DePaul University
University Libraries

DePaul Journal of Art, Technology & Intellectual Property Law

Volume 19
Issue 1 *Fall 2008*

Article 8

Capitol Records, Inc. v. Thomas 2008 WL 4405282 (D.Minn. Sept.24, 2008)

Megan Murphy

CAPITOL RECORDS, INC. V. THOMAS 2008 WL 4405282 (D.MINN. SEPT. 24, 2008)

I. INTRODUCTION

In a case involving alleged copyright infringement by a woman using a peer-to-peer file sharing application, the United States District Court for the District of Minnesota considered whether it should grant a new trial because it gave the jury an incorrect instruction of the law.[1] Plaintiffs, Capitol Records, Sony BMG Music Entertainment, Arista Records, Interscope Records, Warner Brothers Records, and UMG Recordings ("the recording companies" or "the companies"), are recording companies who filed a complaint alleging that the defendant, Jammie Thomas ("Thomas"), infringed twenty-four of their copyrighted materials by making them available for download on the peer-to-peer file sharing application, Kazaa.[2] The court decided to grant Thomas a new trial.[3]

II. BACKGROUND

A. Statutory Background

Section 106(3) of the Copyright Act provides that "the owner of the copyright under this title has the exclusive rights to do and to authorize any of the following: . . . (3) to distribute copies of

1. Capitol Records, Inc. v. Thomas, 579 F. Supp. 2d 1210, 1212 (D. Minn. 2008). Also before the court was defendant's motion for a new trial, or in the alternative, remittitur. Defendant asserted that the award of statutory damages was excessive and in violation of the due process clause of the U.S. Constitution. Additionally before the court was plaintiff's motion to amend judgment. Plaintiffs requested an injunction to stop the defendant from further infringement and requesting that she destroy her copies of the infringing material. *Id.*

2. *Id.*

3. *Id.* at 1228.

phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending."[4] However, "the Act does not define the term 'distribute,'" and courts disagree as to whether making copyrighted works available for distribution, without more, constitutes distribution.[5]

B. Factual Background

Plaintiffs are recording companies that owned or controlled exclusive copyrights to the twenty-four sound recordings at issue in this case.[6] Defendant, Jammie Thomas, is a single mother who allegedly downloaded songs from Kazaa, a peer-to-peer file sharing network, and made them available in a public folder to share with other Kazaa users.[7] An investigator for the recording companies downloaded the songs from Thomas's computer using Kazaa, and the companies filed a complaint against her, alleging that she infringed their copyrighted sound recordings pursuant to the Copyright Act.[8]

During the trial, the recording companies submitted a proposed jury instruction regarding the definition of distribution under the Copyright Act, and the court, over Thomas's objection, included it in the final jury instructions.[9] The instruction read, "The act of making copyrighted sound recordings available for electronic distribution on a peer-to-peer network, without license from the copyright owners, violates the copyright owners' exclusive right of distribution, regardless of whether actual distribution has been shown."[10] The jury found that Thomas had infringed all twenty-four of the copyrights and awarded the recording companies statutory damages of $9,250 per song, totaling $222,000.[11]

---

4. 17 U.S.C. § 106(3) (2006).
5. *Capitol Records*, 579 F. Supp. 2d at 1216.
6. *Id.* at 1212.
7. *See id.* at 1227.
8. *See id.* at 1212, 1214-15. Specifically, the recording companies alleged that Thomas violated 17 U.S.C. §§ 101, 106, 501-05 (2006). *Id.* at 1213.
9. *Id.*
10. *Id.* at 1213.
11. *Capitol Records*, 579 F. Supp. 2d at 1213.

C. Procedural History

After the judgment, Thomas filed a Motion for New Trial, or in the alternative, for Remittitur, on the issue of the constitutionality of the statutory damage award.[12] The recording companies then filed a Motion to Amend Judgment, requesting an injunction requiring Thomas to destroy all illegal copies of their copyrighted sound recordings in her possession and barring her from further infringement.[13] Seven months later, the court issued an order stating that it was contemplating granting a new trial on the ground that it erred by giving the jury an improper instruction.[14]

III. LEGAL ANALYSIS

A. Standard for Motion for a New Trial

The court explained that "[a]fter giving the parties notice and an opportunity to be heard, the court may grant a timely motion for a new trial for a reason not stated in the motion."[15] Thomas filed a motion for a new trial, and the court gave the parties notice of the possible alternative grounds for a new trial.[16] Both parties and Amici briefed the jury instruction issue and the court heard oral argument.[17]

