

In Memory Scott J. Fierstein



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CPTWG MEETING

#129

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Litigation/Legislative Update

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Litigation

- *Kirtsaeng v. John Wiley & Sons, Inc.*
- *WPXI, Inc., et al. v. ivi, Inc.*
- *American Broadcasting Companies, Inc., et al. v. Aereo, Inc.*
- *The “Auto Hop” Litigation Update*
- *Sony BMG Music Entertainment, et al. v. Joel Tenebaum*
- *Megaupload Update*



Kirtsaeng v. John Wiley & Sons, Inc.

- **Cert. Granted**
- **SCOTUS to decide whether first sale doctrine applies only to copyrighted items made and distributed in the US**
- **SG's amicus brief asks Court to affirm 2nd Circuit's decision holding that first sale doctrine doesn't apply to books published outside the US: allows publishers to prohibit importation of those works**



WPXI, Inc., et al. v. ivi, Inc. (2d Cir.)

- **ivi –retransmitted broadcast TV signals to subscribers over the Internet – claimed it was cable system entitled to compulsory license under §111(c) of the Copyright Act**
- **Second Circuit affirmed District Court’s decision granting broadcasters a preliminary injunction against ivi**
- **Impact on *Aereo* appeal?**

Aereo (2d Cir.) Update

- U.S. District Court Judge Alison Nathan dismissed networks' motion for preliminary injunction on the ground Aereo's services did not violate the public performance right
- Networks appealed the decision to the 2nd Circuit on September 14th
- Cablevision files amicus brief siding with broadcasters

The “Auto Hop” Litigation Update

- **Networks filed copyright infringement lawsuits by against “Auto Hop,” feature allows Dish Network subs to automatically skip all commercials during prime-time shows**
- **Fox filed Motion in Support Preliminary Injunction**
- **Dish filed Amended Compliant**
- **Dish wrapped itself in the *Sony* flag in opposition motion**



Sony BMG Music Entertainment v. Joel Tenebaum (D. Mass.)

- **District Court upheld \$675,000 damages award against former Boston University student for willful infringement by downloading 31 songs from file-sharing Web site and distributing them**
- **Damages award found not to be excessive both on common law and constitutional grounds**

Megaupload Update

- **Megaupload asked US District Court judge to dismiss the criminal case**
 - **DOJ seized assets without serving charges**
 - **Didn't even attempt to serve**
- **Oct. 9th Judge O'Grady rejected motion**
 - **Doubt Congress would approve procedural rule permitting intentionally violating the law but evade jurisdiction**
 - **May be able to serve officers**

Megaupload Update



Legislative Developments

- H. Con. Res. 127 –
 - House passes a resolution supporting a multi-stakeholder Internet governance model



Legislation: International

- ❖ Australian Law Reform Commission released consultation paper entitled, “Copyright and the Digital Economy,” as part of top-to-bottom review of the country’s Copyright Act
- ❖ March 2012 VideoLan filed petition with HADOPI for advisory opinion regarding VLC media player and Blu-Ray AACIS/BD+ protection measures still pending – press reports of VideoLan-HADOPI meeting
- ❖ Panama’s Congress votes to pass strong new copyright law (Bill 510)

International

- ❖ **First person convicted under France's anti-piracy, three-strikes law**
 - **Blame the wife**
 - **Judge ruled that Alain Prevest must pay €150 fine**
- ❖ **Dutch Supreme Court asked ECJ whether downloading pirated material for personal use is legal, it is currently considered acceptable in the Netherlands**
 - **Can a private copy only be legal if carried out from a legal source under the EU Copyright Directive?**
- ❖ **Nintendo requested preliminary ruling by the ECJ in case involving scope of technological measures covered by the EU Copyright Directive**

A nighttime photograph of the United States Capitol building in Washington, D.C. The building is illuminated, and its iconic dome is the central focus. In the foreground, a multi-lane road is filled with light trails from moving vehicles, creating streaks of white, yellow, and red. The sky is dark with some light clouds. The text "Thank You" is overlaid in red, bold, sans-serif font across the middle of the image.

Thank You

Jim Burger