

Start-Up Tech Company Will Not Change the Future of Television

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On June 25, 2014, the United States Supreme Court issued a decision in a highly controversial tech case involving cable broadcasters. With cable pricing increasing astronomically over the years, start-up Aereo Inc. created a solution: tiny antennas. Aereo uses these antennas to capture TV signals out of the air, and then places the broadcast into a DVR. The DVR then plays the program through a PC, tablet, or phone. Aereo's service costs substantially less than those of other cable companies, partly because it does not pay retransmission fees to cable broadcasters. Broadcasters dislike Aereo's business model because retransmission fees are a huge source of revenue. Last year, they totaled \$3.3 billion. Several major television broadcasters filed suit against Aereo alleging copyright infringement, and moved for a preliminary injunction. A district court in New York denied the preliminary injunction and the Second Circuit affirmed. The Supreme Court reversed and remanded. The debate centers around whether Aereo is offering a "public" or "private" performance. Public performances require the payment of retransmissions fees, and private performances do not. Aereo argued that it offers antenna rental services that assist in the broadcasting of a particular show to one subscriber, much as a VCR or DVR does. In addition, Aereo argued that the transmission includes the broadcasters' advertisements, so their main source of revenue remains intact. The broadcasters argued that Aereo is stealing their work and infringing their copyright because rebroadcasting to thousands of subscribers renders performances public. In a 6-3 vote, the Supreme Court sided with the broadcasters and found that Aereo transmits a performance of copyrighted works to the public. The Court defined the public as a large group of people who are unrelated and unknown to each other, namely, a large group outside of family and friends. The case will be sent back to the district court to reconsider the request for preliminary injunctive relief. While the case is not over, this is a huge victory for broadcasters. The impact of this decision is far reaching. Copyright owners may use this decision to challenge other cloud-based tech solutions, such as Dropbox and Google Drive, that store their copyrighted materials without permission.

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