The court has the power to grant a new trial on alternative grounds when a legal error at trial results in a miscarriage of justice.[18] The court quoted an Eighth Circuit case that explained, "[i]n reviewing a substantive challenge to jury instructions, the pertinent query is whether the instructions, taken as a whole and viewed in light of the evidence and applicable law, fairly and adequately submitted the issues in the case to the jury."[19]

---

12. *Id.*
13. *Id.*
14. *Id.* The court also ordered the parties to brief this issue and granted permission for five parties to file amicus briefs. *Id.*
15. *Id.* (quoting FED. R. CIV. P. 59(d)).
16. *Capitol Records*, 579 F. Supp. 2d at 1213.
17. *Id.*
18. *Id* at 1214..
19. *Id.* (quoting Horstmyer v. Black & Decker, (U.S.), Inc., 151 F.3d 765,

B. Prejudicial Effect of Any Error of Law

1. Standard

Thomas asserted that if the instruction was in error, the court must grant her a new trial because the Special Verdict Form did not specify why the jurors found her guilty of infringement, and it may have been because they believed she only made the songs available without actually distributing them.[20] The recording companies asserted that even if the instruction was in error, the court should still not grant Thomas a new trial because it had no effect on the jury.[21] They asserted that Thomas violated their reproduction right and that they proved their agent in fact downloaded songs from Thomas.[22]

A court will reverse a jury verdict only when the erroneous instruction affected a party's substantial rights, in that it misled the jury or had a probable effect on its verdict.[23] A judgment must be reversed when a court is unable to know whether the jury based its verdict on an impermissible ground.[24]

2. Reproduction Right

The recording companies asserted that even an erroneous instruction did not mislead the jury because they proved that Thomas violated their reproduction right, on which the jury was correctly instructed.[25] However, because the Special Verdict Form did not specify on which ground the jury based its decision, there was no way to know whether, even if the jury did find Thomas guilty on the reproduction right grounds, its high statutory damage award would have been the same.[26]

---

771 (8th Cir. 1998)).

20. *Id.*.
21. *Id.*
22. *Capitol Records*, 579 F. Supp. 2d at 1214..
23. *Id.*
24. *Id.*
25. *Id.*
26. *Id.*

3. Distribution to MediaSentry

The recording companies argued that even if establishing a violation of the distribution right required actual dissemination, a new trial should still not be granted because they established at trial that Thomas actually disseminated songs to their investigator, MediaSentry.[27] Thomas argued that a copyright owner cannot violate his own copyright, so a violation can only be established when the copyrighted material is distributed to someone other than the owner or his agent.[28]

While it is well established that a copyright owner cannot infringe his own copyright, the Eighth Circuit has held that an infringer will still be liable when he distributes copyrighted material to the copyright owner's investigator without authorization.[29]

The recording companies further argued that even if distribution required Thomas' active involvement, the acts of willfully reproducing copyrighted material and placing it in a shared folder for all to download from a network dedicated to illegal downloading met that requirement.[30] Thomas argued that her case was unique because, while in the precedential cases, the infringers actually aided in the distribution by helping the investigators make copies, here the investigators downloaded the songs on their own without her assistance.[31]

Thomas cited an Eighth Circuit case that held the infringers liable because they physically assisted the investigators in copying an entire tape, rather than simply providing a blank tape and demonstrating how to make a copy.[32] Thomas argued that her case was distinguishable because the investigators simply downloaded the songs from her computer, without ever having met or heard of her.[33]

---

27. *Id.*

28. *Capitol Records*, 579 F. Supp. 2d at 1214.

29. *Id.* at 1214-15 (citing Olan Mills, Inc. v. Linn Photo Co., 23 F.3d 1345, 1348 (8th Cir. 1994)).

30. *Id.* at 1215.

31. *See id.*

32. *Id.* Specifically, Thomas cited to RCA/Ariola International Inc. v. Thomas & Grayston Co., 845 F.2d 773 (8th Cir. 1988).

33. *Capitol Records*, 579 F. Supp. 2d at 1216.

