



CPTWG MEETING

#115

April 23, 2009

Legislative/Litigation Update

Jim Burger

jburger@dowlohn.com



Litigation

- **Cartoon Network v. Cablevision (U.S.)**
- **Sony/BMG v. Tenenbaum (D. Mass)**
- **A.V. v. iParadigms (4th Cir.)**
- **Secondary/ISP Liability Cases**



Cartoon Network v. Cablevision

- Court of Appeals Decision
- Petition for Certiorari
- Supreme Court Seeks Solicitor General's Opinion



Sony/BMG v. Tenenbaum (DC Mass)

- **Background**
- **Nesson's "Open" Strategy**
- **File-sharing Fair Use?**
- **No Webcasting the Trial**

A.V. v. iParadigms

- **Background: Turnitin Plagiarism Detection Service**
- **Infringement Action Against iParadigms**
- **District Court Summary Judgment Against Plaintiffs**
- **Fourth Cir. Court of Appeals Affirms – Fair Use**
 - Purpose & character
 - Nature of work
 - Amount & Substantiality
 - Effect on potential market or value of work


ISP Liability

- **In re SeeqPod (N.D. Cal.)**
 - Bankruptcy
 - Temporary Restraining Order
- **Vuitton v. Akanoc Solutions (N.D. Cal.)**
 - Host liability theory
- **UMG v. Veoh (C.D. Cal.)**
 - Investor not liable

Administrative Action

- FTC DRM Hearing
- ACTA
- Obama Nominees
- Net Neutrality in Stimulus Bill




The background image shows the exterior of the Federal Trade Commission building at night. The words "FEDERAL TRADE COMMISSION" are visible in large, raised letters above the entrance. The entrance is flanked by two illuminated lanterns. A large, semi-transparent grid is overlaid on the central part of the image, with several small, square inset images within the grid cells. These insets show various scenes: a computer monitor, a ship, a computer tower, a computer monitor, a computer tower, and an airplane. The overall lighting is dark, with the building's lights and the lanterns providing the main illumination.

FEDERAL TRADE COMMISSION

Administrative Action

- FTC DRM Hearing
 - Background
 - The FTC's Interest in DRM
 - Informing consumers about DRM
 - Servers that go dark
 - Computer security risks
 - Supporters
 - Critics



USTR –ACTA

- Morocco Meeting Postponed
 - Obama Administration requested delay for time to form team
- Summary Released
 - Ch 4, § 2: “IP Rights Enforcement in the Digital Environment”
 - No draft

Obama Nominees

- Verilli, Perelli to DOJ
 - Public interest sector comments
- Boucher to Internet Committee
- Leibowitz to FTC/Genachowski to FCC
- Aneesh Chopra Tech Czar
- Susan Crawford Tech Policy Advisor
- IP Czar Update

Legislation

- **Trade Enforcement Act of 2009 (HR 496)**
 - **Dir. of IP Rights Enforcement**
 - **IPR Enforcement Committee**
- **Informed P2P User Act (HR 1319)**
 - **Notice to users; cannot prevent uninstalls**



