</u> Exhibit 2, # <u>5</u> Exhibit 3, # <u>6</u> Exhibit 4, # <u>7</u> Exhibit 5)(Smeallie, James) (Attachment 1 replaced on 7/10/2013) (Abaid, Kimberly). (Attachment 2 replaced on 7/10/2013) (Abaid, Kimberly). (Entered: 07/09/2013)
07/09/2013	<u>2</u>	CORPORATE DISCLOSURE STATEMENT by Hearst Stations Inc., d/b/a WCVB-TV. (Smeallie, James) (Entered: 07/09/2013)
07/09/2013	<u>3</u>	REPORT on the filing/termination of copyright case . (Smeallie, James) (Main Document 3 replaced on 7/10/2013) (Abaid, Kimberly). (Entered: 07/09/2013)
07/09/2013	<u>4</u>	MOTION for Preliminary Injunction by Hearst Stations Inc., d/b/a WCVB-TV. (Smeallie, James) (Entered: 07/09/2013)
07/09/2013	<u>5</u>	MEMORANDUM in Support re <u>4</u> MOTION for Preliminary Injunction filed by Hearst Stations Inc., d/b/a WCVB-TV. (Attachments: # <u>1</u> Text of Proposed Order, # <u>2</u> Declaration of B. Fine and Exhibits, # <u>3</u> Declaration of C. Batliner and Exhibits)(Smeallie, James) (Attachment 2 replaced on 8/2/2013) (Patch, Christine). (Entered: 07/09/2013)
07/10/2013	<u>6</u>	NOTICE of Case Assignment. Magistrate Judge Marianne B. Bowler assigned to case. Plaintiff's counsel, or defendant's counsel if this case was initiated by the filing of a Notice of Removal, are directed to the Notice and Procedures regarding Consent to Proceed before the Magistrate Judge which can be downloaded here . These documents will be mailed to counsel not receiving notice electronically. (Abaid, Kimberly) (Entered: 07/10/2013)
07/10/2013	<u>7</u>	Summons Issued as to Aereo, Inc.. Counsel receiving this notice electronically should download this summons, complete one for each defendant and serve it in accordance with Fed.R.Civ.P. 4 and LR 4.1. Summons will be mailed to plaintiff(s) not receiving notice electronically for completion of service. (Abaid, Kimberly) (Entered: 07/10/2013)
07/10/2013	<u>8</u>	NOTICE of Appearance by Joshua C. Krumholz on behalf of Hearst Stations Inc. (Krumholz, Joshua) (Entered: 07/10/2013)
07/10/2013	<u>9</u>	NOTICE of Appearance by Elizabeth M Mitchell on behalf of Hearst Stations Inc. (Mitchell, Elizabeth) (Entered: 07/10/2013)
07/10/2013	<u>10</u>	NOTICE of Appearance by Jessica Ragosta Early on behalf of Hearst Stations Inc. (Early, Jessica) (Entered: 07/10/2013)
07/11/2013	<u>11</u>	NOTICE of Appearance by Brian G. Leary on behalf of Hearst Stations Inc. (Leary, Brian) (Entered: 07/11/2013)
07/11/2013	<u>12</u>	NOTICE of Appearance by Courtney L.B. Batliner on behalf of Hearst Stations Inc. (Batliner, Courtney) (Entered: 07/11/2013)
07/11/2013	<u>13</u>	SUMMONS Returned Executed Aereo, Inc. served on 7/10/2013, answer due 7/31/2013. (Smeallie, James) (Entered: 07/11/2013)
07/16/2013	<u>14</u>	NOTICE of Appearance by Frank E. Scherkenbach on behalf of Aereo, Inc. (Scherkenbach, Frank) (Entered: 07/16/2013)

