

Internet Company Enjoined from Streaming Broadcast

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Earlier today, the federal district court in the Southern District of New York issued a preliminary injunction prohibiting ivi.tv from streaming the programming of the plaintiffs' television stations over the Internet or to mobile phones. The plaintiffs include television stations in New York and Seattle, the major television networks, major television studios, and Major League Baseball.

ivi.tv began live Internet streaming of the programming of television stations located in New York and Seattle on September 13, 2010, to subscribers located anywhere in the United States for a fee of \$4.99/month. ivi claimed that it could do so because it was a "cable system" under the Copyright Act. ivi, however, claimed that it was not a "cable system" for purposes of the Communications Act and, therefore, did not need to obtain the retransmission consent of the affected stations.

The court concluded that it is "extraordinarily unlikely that ivi will ultimately be deemed a cable system" under the Copyright Act since ivi neither fit the traditional type of localized delivery systems that are entitled to rely on the statutory license nor agreed to be abide by the FCC's governing rules.

The court entered the following preliminary injunction:

Thus, plaintiffs' motion for a preliminary injunction is granted and it is hereby ORDERED that defendants . . . and all other persons who are in active concert or participation with any of them who receive actual notice of this injunction by personal service or otherwise, are hereby ENJOINED from infringing by any means, directly or indirectly, any of plaintiffs' exclusive rights under Section 106 (1) - (5) of the Copyright Act, including but not limited to through the streaming over mobile telephone systems and/or the Internet of any of the broadcast television programming in which any plaintiff owns a copyright.

The court's ruling remains operative during the pendency of the lawsuit.