



Class 15: Copying (Probative Similarity)

Administrative

Next Time: 616-43 (through Note 10)

In-Class Exercise

Roles handed out last Friday.

Three congressmen, and they will be voting. They will set the "Agenda" -- topics that will be discussed and specific paragraphs within HR 5439 on which to focus.

The Agenda will be distributed before the weekend, and you'll be given the chance to add your name to the speakers' list (and to try out Google Docs).

15 minutes for each agenda topic.

Mix of discussion between the general and the specific. The Congressmen will run the debate; I'll keep time. They are empowered to ask you questions

Tech Mondays

SEND YOUR GOOGLE IDs TO ME!

gmail.com anyone can register

Last Time

Music

Problems

Section 115 and the Derivative Works/"Fundamental Character" distinction.

Before the show, they play Anna's CD to the waiting crowd.

Note 17 (477): Famed hip hop sensation Polar Bear samples Anna's voice singing "4:30" (three notes/syllables) and loops it in the background of his new hit single. Millions of sales.

I rushed through this one and botched it at the end of class.

Max has a public performance right, and that is infringed here.

ANNA has NO public performance right. 114(a) and 106(5) both make that clear.

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Last Time

Music → Ringtones Opinion

Basic Facts

Who are the Parties?

RIAA

Represent the Artists. Association of record companies. The record companies underwrite the production, are assigned rights from the performers, etc.

Question: What type of Copr do they typically own?

NMPA, SGA, NSAI

Represent the songwriters. Associations made up of businesses who have contracted with songwriters. Some of these are also performers, but many aren't.

Question: What type of Copr?

Strangeness: music publishers that make up the NMPA, etc., are subsidiaries of the record companies (Warner, EMI, Song/BMG, Universal) who make up the RIAA.

Interecine battle

Who is Harry Fox? → Subsidiary of NMPA.

Ringtone Types

- 30 seconds long
- Synthesized
 - Monophonic
 - Polyphonic
- Mastertones

Ringtone Licensing

Ringtone distribution companies want to sell snippets to mobile phone users.

What rights are typically implicated?

- Distribution ⊙
- Reproduction
- Adaptation
- Public Performance

Who should they talk to for a license?

Definitely the publishers (MW)
For some kinds of ringtones, based on the masters, also need the RIAA.

Who is owed more?

- Typically
 - 20-40% to the labels.
 - 10% to the publishers.
 - AND, ringtone publishers charge back the 10% to the labels.

This is why RIAA wants to use the compulsory license

- Song can sells for \$2.99/per.
 - RIAA: \$.60 - \$1.20
 - Publishers: \$.30
- 9.1 cents per song.

Procedure

- RIAA complained to the CRB (439)
 - Duties: Fact finding and rate determinations.
- Novel questions of law sent to Register, whose decisions are binding.

Held

- Fits within 115 at all?
- A Derivative work?
- An arrangement?
- Fundamental Character
- Private Use?

Ima ⊙

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