

An Overview of Recent Intellectual Property Decisions

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From athletic wear, to music, restaurants and artificial intelligence, intellectual property issues span across a variety of industries. Below is a comprehensive look at some recent developments and decisions affecting the entertainment and intellectual property spaces.

Sony Music Publishing v. Anthropic PBC—On August 28, 2026, Sony Music Publishing (US) LLC, Warner Chappell Music, Inc., and several other music publishers (plaintiffs) filed a complaint in the Northern District of California against defendants Anthropic and its founders, Dario Amodei and Benjamin Mann, accusing defendants of “illegally torrenting, scraping, and downloading copyrighted works on a massive scale in order to develop, operate, and reap enormous profits from Anthropic’s ‘Claude’ series of artificial intelligence models.” The complaint specifically references the 2025 class action, *Bartz v. Anthropic PBC*, wherein the Northern District of California found that defendants illegally torrented over seven million copyrighted books from online pirate sites. Anthropic settled *Bartz* for \$1.5 billion. Plaintiffs’ complaint alleges that defendants continue to engage in flagrant piracy, even in the wake of *Bartz*, as millions of the books that defendants torrented from the illegal pirate websites were books containing lyrics and sheet music to hundreds of plaintiffs’ copyrighted musical compositions, including massive hits such as “Livin’ On a Prayer,” “September,” “Great Balls of Fire,” “Ramblin’ Man,” and “Hallelujah”. At a minimum, plaintiffs allege that defendants violated plaintiffs’ exclusive rights of reproduction and distribution associated with the pirated works and that such actions deprive plaintiffs of license fees, potential and existing licensing markets, and diminish the overall value of the pirated works. Plaintiffs further allege that defendants intentionally removed and altered copyright management information (CMI) as to the plaintiffs’ musical works during the data preparation and training process, thereby removing vital identifying information and proper attribution. The suit asserts direct and contributory copyright infringement pursuant to 17 U.S.C. § 106, and violations of CMI protections under 17 U.S.C. § 1202 and seeks equitable and monetary relief. Defendants have until October 27, 2026, to respond to plaintiffs’ complaint. The case, initially assigned to Judge Edward M. Chen, was transferred to Judge Eumi K. Lee based on its direct relation to the ongoing *Concord Music Group v. Anthropic* litigation. The Initial Case Management Conference is scheduled for December 16, 2026.

Cox Communications v. Sony Music Entertainment—On March 25, 2026, the US Supreme Court reversed and remanded the Court of Appeals for the Fourth Circuit’s decision affirming Sony Music Entertainment’s verdict against Cox Communications on secondary copyright liability. Sony Music Entertainment sued Cox Communications, Inc., an internet service provider, in the Eastern District of Virginia, based on two theories of secondary copyright liability. First, Sony alleged that Cox was contributorily liable for its users’ infringement by continuing to provide internet service to subscribers whose IP addresses Cox knew were associated with infringement of Sony’s works from illegally downloaded music. Second, Sony alleged that Cox was vicariously liable for its users’ infringement because Cox provided paying subscribers with internet that was then used to infringe. Sony alleged that Cox was willfully infringing over 10,000 copyrighted works, which subjected it to up to \$1.5 billion in statutory damages. The jury returned a verdict for Sony on both theories, determined that Cox’s infringement was willful, and awarded \$1 billion in statutory damages. The district court denied Cox’s post-trial motion for judgment as a matter of law, in relevant part. The Fourth Circuit affirmed as to contributory liability because Cox continued to provide internet service to known infringers and reversed as to vicarious liability because it concluded that Cox did not receive a direct financial benefit from its subscribers’ infringement. The court then vacated the damages award and remanded for the jury to reassess based solely on contributory liability.

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The US Supreme Court granted Cox's petition for a writ of certiorari as to contributory liability and denied Sony's petition for a writ of certiorari as to vicarious liability. In an opinion delivered by Justice Thomas in which Justices Roberts, Alito, Kagan, Gorsuch, Kavanaugh, and Barrett joined, the court held that Cox is not contributorily liable for the infringement because although it provided internet service to its subscribers, it did not intend for that service to be used to commit copyright infringement. The court cautioned that holding Cox liable for merely failing to terminate internet service to infringing subscribers would expand secondary liability beyond the Supreme Court's precedent. In fact, the court determined that the Fourth Circuit found otherwise based only on its circuit's precedent establishing a new form of contributory liability. The circuit court held that "supplying a product with knowledge that the recipient will use it to infringe copyrights is... sufficient for contributory infringement," thus going beyond the two forms of liability recognized by the Supreme Court in *Grokster* and *Sony*, and conflicting with the Supreme Court's repeated caution that contributory liability cannot rest solely on a provider's knowledge of infringement and insufficient action to prevent it. Sony further argued that the safe harbor under the Digital Millennium Copyright Act (DMCA), protecting internet service providers that terminate repeated infringers in "appropriate circumstances," would have no effect if internet service providers were not liable for providing internet service to known infringement. The Supreme Court held that Sony overread the DMCA and that the DMCA merely creates new defenses from liability for such providers and made clear that failure to comply with the safe harbor rules shall not be used adversely upon a provider's defense that the provider's conduct is not infringement.

