



Virginia Association of Broadcasters Legal Review



Brooks, Pierce, McLendon, Humphrey &
Leonard, LLP
Counsel to VAB • (919) 839-0300

250 West Main Street, Suite 100
Charlottesville, VA 22902 • (434)
977-3716

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Legal Memorandum

Broadcasters Settle Copyright Dispute With FilmOn X

Settlement of the ongoing legal battle over copyright between broadcasters and FilmOn X has been announced—but precious few details are available due to the confidential nature of the settlement.

As we reported previously, in March 2017, Internet streaming service FilmOn X suffered a heavy blow at the hands of the Ninth Circuit Court of Appeals in its ongoing copyright battle with television broadcasters. The federal court sided with broadcasters, ruling that Internet streamers are not “cable systems” eligible for the compulsory copyright license provided in Section 111 of the Copyright Act.

Section 111 allows cable systems to distribute broadcasters’ copyrighted content without negotiating individual copyright licenses with every network and local station. Without access to the compulsory license, FilmOn X’s service—which captured programs broadcast over the air and retransmitted them to paying subscribers without broadcasters’ consent—would violate the Copyright Act.

Following its decision in March, the Ninth Circuit refused FilmOn X’s request for a rehearing before the full panel of Ninth Circuit judges. Meanwhile, the District of Columbia Circuit Court of Appeals was reviewing a lower federal court’s ruling that, like the Ninth Circuit, had rejected FilmOn X’s bid for the compulsory license. The District of Columbia appeals court held argument in March but had not yet issued a decision at the time the settlement was announced.

The confidential settlement appears to put an end to the years-long copyright battle between television broadcasters and FilmOn X (and its now-defunct rival, Aereo) and eliminates the possibility that the U.S. Supreme Court would be asked to resolve the copyright dispute. In the wake of the settlement, FilmOn X has dismissed its appeals.

If you have any questions concerning the information discussed in this memorandum, please contact your communications counsel or any of the undersigned.

Stephen Hartzell, Editor

BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, L.L.P.

Wade H. Hargrove
Mark J. Prak
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