

Class 23: Remedies

Injunctions

Standard

Note 4-8: Circuit Split

2d/9th More Streamlined

2d:

EITHER

Probable success on the merits
Sufficiently serious questions going to the merits AND a balance of hardships tipping decidedly in movant's favor.

9th

EITHER

Likelihood of success on the merits
Serious questions going to the merits were raised AND a balance of hardships tipping SHARPLY in movant's favor.

Presumption

Possibility of irreparable harm AND

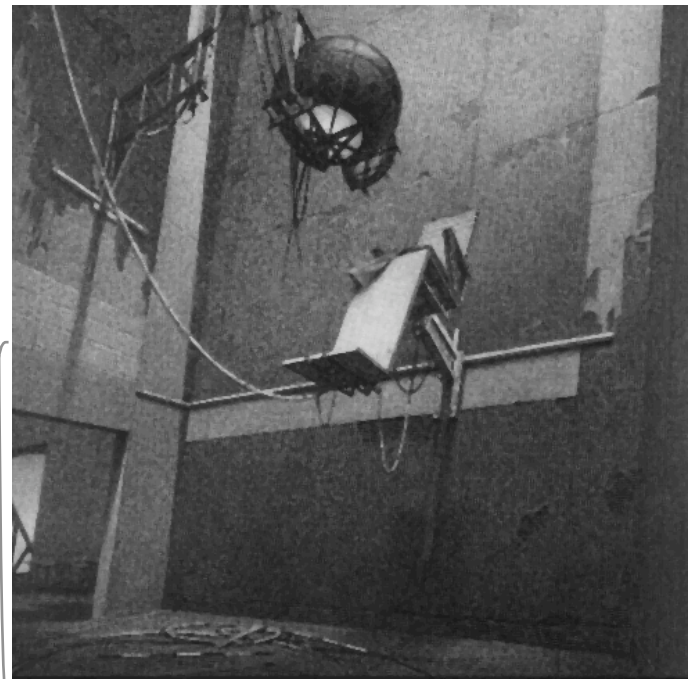
AND the possibility of irreparable harm

Some other circuits use traditional test

Threat of irreparable harm
Balance between this harm and injury to D of injunction.
Probability of success on the merits
Promotion of the public interest

Presuming Irreparable Harm (Note 5)

Balance of Hardships ↪ 12 Monkeys



Video

Note 9: Public Interest factor.

Note 10: More sparing use for technology?

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Damages

Actual Damages and Profits — No double counting allowed.

Statutory Damages — 504(c) { Procedure (c)(1)
Amount (c)(1)

Policy

Columbia v. Krypton (Feltner)

Basic Facts

P owns rights to TV shows: Who's the Boss?
Silver Spoons? Hart to Hart? T.J. Hooker.



P Owns

D owns three TV stations in the Southeast.

P "clearly terminated" licenses. — D showed 25 more episodes

P sued. — D showed 415 more episodes

Dist Ct
Held (CA9)
Subsequently

Willfulness

How to Count/Multiply

Limits?

Should there be a presumptive maximum ratio? (Note 4)

Should Copr. serve a punitive purpose?

RIAA: Sues people for \$750/song.