In a concurring opinion by Justice Sotomayor and joined by Justice Jackson, the Justices criticize how the majority unnecessarily limits secondary liability despite court precedent having left open the possibility that other common-law theories, like aiding-and-abetting could apply in the copyright context. Justice Sotomayor cautions that by ignoring these past decisions, the majority upended the statutory incentive structure that Congress created. The concurring opinion agrees that Cox cannot be held liable because Sony cannot prove that Cox had the requisite intent to aid copyright infringement for Cox to be liable on a common-law aiding-and-abetting theory. The concurrence criticizes the majority's failure to mention that *Grokster* expressly held the door open to other common-law liability rules, ignoring *stare decisis*. The opinion also discusses that the majority dismantled the statutory incentive structure of the DMCA, by permitting internet service providers to sell an internet connection to every infringer without fear of liability and doing nothing to prevent infringement. The Justices then discuss common law aiding-and-abetting and hold that the record could not support finding the necessary intent for aiding-and-abetting; merely supplying internet service to customers is not inherently culpable, and Sony has not shown that Cox intended to aid specific instances of infringement. Furthermore, without proof that Cox knew more about individual instances of infringement, and without evidence of "pervasive, systemic, and culpable assistance," needed to support a more generalized theory of liability, Sony has shown at most that Cox was "indifferent" to infringement conduct.

Carnegie Hall v. Carnegie Diner & Café—On May 20, 2025, The Carnegie Hall Corporation filed a complaint against multiple defendants doing business as "Carnegie Diner & Café," alleging trademark infringement based on defendants' use of "Carnegie" in its chain of restaurants called the "Carnegie Diner and Café." The complaint alleged that the restaurants are themed in and focused on Carnegie Hall's brand. Carnegie Hall asserted that Carnegie Diner's owner and operator, defendant Antonakopoulos stated to the press that the diners were designed "to pay homage to Carnegie Hall." The fourteen-count complaint included photos of the similar interiors of Carnegie Hall and Carnegie Diner, social media posts by Carnegie Diner promoting acts at Carnegie Hall, and similar merchandise for sale at both unrelated venues. The case was assigned to a Magistrate Judge four months into litigation. In November 2025, the parties jointly moved for a protective order for discovery. The court ultimately granted the protective order as proposed by plaintiff. Defendants moved for reconsideration and re-argument, and a stay of particularized disclosures, arguing against the disclosure of discovery to Carnegie Hall's outside counsel. The motion deadlines and hearings were extended pending settlement discussions. After months of negotiations, and with the assistance of the court, the case was settled in January 2026 without the motion being heard.

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Kotero v. Paisley Park Enterprises LLC—On August 19, 2025, Patty Apollonia Kotero filed a complaint in the Central District of California against world-renowned artist Prince's estate (defendant), seeking a declaratory judgment preventing defendant from attempting to cancel Apollonia's trademark registrations and block her applications of the "Apollonia" trademark. In 1984, Kotero starred as the character "Apollonia" in Prince's film, "Purple Rain." Kotero performed music and acted under the name Apollonia for years, including releasing a self-entitled album "Apollonia," appearing in a variety of television shows, and later launching a podcast called "Apollonia Studio 6." Kotero obtained a federal trademark registration from the United States Patent and Trademark Office in 2017 for the mark "Apollonia 6" for use in entertainment services, citing a first use in commerce date of 1984. In 2018, Kotero obtained another trademark for the mark "Apollonia" in connection with entertainment services. Subsequently, Kotero applied for federal trademark registration of "Apollonia Studio 6" for audio production services, and "Apollonia" for entertainment services. Kotero alleged that defendant applied for a federal trademark registration of "Apollonia" for clothing and entertainment services, and sought cancellation of Kotero's "Apollonia" trademark, claiming ownership of the rights to the name under Kotero's contracts. In September 2025, defendant moved to dismiss the complaint for lack of subject matter jurisdiction, arguing that the complaint did not allege an actual case or controversy, other than the existence of a Trademark Trial and Appeal Board (TTAB) hearing, submitted a declaration purporting to establish that defendant had neither accused plaintiff of a trademark infringement nor threatened a lawsuit, and that the timing of plaintiff's complaint was a sidestep from the administrative process before the TTAB. The motion hearing date was moved while settlement negotiations were underway. Ultimately, the motion was not heard, and the case settled for an unknown amount in April 2026, after almost a year of litigation.

