

Quotations

From sidebar of "[Recording Industry vs. The People](#)" by Ray Beckerman

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"The concern of this Court is that in these lawsuits, potentially meritorious legal and factual defenses are not being litigated, and instead, the federal judiciary is being used as a hammer by a small group of plaintiffs to pound settlements out of unrepresented defendants."

-Hon. S. James Otero

District Judge

Central District of California

March 2, 2007

Elektra v. O'Brien

2007 ILRWeb (P&F) 1555

"“[W]ithout actual distribution of copies.... there is no violation [of] the distribution right.” 4 William F. Patry, Patry on Copyright § 13:9 (2007); see also id. N. 10 (collecting cases); Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146, 1162 (9th Cir. 2007)(affirming the district court’s finding “that distribution requires an ‘actual dissemination’ of a copy”)." .

-Hon. Janet Bond Arterton

District Judge

District of Connecticut

February 13, 2008

Atlantic v. Brennan

-- F.Supp.2d --, 2008 WL 445819

"Plaintiff ... must present at least some facts to show the plausibility of their allegations of copyright infringement....However, Plaintiffs have presented no facts that would indicate that this allegation is anything more than

speculation."

-Hon. Rudi M. Brewster
Senior District Judge
Southern District of California
August 17, 2007
[*Interscope v. Rodriguez*](#)
2007 WL 2408484

"Rule 11(b)(3) requires that a representation in a pleading have evidentiary support and one wonders if the Plaintiffs are intentionally flouting that requirement in order to make their discovery efforts more convenient or to avoid paying the proper filing fees. In my view, the Court would be well within its power to direct the Plaintiffs to show cause why they have not violated Rule 11(b) with their allegations respecting joinder. "

-Hon. Margaret J. Kravchuk
Magistrate Judge
District of Maine
January 25, 2008
[*Arista v. Does 1-27*](#)
2008 WL 222283

"If this were to become a more typical course in prosecuting the type of allegations faced by defendant, it is reasonably foreseeable that members of the public would be more hesitant to use the Internet to share creative works in general, regardless of whether their specific conduct violated copyright law or occupied an area yet to be addressed by copyright law. Copyright holders generally, and these plaintiffs specifically, should be deterred from prosecuting infringement claims as plaintiffs did in this case. "

-Hon. Donald C. Ashmanskas
Magistrate Judge
District of Oregon
September 21, 2007
[*Atlantic v. Andersen*](#)
2008 WL 185806

"Plaintiffs are ordered to file any future cases of this nature against one defendant at a time, and may not join defendants for their convenience."

-Hon. Sam Sparks

-Hon. Lee Yeakel
District Judges
Western District of Texas
November 17, 2004
[Fonovisa v. Does 1-41](#)
2004 ILRWeb (P&F) 3053

"[A]n overwhelming majority of cases brought by recording companies against individuals are resolved without so much as an appearance by the defendant, usually through default judgment or stipulated dismissal.....The Defendant Does cannot question the propriety of joinder if they do not set foot in the courthouse."

-Hon. S. James Otero
Central District of California
August 29, 2007
[SONY BMG v. Does 1-5](#)
2007 ILRWeb (P&F) 2535

"[N]either Florida's litigation privilege nor the Noerr-Pennington Doctrine serves as a shield for sham litigation."

-Hon. Richard A. Lazzara
District Judge
Middle District of Florida
September 19, 2007
[UMG v. Del Cid](#)
2007 ILRWeb (P&F) 2721

"[N]either the parties' submissions nor the Court's own research has revealed any case holding the mere owner of an internet account contributorily or vicariously liable for the infringing activities of third persons.....In addition to the weakness of the secondary copyright infringement claims against Ms. Foster, there is a question of the plaintiffs' motivations in pursuing them..... [T]here is an appearance that the plaintiffs initiated the secondary infringement claims to press Ms. Foster into settlement after they had ceased to believe she was a direct or "primary" infringer."

-Hon. Lee R. West
District Judge
Western District of Oklahoma
February 6, 2007

[Capitol v. Foster](#)

2007 WL 1028532

"The Court is unaware of any other authority that authorizes the ex parte subpoena requested by plaintiffs."

-Hon. Walter D. Kelley, Jr.

District Judge

Eastern District of Virginia

July 12, 2007

[Interscope v. Does 1-7](#)

494 F. Supp. 2d 388

"Plaintiffs contend that unless the Court allows ex parte immediate discovery, they will be irreparably harmed. While the Court does not dispute that infringement of a copyright results in harm, it requires a Coleridgian "suspension of disbelief" to accept that the harm is irreparable, especially when monetary damages can cure any alleged violation. On the other hand, the harm related to disclosure of confidential information in a student or faculty member's Internet files can be equally harmful.....Moreover, ex parte proceedings should be the exception, not the rule."

-Hon. Lorenzo F. Garcia

Magistrate Judge

District of New Mexico

May 24, 2007

[Capitol v. Does 1-16](#)

2007 WL 1893603

"[T]he inducement rule.... is a sensible one for copyright. We adopt it here, holding that one who distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement, is liable for the resulting acts of infringement by third parties.....One infringes contributorily by intentionally inducing or encouraging direct infringement...."

-Hon. David H. Souter, for the Court

Justice

U.S. Supreme Court

June 27, 2005

[MGM v. Grokster](#)

545 U.S. 913

"[P]laintiffs can cite to no case foreclosing the applicability of the due process clause to the aggregation of minimum statutory damages proscribed under the Copyright Act. On the other hand, Lindor cites to case law and to law review articles suggesting that, in a proper case, a court may extend its current due process jurisprudence prohibiting grossly excessive punitive jury awards to prohibit the award of statutory damages mandated under the Copyright Act if they are grossly in excess of the actual damages suffered....."

-Hon. David G. Trager

Senior District Judge

Eastern District of New York

November 9, 2006

[UMG v. Lindor](#)

2006 WL 3335048

"[D]istributing unlawful copies of a copyrighted work does violate the copyright owner's distribution right and, as a result, constitutes copyright infringement. In order to establish "distribution" of a copyrighted work, a party must show that an unlawful copy was disseminated "to the public." 17 U.S.C. § 106(3); see *National Car Rental v. Computer Associates*, 991 F.2d 426, 434 (8th Cir. 1993); 2 Nimmer, § 8.11[A] at 8-137."

-Hon. John D. Butzner, Jr.

Fourth Circuit

June 30, 1997

[Hotaling v. Church of Jesus Christ of Latter-Day Saints](#)

118 F.3d 199