

Copyright

September 2011 / Volume 35, Issue #9

Divided 2nd Circuit Panel Rejects Class, Settlement in Database Copyright Case

NEW YORK — The majority in a Second Circuit U.S. Court of Appeals panel on Aug. 17 held that a lower court abused its discretion in certifying a class of freelance writers that objected to use of their works in electronic databases, finding that the named plaintiffs failed to adequately represent the interests of all class members. [SEE PAGE 4.](#)

Musician's Quest For Internet Royalties Is Time-Barred, Judge Rules

LOS ANGELES — Noted funk musician George Clinton saw his claim for alleged underpayment of royalties for Internet downloads of his songs dismissed by a California federal judge on Aug. 9 who held that the musician did not provide the necessary "specific objection" to the royalties within the speed three-year statute of limitations. [SEE PAGE 6.](#)

California Federal Judge Grants Discovery Request in P2P Copyright Case

SAN FRANCISCO — A request by a copyright infringement plaintiff for expedited discovery to learn the identities of 2,500 Doe defendants was granted Aug. 24 by a California federal judge. [SEE PAGE 8.](#)

3rd Circuit Affirms Summary Judgment On Copyright Claims

PHILADELPHIA — A Pennsylvania federal judge did not err in dismissing copyright infringement claims asserted against a publisher, the Third Circuit U.S. Court of Appeals ruled Aug. 12. [SEE PAGE 9.](#)

Judge Finds Online File Storage Service Is Not Just 'A Passive Conduit'

SAN DIEGO — A California federal judge on July 27 rejected an argument by online file storage service Megaupload Limited that it is "merely a passive conduit" on which third parties committed infringing acts, denying its motion to dismiss direct and contributory copyright infringement claims against it. [SEE PAGE 9.](#)

9th Circuit Reverses Jurisdictional Holding in California Copyright Case

SAN FRANCISCO — Although the operation of a celebrity gossip site are not subject to general personal jurisdiction in California, they are subject to specific personal jurisdiction based on their contact there, the Ninth Circuit U.S. Court of Appeals ruled Aug. 9. [SEE PAGE 11.](#)

Nebraska Federal Judge Transfers Copyright Case To Oregon

OMAHA, Neb. — The upload by a copyright infringement defendants of an allegedly infringing song to YouTube and iTunes "does not give rise to the requisite level of contact necessary to satisfy the constitutional requirements of due process," a Nebraska federal judge ruled Aug. 10. [SEE PAGE 12.](#)

Judge Finds E-Newsletter Dispute Centered in Texas; Denies Dismissal

DALLAS — Because the defendants "deliberately reached out" to the plaintiff in Dallas and established a contractual business relationship that was centered there, a Texas federal judge on Aug. 10 held that jurisdiction in the state was proper and denied a motion to dismiss. [SEE PAGE 13.](#)

9th Circuit Vacates Injunction in Aircraft Stand Copyright Case

SAN FRANCISCO — A Montana federal judge erred in presuming that impermissible terms exist in a copyright infringement case where the plaintiff successfully showed a likelihood of success on the merits of its claim, the Ninth Circuit U.S. Court of Appeals held Aug. 22. [SEE PAGE 15.](#)

Mealeys Litigation Report 1 07

**Paula Jarzabkowski, Rebecca
Bednarek, Paul Spee**



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