



CPTWG MEETING #118

January 27, 2010

Legislative/Litigation Update

Jim Burger

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david berger jazz orchestra

Sing Me A Love Song

Harry Warren's Undiscovered Standards



with Freda Payne and Denzal Sinclair

Arranged by David Berger

Lyrics by Paul Mendenhall and Ira Gershwin



Litigation

- *Columbia Pictures Industries Inc. v. Fung*
- *Apple Inc v. Psystar Corp.*
- **Antitrust Cases:**
 - *Real Networks v. DVD Copy Control Association*
 - *Sterr et al v. Sony BMG Music Entertainment, et al.*
- *Capitol Records v. Thomas-Rasset*



Columbia Pictures Industries Inc. v. Fung. (C.D. Cal.)

- **Facts:**

- Fung operates number of torrent websites allowing users to search for download & torrent files which may be linked to copyrighted films
- Studios filed suit in 2006, alleging secondary copyright infringement

- **Holding:**

- Fung liable for inducing users' copyright infringement, because he had reason to know about and encouraged the infringement
- Not protected by DMCA safe harbor

Apple Inc. v. Psystar Corp. (ND CA)

- Facts:

- Mac OS X license prohibits customers from installing OS on non-Apple computers
- Psystar manufactured and distributed line of Mac-clones running modified versions of Mac OS X

- Holding:


- Copyright infringement– reproduction, distribution, derivative works & contributory
- Copyright Misuse
- DMCA violation

- Ninth Circuit Appeal



Dueling Antitrust Cases

- *RealNetworks v. DVD Copy Control Association* (N.D. Cal.)
 - Antitrust claims against movie studios dismissed
- *Starr et al v. Sony BMG Music Entertainment, et al.* (2d Cir.)
 - Antitrust claims against record labels reinstated



Capital Records, Inc. v. Thomas-Rasset (D. Minn.)

- **Facts:**

- Defendant twice found guilty of infringement – ordered to pay \$1.92 million damages for sharing 24 songs on P2P network

- **Holding:**

- “Monstrous and shocking” damage award in “realm of gross injustice”
- Damages reduced to \$54,000

A photograph of the White House in Washington, D.C., featuring the iconic portico with columns and a fountain in the foreground. The image serves as the background for the text.

Administrative Action

- Intellectual Property Enforcement Coordinator
 - Victoria Espinel confirmed as IP Czar
- Obama Administration IP Piracy Summits

Legislative Developments

- **Informed P2P User Act (HR 1319)**
 - **Bill was passed by House on December 8, 2009**



International

➤ “Three Strikes” Laws Status Update

- ❖ France

- ❖ United Kingdom

➤ Extraordinary Internet Regulation Proposed in Italy