

Class 19: Third-Party Liability

Administrative

Next Time: 633-40;
640-42; 650-54; 787-88;
790-95 (skip Murphy
Bed)
Longest assignment of year





Last Time

Parodies /
Transformative Uses

Campbell v. Acuff-Rose

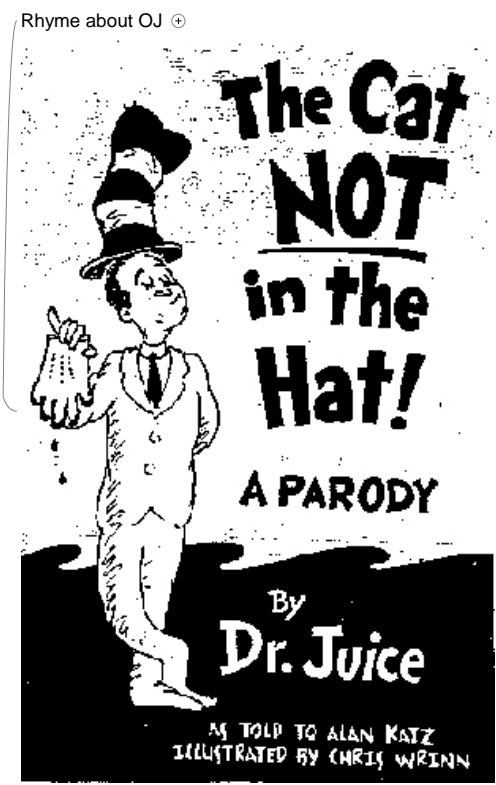
Chris Achetz
Basic Facts ⊕
Held (Supreme Ct. 1994)

Reasoning

- Parody — Test for whether something is a parody — Other Hypos
 - Queen 
 - Shining 
 - Ten Commandments 
 - Weird Al 
- 1. Character and Purpose of Use
- 2. Nature of the copyrighted work
- 3. Amount and Substantiality of the Portion Used
- 4. Effect of the use on the market