PREV
PAGE

Other Domestic Issues

- Kindle
 - Text-to-speech
 - Third-party books
- NEXT
PAGE

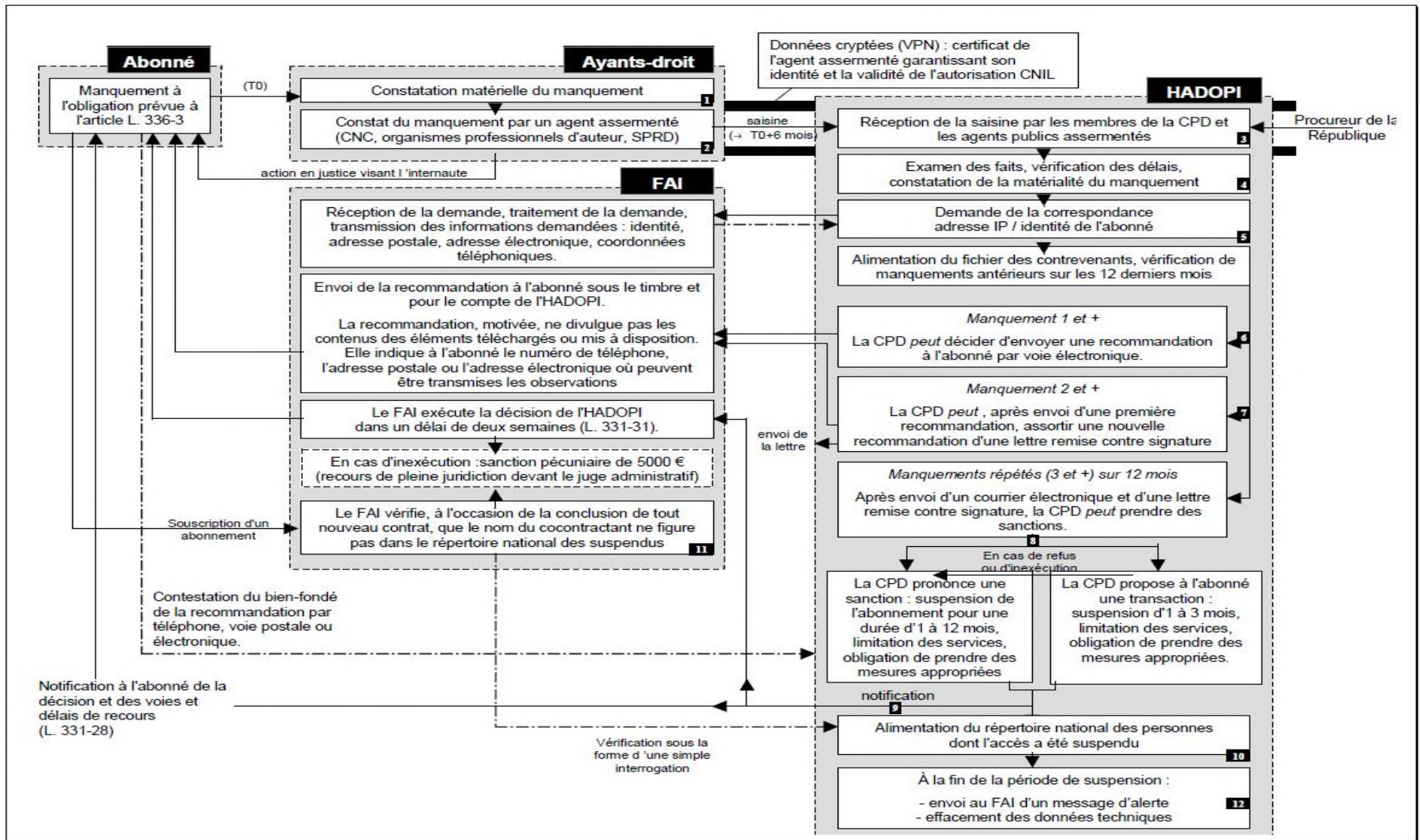
amazonkindle



Global 3 Strikes/Filtering Update

➤ Fails in France, but stay tuned...

The Hadopi Process, In A Nutshell:





Three Strikes – Other Europe, Asia, & South Pacific

- Italy, France to Work Together
- Eircomm Settles, Other Irish ISPs Bristle
- Germany Rejects Three Strikes
- South Korea Passes 3 Strikes for Forums & Users
- New Zealand Law Scrapped
- UK “Digital Britain” Report Released
- EU Telecom Reg Delayed Over IP Enforcement



Other International

- The Pirate Bay
- China+Google=Free Music
- UK Consumer Focus Report
- Contrasting Studies
 - Netherlands & Norway: File sharing is a net benefit
 - IFPI: File sharing killing creators