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## Intellectual Property Law Alert - Supreme Court Rules 6-3 That Aereo's Retransmission Violates Copyright Law

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In a 6-3 decision, the U.S. Supreme Court determined today that Aereo, Inc.'s online television streaming service violates copyright law by retransmitting television programming to the public without authorization from the copyright holder. This decision is one of the biggest copyright decisions to come out of the Supreme Court in years and effectively dismantles Aereo's business model.

Aereo was sued for copyright infringement by numerous broadcasters, claiming it was infringing broadcasters' rights to perform their copyrighted works publically. Aereo sells a service that allows its subscribers to watch television programs over the Internet at about the same time as the programs are broadcast over the air. When a subscriber wants to watch a show that is currently airing, he simply chooses a show from a menu on Aereo's website. Aereo's technological system of transmission includes thousands of small antennas. This system allows an individual antenna per subscriber. The antenna makes an individual copy of the program then streams the program to the user a few seconds behind the over-the-air broadcast. Aereo argued that it does not need to pay the cable company's fees for retransmitting because its broadcast signals - which it captures and retransmits to its subscribers via the Internet - are free.

Although Aereo tried to distinguish itself from cable companies, it was not successful in doing so. The Supreme Court determined that Aereo transmits a performance within the meaning of the Transmit Clause whenever a subscriber watches a program. Aereo's unusual technological differences do not sufficiently distinguish its transmission from a cable company, whose transmissions are considered public performances. The Supreme Court further stated that "Congress would as much have intended to protect a copyright holder from the unlicensed activities of Aereo as from those of cable companies."

The Supreme Court further determined that this transmission was indeed a public performance, as Aereo's "commercial objective" was no different than that of a cable company and because Aereo's large subscriber based constituted "the public" under copyright law.

The Supreme Court, however, made it clear that this ruling will not impose copyright liability on other technologies, including new and emerging technologies such as cloud computing, DVR and other novel issues not yet before the Supreme Court.

A copy of the Supreme Court's opinion can be [found here](#).

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