Jason Bloom in The Washington Post: Supreme Court Hands Fox News Another Win In Copyright Case Against TVEyes Monitoring Service

By Jason P. Bloom | December 5, 2018

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The Washington Post quoted Haynes Boone Partner Jason Bloom in an article about the U.S. Supreme Court's recent decision not to hear the appeal of a closely-followed copyright ruling involving Fox News and TVEyes.

Here is an excerpt:

TVEyes tapes the product of Fox News and other outlets and makes it all available to its subscribers for a fee. . . Researchers, media critics and others pay good money for access to this easy-to-use archive, though perhaps not for much longer: The Supreme Court's no-thanks decision leaves in place a February decision from the U.S. Court of Appeals for the 2nd Circuit that supported Fox News in a 2013 suit against the tracking service. The problem with TVEyes, held the ruling, was that it "makes available to TVEyes's clients virtually all of Fox's copyrighted content that the clients wish to see and hear, and because it deprives Fox of revenue that properly belongs to the copyright holder, TVEyes has failed to show that the product it offers to its clients can be justified as a fair use." According to filings, TVEyes charges $500 for access to some 1,400 channels. The Erik Wemple Blog uses a similar service, ShadowTV, for our cable-news accountability reporting.

Now the case heads back to the trial court, which will consider damages and an injunction. The immediate impact of the ruling, according to experts consulted by this blog, is that TVEyes — and likely other archiving services — will have to drop Fox News from its menu of broadcasters, unless it manages to work out a licensing agreement with the network. Other broadcasters, too, could get their product removed from these services, perhaps with a simple letter to the archiving services asserting their rights under the ruling.

Jason Bloom, a partner and head of the copyright practice group at Haynes Boone, credits the appeals court's reasoning and notes, "I think networks are generally protective of their copyright — it's their lifeblood and every time you see a new technology, the networks are going to be all over it. There's always a lead plaintiff that's going to assert their rights."

To read the full article, click here.

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