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## ABC urges judge not to block 'House'

**Network says \$16 mil could be lost if CBS restraining order permitted**

By TED JOHNSON

ABC said it stands to waste \$16 million in promotion costs if a federal judge grants CBS a temporary restraining order halting production on the Alphabet's new reality series "Glass House" on the grounds that it is a ripoff of "Big Brother."

In a 31-page filing in U.S. District Court in Los Angeles on Monday, ABC also accused CBS of being "anticompetitive" in trying to put a stop to "Glass House," set to debut on June 18, suggesting that it would "prevent American viewers from watching both shows to choose which shows they prefer (or to choose both)." ABC said that it has spent \$27 million developing the show, which would be a "total loss" if Judge Gary Allen Feess were to halt the show altogether.

Although both shows contain similar elements, ABC contends that the shows are not "substantially similar" and the elements cited by CBS are not protected by copyright.

In its brief, ABC's legal team said that "they are generic staples of the reality show genre: people living in a house, competing with each other to avoid elimination, and winning a prize." They also rejected CBS' claim that even if the elements can't be protected by copyright, the "sequence and arrangement" can. Citing the similarities across reality TV, including dance shows "Dancing with the Stars" and "So You Think You Can Dance?" and fashion design shows "Design Star" and "Project Runway," ABC's attorneys wrote that "if inspiring the improvement and development of other television shows with a clever idea is copyright infringement, the reality television itself --- indeed all of television (with its hospital shows, police shows, friends-in-an-apartment shows) would infringe."

Much of CBS's suit focuses on the fact that a producer of "Big Brother," Kenny Rosen, is now executive producer of "Glass House," and that he took trade secrets with him and poached "Big Brother" staff. In deposition, Rosen said that an assistant typed up the "Big Brother" House Guest Manual, but ABC pointed out that the manual was returned to CBS. It also challenged that the manual was a "trade secret" but rather "common sense instructions" to contestants, and that versions of "Big Brother" in other countries post the manual on the Internet. ABC calls the claim "impermissibly broad" and said that "should the Court find that some confidential information was taken, the remedy would be to prohibit the use of that specific information."

ABC also rejected CBS's claims of poaching of "Big Brother" staff, contending that a group of

employees followed Rosen from "Big Brother" to "Hell's Kitchen" at Fox, and then to "Glass House." They said that Rosen "did delete some emails tangentially related to 'Glass House' after the litigation began, but those were emails he received and non-substantive." A forensic firm, FTI was retained to image all of Rosen's emails and his laptop and cell phone.

ABC is represented by a team led by Glenn Pomerantz at Munger, Tolles & Olson. Devin McRae of Early Sullivan Wright is leading the team for the other defendants, Rosen, Corie Henson and Michael O'Sullivan.

CBS said in a statement, "We believe that our filing last week, the testimony from copyright expert Jeff Rovin and "The Glass House" producer's (Kenny Rosen) own deposition speak for themselves and speak loudly on our behalf. Nothing in the defendants' submission can change the basic facts."

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