



CPTWG MEETING #123

May 11, 2011

Legislative/Litigation Update

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Litigation

- *Wolk v. Kodak Imaging Network, Inc.*
- *WPIX, et al. v. ivi, Inc.*
- *Golan v. Holder*
- *Limewire* Damages Trial
- *Viacom v. YouTube* Appeal Update
- *Nu Image, Inc. v. DOES 1-6,500*



Wolk v. Kodak Imaging Network, Inc. **(SDNY)**

- **Artist filed against Kodak alleging her work was infringed on Photobucket, Kodak's online photo sharing website**
 - **Wolk argued that after Kodak received and responded to multiple notice & takedown requests, it was aware her copyrights were infringed and must police to prevent current and future infringements.**
- **Decision: DMCA protects Photobucket**
 - **Without receiving notices identifying and locating each instance of infringement, site did not have “actual knowledge” of the complained of infringements, nor awareness of facts or circumstances from which infringing activity is apparent.**



WPIX, et al. v. ivi, Inc **(SDNY)**

- **Facts:**

- **ivi rebroadcast live over-the-air broadcasts via online streaming**
- **Broadcasters filed a copyright infringement suit in federal court against ivi**
- **ivi argues has the right to stream content under copyright compulsory license**

- **Holding:**

- **Preliminary injunction issued against ivi**
- **Not entitled to Section 111 Statutory License**



Golan v. Holder (SCOTUS)

- **Cert Petition:**

- Plaintiffs that rely upon public domain works challenged constitutionality of Section 514 of Uruguay Round Agreements, which reinstated copyright on certain public domain works

- **Holdings:**

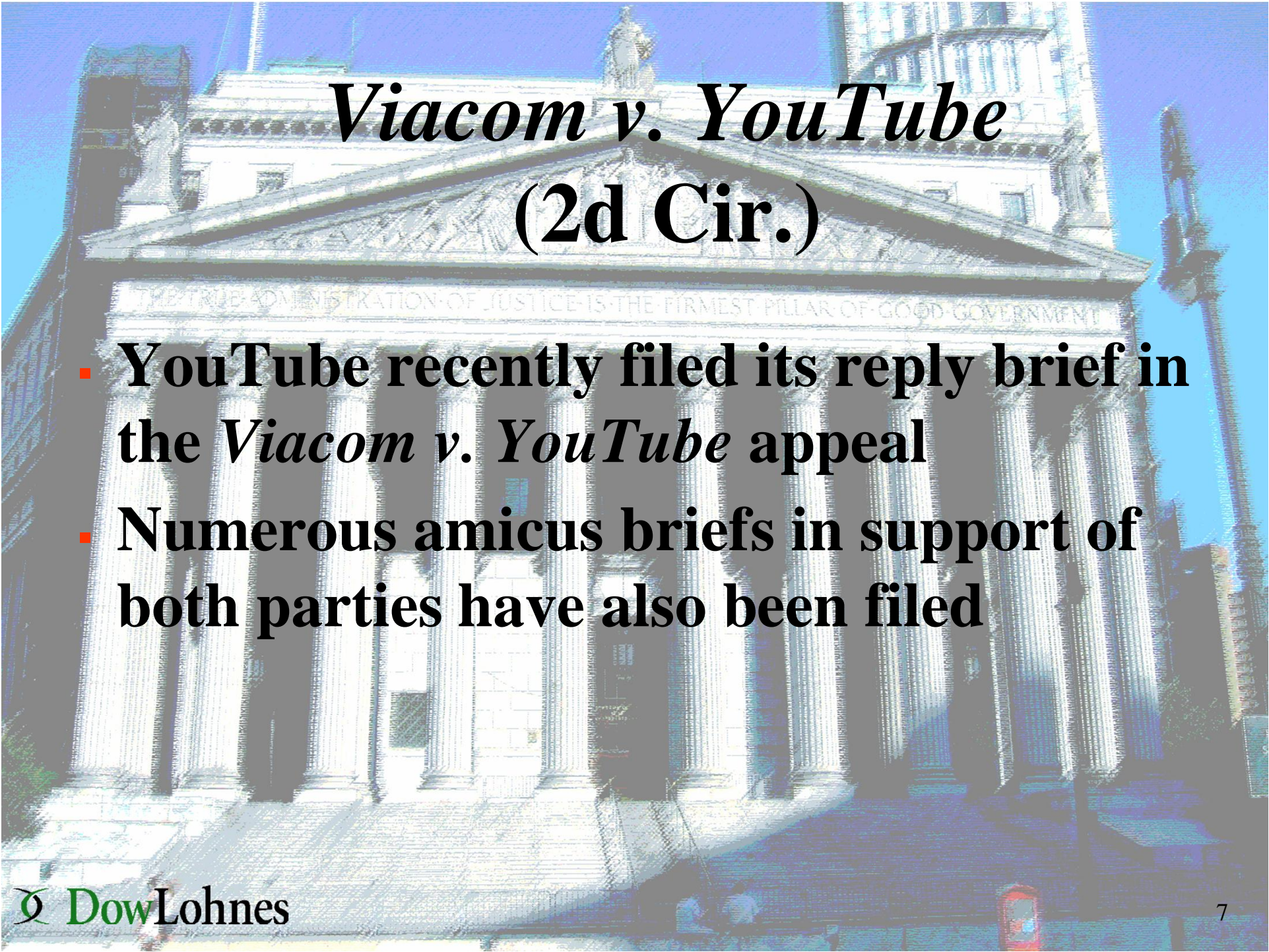
- District Court: statute violates First Amendment;
- 10th Circuit: reversed – statute does *not* violate First Amendment

- **SCOTUS: cert petition granted**



Arista Records, LLC v. Lime Group, LLC (SDNY)

- **LimeWire damages trial underway**
 - **2010: Judge held LimeWire and owner liable for inducing copyright infringement for inducing infringement with its LimeWire P2P software**
 - **March: Judge held record labels' recovery of Copyright Act's statutory damages limited to one award per work infringed, not one award per each infringer of each work**
 - **April: Judge – LimeWire's infringement was "willful" – up to \$150,000 in statutory damages per infringement**
 - **May: Jury to determine total damages**



Viacom v. YouTube (2d Cir.)

- YouTube recently filed its reply brief in the *Viacom v. YouTube* appeal
- Numerous amicus briefs in support of both parties have also been filed

Nu Image, Inc. v. DOES 1-6,500 (DC DC)

- **Largest BitTorrent Downloading Case**
 - **23,232 file sharers' IP Addresses**
 - **Court allowing the US Copyright Group to subpoena ISPs to reveal identity**
 - **One film: The Expendables**

Legislative Developments

- **“Combating Online Infringement and Counterfeits Act” (“COICA”) Update: Now PROTECT IP Act**
 - **Narrower Definition**
 - **Search Engines**
 - **Rights Holders**
 - **Domestic Domain Names**

Administrative Action

- Challenge to FCC Net Neutrality Rules
- Donald Verrilli nominated as U.S. Solicitor General





International

- **CRS Analysis of ACTA**
 - **Verdict: ACTA *might* conflict with DMCA, depending upon interpretation**
- **Trans-Pacific Partnership Update**
- **Update on Three Strikes Laws**
 - **New Zealand passes new three strikes law**
 - **UK: Digital Economy Act upheld under judicial review**
- **Google Loses Google News Belgian Copyright Appeal**