Media, Entertainment and First Amendment Newsletter, January 2020

By Laura Lee Prather, Jason W. Whitney | February 11, 2020

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Federal Jury Slams Cox Communications with $1 Billion Verdict for Copyright Infringement

A Virginia federal court jury recently awarded a coalition of music industry copyright holders a $1 billion verdict against Cox Communications ("Cox"), the United States' third-largest Internet and cable television provider, after finding Cox guilty of both contributory and vicarious copyright infringement of a total of 10,017 works. Sony Music Entertainment, et al. v. Cox Communications, et al. Finding the infringement willful, the jury awarded $99,830.29 for each work infringed under the statutory damages range provided for in the Copyright Act. Multiplication of the number of works times the statutory damages awarded reveals a number slightly higher than $1 billion, perhaps exposing the jury's desire to aim for a large, round number in determining damages, and thereby punish Cox.
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Two Cases Raise New Copyright Infringement Concerns for Internet Linking

Modern communications platforms are often designed to maximize sharing of information, but this can produce vexing questions under copyright law, much of which remains rooted in traditional concepts of distribution and publication. An example is in-line linking, also called framing or embedding—code on one page that links to content (often images or videos) hosted elsewhere to produce an embedded view. Although U.S. law grants copyright owners exclusive display rights under 17 U.S.C. § 106(5), in-line linking was generally considered not to directly infringe these rights because embedded links merely provided instructions on how and where to access content, as opposed to providing the content itself for display. But two recent district court cases found that in-line linking or embedding can constitute direct infringement of display rights, creating new uncertainty over the ubiquitous practice.
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Finding Out How Tax Dollars are Spent: New Law in Effect January 1, 2020

After a series of court rulings, Texas went from one of the most transparent states to one of the least when it comes to finding out about how tax dollars are spent. The long awaited contracting transparency bill (SB 943) passed by the Texas Legislature last session went into effect on January 1, 2020.
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