

Class 18: Direct and Secondary Liability

Administrative

Next Time Spring Break!

After Spring Break Monday: 525-61; §107
Wednesday: 561-73, Supp. 450-54

News Wednesdays Sony buys MJ's back catalog  Guaranteed \$250 Million
Amazing Mashup  "Especially high royalty rate"

Drafting Exercise Details finally posted to website
Due April 14th
Assignment scaled back

Exam In answering these problems, you may consult any written materials you wish. You may also consult electronic materials stored locally on your computer and any materials hosted on our class website, <http://paulohm.com/classes/copr10/> . You may not use the Internet to discuss the exam or assist you with the exam in any other way.

Class 18: Direct and Secondary Liability

Last Time

Reproduction, Distribution, Derivative Work Rights

Section 114 and Sampling

Section 115: Compulsory Licenses and Cover Versions

Basic Idea: Recording artists can record "cover versions" of previously distributed songs

Section 114: No protection for sound-alikes

Text III

(Loud) DJ Skee featuring Charles Hamilton

Listen

P: Improvisational Jazz piece

P recorded version, but licensed rights to label for \$5000

D pays label \$1000 for right to sample SR

Only MW at issue in this case

District Court: SJ for D

Newton v. Diamond

Facts

Held

Reasoning

Listen

Three note combination riff at start of P's song that lasts four seconds

"High-pitched whirling sound"

two-second sample

pitch lowered

D's sample

looped and extended to 16 beats

7 seconds

Appears 5 places in D's song

Facts

D got a license from MW owners

Same P owns MW and SR

Who is Bridgeport Music?

District Court

SJ for D

No reasonable juror would recognize the source of the sample

Held

Reasoning

Mash-Ups

Danger Mouse / Grey Album

YouTube icon

"Released" blank CD-R

Kutiman

Girl Talk

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Last Time

Public Performance Rights

A few more problems

The Glee kids, having complied with the compulsory license rules, start selling their hit cover of Single Ladies. They sell millions

A local radio station begins to play the song over the air

They go on tour, and in the big encore, perform their cover of the song

Before the show, they play Beyonce's version of song from CD to the waiting crowd

ASCAP / BMI / SESAC

Collective Rights Organizations

Deal with the transaction costs problem. Negotiate with one, covers many

Talk about lawyers who do this for a living

Brochures 

How much? RateCalc 

Summary for college radio 

Digital Rights

Section 110 Revisited

Emerging battlegrounds