Other examples

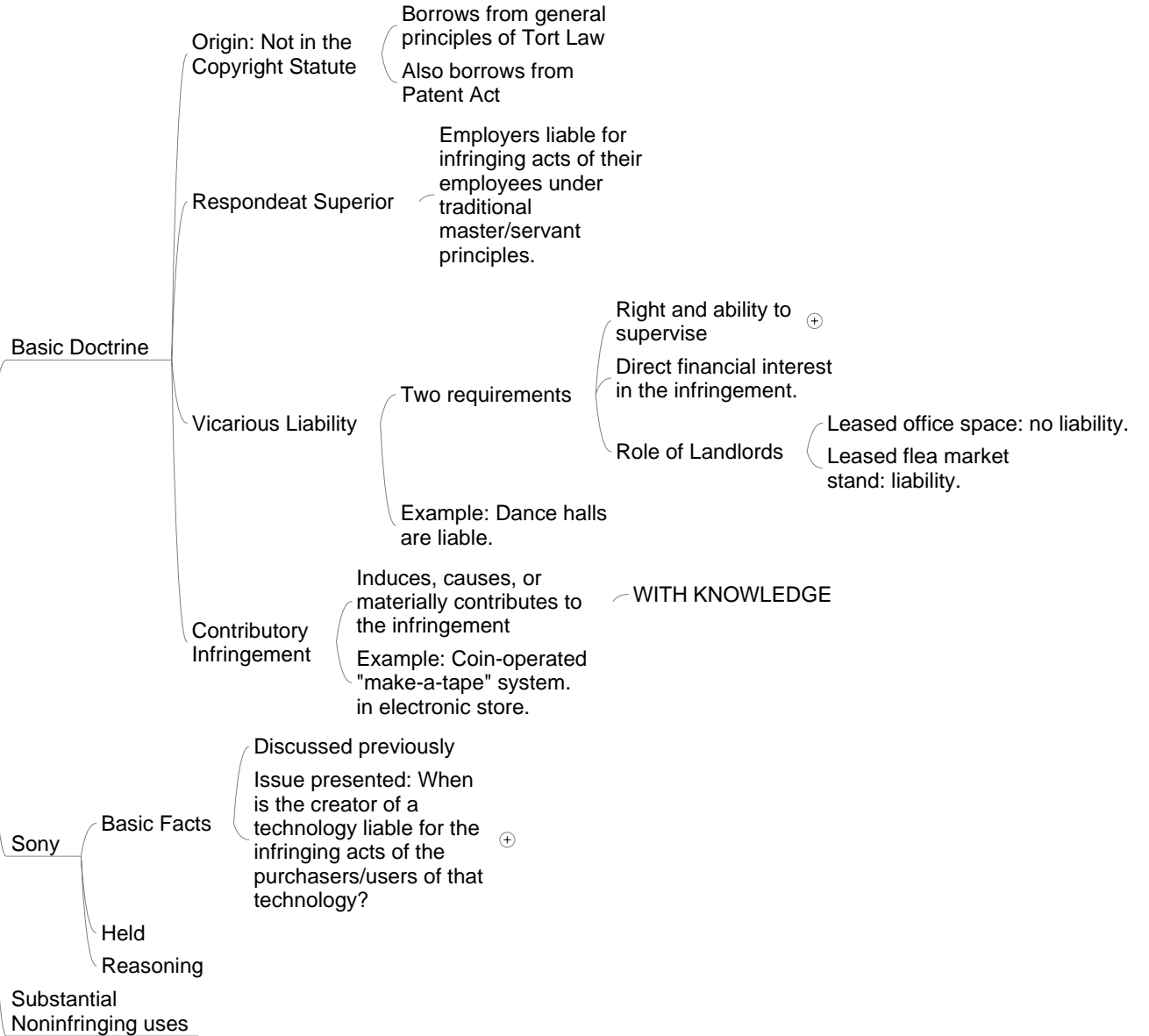
Note 4: Dr. Seuss: Cat NOT in the Hat.



Note 5: The Wind Done Gone

Class 19: Third-Party Liability

Third-Party Liability



Class 19: Third-Party Liability

Grokster Inducement Liability

P2P Network Technology Primer

Tech Caveat

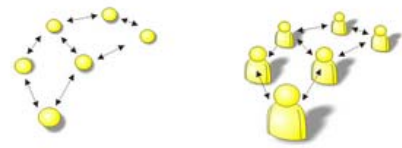
FTP Sites of early 1990's



Images courtesy of http://www.vs.uni-kassel.de/systems/index.php/Architectural_Model

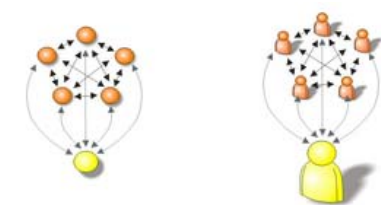
Centralized Servers

Pure p2p



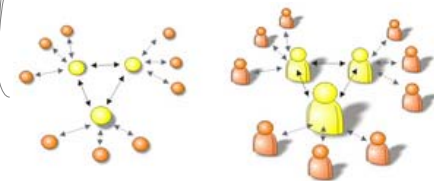
Napster ⊕

Centralized-p2p Hybrids



Grokster (Nearly) = "Supernodes"

(Nearly) Fully decentralized p2p



Grokster v. MGM

Basic Facts

Over 100 million copies of software distributed

"The probable scope of copyright infringement is staggering"

Evidence of Intent ⊕

Breyer: 10% noninfringing

Ginsburg contradicts in FN3: The 10% are merely files for which there is "not enough information to form reasonable conclusions"

Non-Infringing Uses

Note: figure is files shared, not files traded. Does that matter?

Examples of noninfringing uses

Shakespeare (noncopyrighted)
Authorization (Wilco, Pearl Jam)

Held

Reasoning ⊕

Advice for next big thing?