JMB51

CPTWG MEETING #107

November 7, 2007 *Legislative/Litigation Update*

Slide 1

JMB51 Jim Burger, 10/17/2007

Overview

- ***Arista Records v. Usenet.com***
- ***MGM v. Grokster***
- ***Ticketmaster v. RMG Technologies***
- ***Virgin Records v. Thomas***
- ***Twentieth Century Fox v. Cablevision Systems***

Arista Records v. Usenet.com (S.D.N.Y., Oct. 12, 2007)

- Usenet Background
- Claims
  - Direct infringement
  - Inducement
    - Boasting
    - Anonymity
    - Failure to filter
    - Business model
- Defense

MGM v. Grokster
(C.D. Cal., Oct. 16, 2007)

- Procedural history
- Permanent injunction
  - Test
    - Irreparable harm
    - Adequate remedy at law
    - Balance of hardships
    - Public interest

MGM v. Grokster (cont.)

- Scope
  - "The bell simply cannot be unrung"
- Filtering
  - Exhaustive prevention
  - Compromise solution
    - Special master
  - Notice of copyrighted works

Ticketmaster v. RMG Technologies (C.D. Cal., Oct. 16 2007)

- **Background**
  - **Ticket sniping**
- **Direct copyright Infringement**
  - **Cache copies**
- **Inducement**
  - **"One who distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement"**

Ticketmaster v. RMG Technologies (cont.)

- **DMCA**
  - **§ 1201(a)(2) – controls access**
  - **§ 1201(b)(1) – protects copyright rights**
  - **CAPTCHA**

Virgin Records v. Thomas (D. Minn., Oct. 4, 2007)

- **Facts**
- **Verdict**
  - **$220,000 ($9,250/song)**
- **Appeal**
  - **Unconstitutionally excessive damages**
  - ***UMG v. Lindor***

Twentieth Century Fox v. Cablevision Systems
(9th Cir., oral arguments Oct. 24, 2007)

- **Oral arguments**
  - **RS-DVR vs. VOD**
  - **RS-DVR vs. TiVo**
  - **Consumer liability**
  - **Money is key issue**
- **Outcome?**