

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

WPIX, INC., WNET.ORG, AMERICAN
BROADCASTING COMPANIES, INC., DISNEY
ENTERPRISES, INC., CBS BROADCASTING
INC., CBS STUDIOS INC., THE CW TELEVISION
STATIONS INC., NBC UNIVERSAL, INC., NBC
STUDIOS, INC., UNIVERSAL NETWORK
TELEVISION, LLC, TELEMUNDO NETWORK
GROUP LLC, NBC TELEMUNDO LICENSE
COMPANY, OFFICE OF THE COMMISSIONER
OF BASEBALL, MLB ADVANCED MEDIA, L.P.,
COX MEDIA GROUP, INC., FISHER
BROADCASTING-SEATTLE TV, L.L.C.,
TWENTIETH CENTURY FOX FILM
CORPORATION, FOX TELEVISION STATIONS,
INC., TRIBUNE TELEVISION HOLDINGS, INC.,
TRIBUNE TELEVISION NORTHWEST, INC.,
UNIVISION TELEVISION GROUP, INC., THE
UNIVISION NETWORK LIMITED
PARTNERSHIP, TELEFUTURA NETWORK,
WGBH EDUCATIONAL FOUNDATION,
THIRTEEN, and PUBLIC BROADCASTING
SERVICE,

Plaintiff,

v.

IVI, INC. and TODD WEAVER,

Defendants.

Docket No. 10 Civ. 7415 (NRB)

DECLARATION OF STEPHEN GRAHAM IN OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION

I, Stephen Graham, hereby declare as follows:


1. I am employed by ivi, Inc. and am familiar with its operations. I am over eighteen years of age and make this declaration based on personal knowledge.

2. I participated in an investigation to determine whether the FCC regulated the transmission of television content over the Internet. Although I was confident that the FCC did not regulate the Internet, I nonetheless contacted the FCC to confirm our understanding.

3. On September 16, 2010, I called FCC representative Ronald Parver. I asked Mr. Parver whether the FCC governed the Internet at all. With respect to this initial question, I pointed to the FCC's website at www.fcc.gov/cgb/internet.html, a true and correct copy of which is attached to this declaration as Exhibit 2, with the relevant portions highlighted in yellow. Because the FCC website page referred to above literally states that the FCC does not regulate the Internet, I asked Mr. Parver whether that was still accurate. Mr. Parver responded that it was, and that the FCC does not regulate the Internet.

4. I followed up my phone conversation with a confirming email seeking additional confirmation. A true and correct copy of my email exchange is attached as Exhibit 3. In my email, I asked whether the FCC more specifically governed the use of the Internet to broadcast television signals, including a cable system using the Internet to retransmit content originally broadcast over the air. Again, Mr. Parver responded that the FCC did not govern either situation, and that no FCC involvement was required for using the Internet to transmit video content.

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


Stephen Graham
October 21, 2010