07/16/2013	<u>15</u>	NOTICE of Appearance by Mark S. Puzella on behalf of Aereo, Inc. (Puzella, Mark) (Entered: 07/16/2013)
07/16/2013	<u>16</u>	NOTICE of Appearance by Richard D. Hosp on behalf of Aereo, Inc. (Hosp, Richard) (Entered: 07/16/2013)
07/16/2013	<u>17</u>	NOTICE of Appearance by Matthew C. Berntsen on behalf of Aereo, Inc. (Berntsen, Matthew) (Entered: 07/16/2013)
07/16/2013	<u>18</u>	NOTICE of Appearance by Christopher R. Dillon on behalf of Aereo, Inc. (Dillon, Christopher) (Entered: 07/16/2013)
07/16/2013	<u>19</u>	CORPORATE DISCLOSURE STATEMENT by Aereo, Inc.. (Scherkenbach, Frank) (Entered: 07/16/2013)
07/16/2013	<u>20</u>	MOTION to Transfer Case to Southern District of New York. by Aereo, Inc.. (Scherkenbach, Frank) (Entered: 07/16/2013)
07/16/2013	<u>21</u>	MEMORANDUM in Support re <u>20</u> MOTION to Transfer Case to Southern District of New York. filed by Aereo, Inc.. (Scherkenbach, Frank) (Entered: 07/16/2013)
07/16/2013	<u>22</u>	DECLARATION re <u>21</u> Memorandum in Support of Motion, <u>20</u> MOTION to Transfer Case to Southern District of New York. by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16)(Scherkenbach, Frank) (Entered: 07/16/2013)
07/16/2013	<u>23</u>	MOTION to Stay re <u>20</u> MOTION to Transfer Case to Southern District of New York. by Aereo, Inc..(Scherkenbach, Frank) (Entered: 07/16/2013)
07/16/2013	<u>24</u>	MEMORANDUM in Support re <u>23</u> MOTION to Stay re <u>20</u> MOTION to Transfer Case to Southern District of New York. filed by Aereo, Inc.. (Scherkenbach, Frank) (Entered: 07/16/2013)
07/16/2013	<u>25</u>	DECLARATION re <u>23</u> MOTION to Stay re <u>20</u> MOTION to Transfer Case to Southern District of New York. , <u>24</u> Memorandum in Support of Motion by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D)(Scherkenbach, Frank) (Attachment 1 replaced on 7/18/2013) (Moore, Kellyann). (Entered: 07/16/2013)
07/17/2013	<u>26</u>	Refusal to Consent to Proceed Before a US Magistrate Judge. . (Smeallie, James) (Main Document 26 replaced in non-fillable format on 7/17/2013) (Moore, Kellyann). (Entered: 07/17/2013)
07/17/2013	<u>27</u>	ELECTRONIC NOTICE of Reassignment. Judge Nathaniel M. Gorton added. (Abaid, Kimberly) (Entered: 07/17/2013)
07/19/2013	<u>28</u>	NOTICE of Scheduling Conference Scheduling Conference set for 9/4/2013 11:00 AM in Courtroom 4 before Judge Nathaniel M. Gorton. COUNSEL SHALL BE PREPARED TO ARGUE ALL PENDING MOTIONS BEFORE THE COURT.(Patch, Christine) (Entered: 07/19/2013)
07/24/2013	<u>29</u>	

