CPTWG MEETING #104
June 20, 2007

Legislative/Litigation Update

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Overview

- Legislative Issues
  - Intellectual Property Protection Act
- Litigation
  - Perfect 10 v. Google
  - Twentieth Century Fox v. Cablevision Systems
  - Other Recent Copyright Litigation
  - U.S. v. ASCAP
  - Finnish CSS Case
Legislative/Regulatory Issues
Intellectual Property Protection Act of 2007

Proposed by Dept. of Justice

Key Provisions

- Attempted Copyright Infringement
- Increased Penalties
- Wiretaps for IP Crimes
- Reporting to RIAA

DowLohnes
Litigation
Perfect 10 v. Google
(9th Cir. May 16, 2007)

Facts

Perfect 10

Linking/Cache

Thumbnails

Direct infringement

Fair use defense

Purpose

Nature

Substantiality

Market effect

Dow Lohnes
Perfect 10 v. Google (cont.)

- Secondary infringement
  - Contributory liability
    - Distributing product
    - Inducing infringement
      - Specific infringing material
      - Failure to purge
  - DMCA safe harbors
  - Vicarious liability
Twentieth Century Fox v. Cablevision Systems

Cablevision sued over Remote Storage DVR system

District court: RS-DVR is infringing

Cablevision appellate brief

Oral arguments week of Aug. 6

Amicus briefs filed

Law Professors

EFF

Dow Lohnes
Other Recent Copyright Litigation

Viacom v. YouTube Update
  Google files answer
    FDMCA “hosting” safe harbor
  Amicus brief in Tur v. YouTube

Football Assoc. Premier League v. YouTube

Grisman v. YouTube

Warner Music Group v. Imeem
ASCAP royalty rate negotiations with AOL, Yahoo, RealNetworks
- Deadlock referred to federal court

Issue: do downloads involve performance right?

Court:
- Downloads are reproductions only
- No performance right in downloads
Finnish CSS Case
(Helsinki Dist. Ct. May 25, 2007)

Facts
- Finland implements EU Copyright Directive
- Defendants post CSS circumvention info on web
- “providing a service to circumvent an effective technological measure”

Decision
- CSS no longer “effective technological measure”

Impact
- Prosecutor has appealed