In Memory
Scott J. Fierstein
DVD CCA Board Member
CPAC Representative
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.
- The “Auto Hop” Litigation Update
- Sony BMG Music Entertainment, et al. v. Joel Tenebaum
- Megaupload Update

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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

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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 a top-to-bottom review of the country’s Copyright Act.
- March 2012 VideoLan filed a petition with HADOPI for an advisory opinion regarding VLC media player and Blu-Ray AACS/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 Prevost 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
Thank You

Jim Burger