		STIPULATION <i>Joint Stipulation</i> by Aereo, Inc.. (Dillon, Christopher) (Entered: 07/24/2013)
07/24/2013	<u>30</u>	NOTICE of Appearance by Sheryl Koval Garko on behalf of Aereo, Inc. (Garko, Sheryl) (Entered: 07/24/2013)
07/25/2013	31	Judge Nathaniel M. Gorton: ORDER entered. STIPULATION AND ORDER. Set Deadlines as to <u>23</u> MOTION to Stay re <u>20</u> MOTION to Transfer Case to Southern District of New York. , <u>20</u> MOTION to Transfer Case to Southern District of New York., <u>4</u> MOTION for Preliminary Injunction : Responses due by 8/7/2013. Scheduling Conference is rescheduled to 9/12/2013 03:00 PM in Courtroom 4 before Judge Nathaniel M. Gorton. PLEASE NOTE: ORAL ARGUMENT WILL BE HELD ON ALL PENDING MOTIONS ON 9/12/13. (Patch, Christine) (Entered: 07/25/2013)
07/30/2013	<u>32</u>	AMENDED COMPLAINT against Aereo, Inc., filed by Hearst Stations Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21)(Smeallie, James) (Entered: 07/30/2013)
08/02/2013	<u>33</u>	Assented to MOTION for Leave to Appear Pro Hac Vice for admission of Elizabeth Brenckman Filing fee: \$ 100, receipt number 0101-4572789 by Aereo, Inc.. (Attachments: # <u>1</u> Affidavit Declaration of Elizabeth Brenckman, # <u>2</u> Exhibit A)(Hosp, Richard) Modified on 8/2/2013 (Moore, Kellyann). (Entered: 08/02/2013)
08/02/2013	<u>34</u>	Assented to MOTION for Leave to Appear Pro Hac Vice for admission of Tal Kedem Filing fee: \$ 100, receipt number 0101-4574181 by Aereo, Inc.. (Attachments: # <u>1</u> Affidavit Declaration of Tal Kedem, # <u>2</u> Exhibit A)(Hosp, Richard) (Entered: 08/02/2013)
08/02/2013	35	Judge Nathaniel M. Gorton: ELECTRONIC ORDER entered granting <u>33</u> Motion for Leave to Appear Pro Hac Vice Added Elizabeth Brenckman. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Moore, Kellyann) (Entered: 08/02/2013)
08/06/2013	<u>36</u>	MOTION to Seal Document by Aereo, Inc..(Scherkenbach, Frank) (Entered: 08/06/2013)
08/07/2013	37	Judge Nathaniel M. Gorton: ELECTRONIC ORDER entered granting <u>34</u> Motion for Leave to Appear Pro Hac Vice Added Tal Kedem. Attorneys admitted Pro Hac Vice must register for electronic filing if the attorney does not already have an ECF account in this district. To register go to the Court website at www.mad.uscourts.gov. Select Case Information, then Electronic Filing (CM/ECF) and go to the CM/ECF Registration Form. (Patch, Christine) (Entered: 08/07/2013)
08/07/2013	<u>38</u>	

		Opposition re <u>20</u> MOTION to Transfer Case to Southern District of New York. filed by Hearst Stations Inc.. (Smeallie, James) (Entered: 08/07/2013)
08/07/2013	<u>39</u>	Opposition re <u>23</u> MOTION to Stay re <u>20</u> MOTION to Transfer Case to Southern District of New York. filed by Hearst Stations Inc.. (Smeallie, James) (Entered: 08/07/2013)
08/07/2013	<u>40</u>	DECLARATION re <u>38</u> Opposition to Motion, <u>39</u> Opposition to Motion of <i>Jessica Ragosta Early</i> by Hearst Stations Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8, # <u>9</u> Exhibit 9, # <u>10</u> Exhibit 10, # <u>11</u> Exhibit 11, # <u>12</u> Exhibit 12, # <u>13</u> Exhibit 13, # <u>14</u> Exhibit 14, # <u>15</u> Exhibit 15, # <u>16</u> Exhibit 16, # <u>17</u> Exhibit 17, # <u>18</u> Exhibit 18, # <u>19</u> Exhibit 19, # <u>20</u> Exhibit 20, # <u>21</u> Exhibit 21, # <u>22</u> Exhibit 22, # <u>23</u> Exhibit 23, # <u>24</u> Exhibit 24, # <u>25</u> Exhibit 25, # <u>26</u> Exhibit 26, # <u>27</u> Exhibit 27)(Smeallie, James) (Entered: 08/07/2013)
08/07/2013	<u>41</u>	MEMORANDUM in Opposition re <u>4</u> MOTION for Preliminary Injunction filed by Aereo, Inc.. (Scherkenbach, Frank) (Entered: 08/07/2013)
08/07/2013	<u>42</u>	DECLARATION re <u>41</u> Memorandum in Opposition to Motion of <i>R. David Hosp</i> by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E)(Scherkenbach, Frank) (Entered: 08/07/2013)
08/07/2013	<u>43</u>	DECLARATION re <u>41</u> Memorandum in Opposition to Motion of <i>Paul Horowitz</i> by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1)(Scherkenbach, Frank) (Entered: 08/07/2013)
08/07/2013	<u>44</u>	DECLARATION re <u>41</u> Memorandum in Opposition to Motion of <i>Joseph Lipowski</i> by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1)(Scherkenbach, Frank) (Entered: 08/07/2013)
08/07/2013	<u>45</u>	DECLARATION re <u>41</u> Memorandum in Opposition to Motion of <i>Chaitanya Kanojia</i> by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8) (Scherkenbach, Frank) (Entered: 08/07/2013)
08/08/2013	<u>46</u>	ELECTRONIC NOTICE issued requesting courtesy copy for <u>41</u> Memorandum in Opposition to Motion, <u>38</u> Opposition to Motion, <u>42</u> Declaration, <u>39</u> Opposition to Motion, <u>45</u> Declaration, <u>40</u> Declaration,. Counsel who filed this document are requested to submit a courtesy copy of this document (or documents) to the Clerk's Office. These documents must be clearly marked as a Courtesy Copy and reflect the document number assigned by CM/ECF. (Moore, Kellyann) (Entered: 08/08/2013)
08/13/2013	<u>47</u>	ANSWER to <u>32</u> Amended Complaint, by Aereo, Inc..(Scherkenbach, Frank) (Entered: 08/13/2013)
08/13/2013	<u>48</u>	REDACTION to <u>45</u> Declaration, of <i>Chaitanya Kanojia</i> by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Exhibit 5, # <u>6</u> Exhibit 6, # <u>7</u> Exhibit 7, # <u>8</u> Exhibit 8)(Scherkenbach, Frank) (Entered: 08/13/2013)
08/13/2013	<u>49</u>	REDACTION to <u>44</u> Declaration of <i>Joseph Lipowski</i> by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1)(Scherkenbach, Frank) (Entered: 08/13/2013)

