



FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF GENERAL COUNSEL

# memorandum

**TO:** Director, Reference Information Center  
Chief, Wireless Bureau

**FROM:** *DMA* Daniel M. Armstrong  
Associate General Counsel

**DATE:** March 9, 2009

**SUBJECT:** *Alliance of Resident Theatres/New York, Inc. et al. v. FCC and USA*, No. 09-0787. Filing of a Notice of Appeal in the United States Court of Appeals for the Second Circuit.

This is to advise you that on February 27, 2009, the *Alliance of Resident Theatres/New York, Inc. et al.* ("Petitioners") filed a new case in the U.S. Court of Appeals for the Second Circuit pursuant to 47 U.S.C. § 402(a), of the following order: In the Matter of Unlicensed Operation in the TV Broadcast Bands and Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band. ET Docket 04-186 and 02-380; FCC 08-260 (rel. Nov. 14, 2008).

The Petitioners challenge the FCC's decision to allow unlicensed devices to operate in the unused portion of the broadcast television spectrum (i.e. white spaces).

The Court has docketed this case as No. 09-0787. The attorney assigned to handle the litigation of this case is Nandan Joshi .