

Significant Developments in Copyright and Trademark Law: From Jailbreaking Phones to Johnny Football

By Joshua G. Jones for the Austin IPLA

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Why is this news? Paradigm shift.

Enter Aereo



Wnet v. Aereo 12-2786-cv (2d. Cir.)

2d Circuit agrees with Mr. Diller...9th not so much.

First Sale Doctrine



Amstar v. John Wiley & Sons SCOTUS 2013

Could impact publishers' ability to differentiate prices by market.

It's a Bird, It's a Plane

No it's...

Another Superman Copyright case.

Was there a settlement agreement?

The Lesson?

Never agree to mediation.

DMCA Issues

Viacom v. Youtube 1:07-cv-02103 (S.D.N.Y.)-
The Safe Harbor Provision

Creative Lawyering - Safe Harbor an
Affirmative defense?

Not so fast. Argument an "anachronistic, pre-
DMCA, concept."

More DMCA - Jailbreaking Phones

Also referred to as rooting.

Prohibited by the DMCA.

Exemptions granted in 2006 and 2010.

The rulemaking is a technical, legal proceeding and involves a lengthy public process. It requires the Librarian of Congress and the Register of Copyrights to consider exemptions to the prohibitions on circumvention, based on a factual record developed by the proponents and other interested parties. The officials must consider whether the evidence establishes a need for the exemption based on several statutory factors. It does not permit the U.S. Copyright Office to create permanent exemptions to the law.

On to Trademarks

Already, LLC v. Nike, Inc. SCOTUS (2013)

Nike filed TM lawsuit against Already, another shoe maker.

Already countersued to void Nike's marks.

Are you clearing your marks?



Boldface v. By Lee Tillett - CV-12-10269(C.D.CA)

Renamed to... Kardashian Beauty

More Clearance Issues

Timelines v. Facebook 11-cv-06867 (N.D. Ill)

Facebook lost bid to have lawsuit dismissed

Changing Gears

This is Austin...



Washington State contemplating taxing cannabis TMs.

Bill proposes tax of \$3.60 per \$1000 of assessed TM value.

What will happen as more states legalize? USPTO flirtation.

For now state registrations.

Speaking of State TMs

The lowly state trademark registration.

Time to rethink?

New Texas Act allows for triple damages.

Sec. of State now conducts a USPTO search and will reject state apps based on 2(d) if conflict.

Now For the A&M Fans



Manziel has filed trademark registration for "Johnny Football."

Not allowed to profit from the use of his name.
Collides with antitrust suit.