

Class 25: Preemption

Admin

- No Class Thursday
- Tuesday: 356-62; 368-79; section 203
 - Also Skim: 383-85; 400-04; 411-16
- Past exams posted
- Review Sessions
 - Thursday, 4/24, 1pm
 - Wednesday, 4/30, 10am (Rm 207)
- News
 - JK Rowling Testifies 🌐
 - 200,000 Books 🌐
 - Song Charts 🌐
 - "Rescuing" public documents from private websites 🌐

Last Time

- EFF/RIAA Debate
 - If you missed, DVDs available starting tomorrow
- Remedies

If you send me your mailbox #, I will have someone leave a disc for you.

Class 25: Preemption

State Law Preemption

State Laws

Appropriation

INS v. AP

Facts

Rival news organizations
Early editions
Publicly posted copies on bulletin boards
INS would copy news from early editions on the East Coast in time to make their deadlines on the West Coast
More Facts: During WWI, INS published positions strongly sympathetic to the Germans, so British and French authorities cut them off from the front lines.

Held

Upheld common law power to protect IP in "hot news" through misappropriation

Reasoning

Elements of state law listed on 922.

- Boat Hull Design
- Protection of SR before Copr. protected SR
- Unfixed bootlegs
- Database protection
- Trespass to Chattels

Statutory Preemption

NBA v. Motorola

"SportsTrax" pager.

About NBA games in progress, pager displays

- teams playing
- score changes
- team with ball
- team with bonus quarter
- time left in quarter
- every 2-3 minutes

"Fed" by employees watching the game on TV or listening on radio.

Second Circuit, 1997

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State Law Preemption

Constitutional Preemption