Lontex Corp. v. Nike—On January 17, 2024, the Third Circuit largely upheld the District Court for the Eastern District of Pennsylvania jury's verdict for Lontex in Lontex's trademark infringement suit against Nike for its "Cool Compression" trademark. Lontex Corporation, a small Pennsylvania business that manufactures and sells compression apparel to professional athletes and everyday consumers sued Nike Inc., for trademark infringement for use of "Cool Compression" on its clothing products. The jury awarded Lontex \$142,000 in compensatory damages and \$365,000 in punitive damages but declined to award Lontex disgorgement of Nike's profits. Post-trial motion practice included Nike's renewed motion for judgment as a matter of law on fair use, trademark infringement, contributory trademark infringement, willfulness and punitive damages, and Lontex's motion, among other things, for disgorgement of profits and trebling of damages. The district court granted Lontex's request for treble damages and increased the compensatory award to \$426,000 but denied Lontex's other motions. However, the district court awarded Lontex attorneys' fees close to \$5 million after a finding that the case was "exceptional" under the Lanham Act. Nike appealed the district court's orders denying its post-trial motions, the trebling of damages and award of attorneys' fees. Lontex cross appealed the order denying its post-trial motion for profit disgorgement and the pre-trial order dismissing its counterfeiting allegation.

In denying Nike's renewed motion for judgment as a matter of law, the district court determined that a reasonable jury could have found that Nike did not subjectively believe it had a right to use "Cool Compression" in view of its counsel's advice instructing the company to stop using "Cool Compression" "as soon as possible." Based on this, a reasonable jury could find that Nike's continued use of the trademark was willful infringement, and thus, the district court did not err. The Third Circuit used the same reasoning in holding that a reasonable jury could reject Nike's fair use defense, i.e., continued use after their own lawyer's advice, and that the district court did not err. The Third Circuit then balanced the ten *Lapp* factors to assess the likelihood of customer confusion. While the *Lapp* factors did not strongly support either party, in reviewing the evidence in the light most favorable to the verdict winner, Lontex, the court held that a reasonable jury could find that seven out of the ten factors increased the likelihood of confusion. As to contributory trademark infringement, the court determined that Nike knew its third-party retailers typically copied Nike's product names when selling its apparel, yet Nike continued to sell to these retailers for two years after being put on notice of the potential trademark violation and the advice of its counsel to stop using "Cool Compression." The Third Circuit held that this evidence was sufficient for a jury to find Nike liable for contributory infringement, and the

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district court did not err. As to punitive damages, Nike contested the availability of punitive damages under Pennsylvania law, which provides for punitive damages for “outrageous conduct.” The Third Circuit noted that “willful” and “reckless” conduct qualify as “outrageous,” and held that the evidence, including Nike's continued use of the trademark after its lawyer's review of the cease-and-desist letter and instruction to stop using the trademark, supports a jury finding of willfulness under the Lanham Act. The Third Circuit also upheld the trebling of damages based on the jury's finding of “willfulness.” In awarding attorneys' fees, the district court stated that enforcement of trademark laws is important; that Lontex is a small corporation that took on “a major United States Corporation with much larger resources”; and that trademark cases are expensive to litigate and that “as a matter of policy,” it is not realistic to expect a small company to pay major legal fees for a case like this. The Third Circuit then remanded the issue of attorney fees and directed the district court to apply *Octane Fitness* and *Fair Wind Sailing*.

As to Lontex's cross appeal on the dismissal of Lontex's counterfeiting allegation for failure to state claim, the Third Circuit discussed that “counterfeit” is a higher standard under the Lanham Act and determined that an ordinary consumer viewing the “Cool Compression” marks used by both parties would not find the marks “identical” or “substantially indistinguishable”. The Third Circuit held that the marks were similar enough to constitute general trademark infringement, but not “substantially indistinguishable” to determine counterfeiting. As to the claim of disgorgement of profits, the Third Circuit upheld the district court's decision based on an absence of a showing that the district court legally erred in its analysis.

On remand, the district court again awarded over \$5 million in attorneys' fees to Lontex. Nike again appealed this decision and Lontex cross-appealed. However, after oral argument and mediation, the parties settled and jointly moved for vacatur of the district court's ruling of attorneys' fees. In granting the joint motion, the district court discussed that a vacatur of an underlying decision based on actual or potential mootness of an appeal is an “extraordinary” form of relief, requiring a showing of “exceptional circumstances.” The district court held that exceptional circumstances were presented, in that the underlying decision announced precedential opinions that remain good law, the public's interest in the district court's challenged precedents is significantly reduced, and judicial economy achieved by the settlement outweighs the public's interest in those decisions by the district court.