08/13/2013	<u>50</u>	REDACTION to <u>43</u> Declaration of Paul Horowitz by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit 1)(Scherkenbach, Frank) (Entered: 08/13/2013)
08/14/2013	<u>51</u>	Joint MOTION for Protective Order by Aereo, Inc.. (Attachments: # <u>1</u> Exhibit A)(Scherkenbach, Frank) (Entered: 08/14/2013)
08/16/2013	<u>52</u>	Judge Nathaniel M. Gorton: ENDORSED ORDER entered granting <u>51</u> Motion for Protective Order. "Motion allowed." (Moore, Kellyann) (Entered: 08/19/2013)
08/16/2013	<u>53</u>	Judge Nathaniel M. Gorton: ORDER entered. STIPULATED PROTECTIVE ORDER(Moore, Kellyann) (Entered: 08/19/2013)
08/20/2013	<u>54</u>	Joint MOTION for Leave to File Reply by Hearst Stations Inc..(Smeallie, James) (Entered: 08/20/2013)
08/20/2013	<u>55</u>	RESPONSE to Motion re <u>36</u> MOTION to Seal Document filed by Hearst Stations Inc.. (Smeallie, James) (Entered: 08/20/2013)
08/21/2013	<u>56</u>	Judge Nathaniel M. Gorton: ELECTRONIC ORDER entered granting <u>54</u> Motion for Leave to File Document. "Replies due by 8/23. Hearst's reply not to exceed 10 pages. Aereo's replies regarding motion to transfer and motion to stay not to exceed 5 pages each, for a total of 10 pages." ; Counsel using the Electronic Case Filing System should now file the document for which leave to file has been granted in accordance with the CM/ECF Administrative Procedures. Counsel must include - Leave to file granted on (date of order)- in the caption of the document. (Moore, Kellyann) (Entered: 08/21/2013)
08/21/2013	<u>57</u>	Judge Nathaniel M. Gorton: ELECTRONIC ORDER entered granting <u>36</u> Motion to Seal Document. (Moore, Kellyann) (Entered: 08/21/2013)
08/21/2013	<u>58</u>	SEALED <u>50</u> Declaration of Paul Horowitz by Aereo, Inc. (Attachments: # <u>1</u> Exhibit 1)(Moore, Kellyann) (Entered: 08/21/2013)
08/21/2013	<u>59</u>	SEALED <u>49</u> Declaration of Joseph Lipowski by Aereo, Inc. (Attachments: # <u>1</u> Exhibit 1)(Moore, Kellyann) (Entered: 08/21/2013)
08/21/2013	<u>60</u>	SEALED <u>48</u> Declaration of Chaitanya Kanojia by Aereo, Inc.(Moore, Kellyann) (Entered: 08/21/2013)
08/23/2013	<u>61</u>	REPLY to Response to <u>23</u> MOTION to Stay re <u>20</u> MOTION to Transfer Case to Southern District of New York. , <u>20</u> MOTION to Transfer Case to Southern District of New York. filed by Aereo, Inc.. (Scherkenbach, Frank) (Entered: 08/23/2013)
08/23/2013	<u>62</u>	REPLY to Response to <u>4</u> MOTION for Preliminary Injunction filed by Hearst Stations Inc.. (Smeallie, James) (Entered: 08/23/2013)
09/05/2013	<u>63</u>	JOINT STATEMENT re scheduling conference . (Smeallie, James) (Entered: 09/05/2013)
09/06/2013	<u>64</u>	ELECTRONIC NOTICE OF RESCHEDULING The Scheduling Conference/Motion hearing previously scheduled for 9/12/13 has been rescheduled to 9/18/2013 11:00 AM in Courtroom 4 before Judge Nathaniel M. Gorton. (Patch, Christine) (Entered: 09/06/2013)

