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## UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

WPIX, INC., et al.,

Civil Action No. 10-cv-7415 (NRB)

Plaintiffs,

v.

IVI, INC.,

Defendant.

## **DECLARATION OF TODD WEAVER**

I, Todd Weaver, hereby declare as follows.

- 1. I am the Chief Executive Officer of ivi, Inc. I am over eighteen years of age and make this declaration based on personal knowledge. I make this declaration in support of ivi's motion to stay the preliminary injunction pending appeal.
- 2. ivi's staff, income, and subscribers suffered immensely the day the injunction was granted from the District Court, and every day since.
- 3. The harm to ivi's staff was immediate and widespread: over 70% of ivi staff were immediately terminated and our head-end aggregation facilities have been shutdown entirely, leaving staff and service personnel without jobs and income. These are real people that had real jobs. Customer Support Personnel, Sales Staff, Designers, Engineers, Installers, Programmers, Account Managers, Accountants, and Maintenance Staff are all out of jobs. Rather than growing and hiring, we are shrinking and firing. The staff would like to return to work when ivi can pay, which will only occur if ivi can operate as a business.
- 4. The harm to ivi's income was immediate, retroactive, and widespread. Over 95% of ivi's income immediately stopped, refunds were issued, and ivi is now surviving on subscriber donations and savings.

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**DECLARATION OF TODD WEAVER-1** 

5. The harm to ivi's subscribers was also immediate and widespread, 100% of ivi subscribers enjoyed over-the-air broadcast stations we carried, most watched many channels regularly. These are real people paying for and watching these channels. The subscribers are a broad range of the public, people on a fixed income who could afford ivi but cannot afford "traditional" cable bills, people disabled who use ivi's interactive menu through their computer to watch (or hear) television where they cannot on traditional television sets, people who are out-of-range from their local broadcast stations that "traditional" cable doesn't reach and satellite isn't visible, and people who are within-range of broadcast stations but the digital antenna signal isn't reliable within their home or doesn't provide a full list of their local channels.

6. The networks didn't lose a single job, a single dollar, and suffered no harm during our 5 months of operation: quite the contrary, ivi increased viewers for the networks, getting more people to watch their advertising, and paid the Congressionally approved royalty for carrying these channels to a larger audience at no cost to the stations. ivi on the other hand immediately, retroactively, and provably suffered immensely the day the injunction was granted, continuing to suffer every day since.

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

Todd Weaver March 21, 2011