09/06/2013	<u>65</u>	Notice of Supplemental Authorities re <u>4</u> MOTION for Preliminary Injunction (Attachments: # <u>1</u> Exhibit A)(Smeallie, James) (Entered: 09/06/2013)
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09/09/2013 17:16:33			
PACER Login:	bm2593	Client Code:	1152-003
Description:	Docket Report	Search Criteria:	1:13-cv-11649-NMG
Billable Pages:	6	Cost:	0.60

Exhibit 11

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

HEARST STATIONS INC., d/b/a WCVB-TV,

Plaintiff,

v.

AEREO, INC.,

Defendant.

C.A. No. 1:13-CV-11649-NMG

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY

On July 9, 2013, the plaintiff, Hearst Stations Inc., d/b/a WCVB-TV ("WCVB"), filed a Motion for Preliminary Injunction (Dkt. No. 4) seeking to enjoin the defendant, Aereo, Inc. ("Aereo"), from infringing WCVB's copyrights (the "PI Motion"). On August 7, 2013, Aereo filed its Opposition (Dkt. No. 41), and on August 23, 2013, WCVB filed its Reply (Dkt. No. 62). Oral argument is scheduled for September 18, 2013.

Since the time of those filings, Judge Collyer of the District Court for the District of Columbia issued an injunction in *Fox Television Stations, Inc. v. FilmOn X LLC*, Civil Action No. 13-758 (D.D.C.) ("*FilmOn X*"). Because that decision directly addresses the issues presently before this Court, a copy of that decision is provided with this Notice and is attached as Exhibit A.

The *FilmOn X* decision is relevant to this Court's analysis because:

- Although the defendant in that case is different, the Court expressly assumed that the services and technology used by that defendant were, for all relevant purposes, the same as Aereo's services and technology. *See FilmOn X* at 4-5 & n.4-n.6.
- The Court concluded that, under the unambiguous language of the Copyright Act, and further supported by the legislative history, the defendant violated the

plaintiff broadcasters' public performance rights through the provision of those services and that technology. *See id.* at 24–28.

- The Court expressly rejected the argument, also asserted by Aereo here, that the use of multiple, individual transmissions rendered performances private. *See id.* at 27.
- The Court expressly rejected the Second Circuit's interpretation of the Transmit Clause of the Copyright Act for the reasons set forth in *Fox Television Stations, Inc. v. BarryDriller Content Sys., PLC*, 915 F. Supp. 2d 1138 (C.D. Cal. 2012), Judge Chin's dissent in the Second Circuit, and WCVB's PI Motion. *See id.* at 25 n.11, 28 n.12.
- After finding in the plaintiffs' favor on irreparable harm, the balancing of the harms and the public interest, the Court issued a nationwide preliminary injunction (except in the Second Circuit)¹ prohibiting the defendant from retransmitting any of the plaintiffs' programs without authorization. *See id.* at 31–34.

CONCLUSION

The plaintiff, Hearst Stations Inc., d/b/a WCVB-TV, respectfully submits, for the Court's consideration of the pending PI Motion, the decision from the District Court for the District of Columbia issued in *Fox Television Stations, Inc. v. FilmOn X LLC*, Civil Action No. 13-758 (D.D.C.), attached as Exhibit A.

¹ The Court excluded the Second Circuit from the injunction because of the Second Circuit decision in the pending Southern District of New York cases against Aereo. *See id.* at 34.

Respectfully submitted,

HEARST STATIONS INC., d/b/a WCVB-TV

By its attorneys,

/s/ James D. Smeallie

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Dated: September 6, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on September 6, 2013.

/s/ James D. Smeallie

James D. Smeallie

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