The court held that Eighth Circuit precedent is clear in allowing distribution to an investigator to form the basis for an infringement claim.[34] It explained that while Thomas did not physically assist the investigators in copying the songs as in the precedent cases, she did aid them in a different and substantial way.[35] It reasoned that when Thomas copied the songs and placed them on a network designed for easy, unauthorized copying, she actually assisted more substantially than the infringers in the precedent cases who merely assisted in making copies of works the investigators provided.[36] However, because it was impossible to know if the jury based its conclusion on the erroneous instruction or how it affected its damage award, the court would still grant a new trial if it found the instruction to be in error.[37]

C. Plain Meaning of the Term Distribution

Both parties argued that the plain meaning of the statute, which presumptively expresses congressional intent, was in their favor.[38] Thomas argued that the plain language of the statute showed that distribution required transferring possession or ownership to another person, rather than simply making it available to another.[39] The record companies argued that the plain meaning showed that merely making the work available was enough.[40]

1. Statutory Language

The court first looked at the language of 17 U.S.C. § 106(3), which states how distribution can be performed, but which does not state that a mere offer to do these acts constitutes distribution.[41] It decided that an initial reading of the statute supported Thomas's argument.[42]

---

34. *Id.*
35. *Id.*
36. *Id.*
37. *Id.*
38. *Id.*
39. *See Capitol Records*, 579 F. Supp. 2d at 1216.
40. *Id.* at 1217.
41. *Id.*
42. *Id.*

2. Secondary Sources

The court explored the definition of distribution in both a dictionary and leading copyright treatises, and found that both supported Thomas's interpretation that an actual transfer was required.[43]

3. Opinion of the Register of Copyrights

The Register of Copyrights, in an opinion letter to Congress, expressed her belief that making a work available is enough to violate the distribution right, but the court said these letters were only persuasive rather than binding.[44]

4. Use of the Term in Other Provisions of the U.S. Code

In some provisions of the Copyright Act not at issue here, Congress explicitly defined distribution as including both the actual transfer and making the work available, while in others it was defined as only a physical transfer to another.[45] The court noted that because Congress made its intent to include making a work available clear in other provisions of the Act, but did not do so here, it indicated its decision not to include making a work available for distribution in its definition of distribution in this instance.[46]

The recording companies argued that in a separate title of the U.S. Code addressing criminal child pornography distribution, courts have interpreted the term distribute to include placing the material in shared folders available for download on a peer-to-peer network.[47] The court explained, however, that this case was distinguishable from a criminal context because there are penalties

43. *See id.* at *6

44. *Id* (citing Broadcast Music, Inc. v. Roger Miller Music, Inc., 396 F.3d 762, 778 (6th Cir. 2005)).

45. *Capitol Records*, 579 F. Supp. 2d at 1217; s*ee, e.g.*, 17 U.S.C. §§ 901(a)(4), 506(a)(1)(C), 115(c)(2).

46. *Capitol Records*, 579 F. Supp. 2d at 1218.

47. *Id.* at 1218 (citing 18 U.S.C. § 2252 (a)(2) (2006); United States v. Shaffer, 472 F.3d 1219 (10th Cir. 2007)).

for attempted crimes, but not for attempting to violate the Copyright Act, and because, in the criminal case, the violator knew others had downloaded the pornography from his computer.[48] Additionally, the court found that the Copyright Act and criminal law were unrelated and decided that the criminal law interpretation should not carry weight.[49]

The court also looked at the fact that Congress had added "offers to sell" to the Patent Act, a related field, but had not added "offer to distribute" to the Copyright Act.[50] Prior to the changed language, courts had interpreted the definition narrowly, not including offers to sell in the definition.[51] It explained that this information demonstrated two principles with regard to court and congressional intent: First, without a statutory definition, courts were likely to narrowly interpret liability to not include offers to sell.[52] Second, Congress can and will amend a statute when necessary to include liability for an offer to commit an act.[53]

The court concluded that based on the use of the term "distribution" in other parts of the Copyright Act and in the Patent Act, Congress did not intend to include offers to distribute in its definition of "distribution."[54]

E. Whether "Distribution" is Synonymous with "Publication"

The recording companies next argued that the term "distribution" was synonymous with the term "publication," which is defined in the Act to include both "distribution" and "offering to distribute."[55] Under that definition, making songs available for download on Kazaa could be considered distribution.[56]

The first sentence of the definition of publication is nearly identical to the language of the distribution right.[57] However, the

48. *Id.*
49. *Id.*
50. *Id.* (citing 35 U.S.C. § 271(a)).
51. *Id.*
52. *Capitol Records*, 579 F. Supp. 2d at 1218.
53. *Id.*
54. *Id.*
55. *Id.* at 1219.
56. *Id.*
57. *Id.* *Compare* 17 U.S.C. § 101(2006) (defining publication to be "the

definition of publication continues on to include more than the distribution right does.[58] The recording companies argued that the additional language should also apply to the definition of distribution.[59] They reasoned that in some parts of the legislative history of the Act, members of Congress used the words "distribution" and "publication" interchangeably.[60] The court, however, decided that this bit of legislative history was unconvincing; noting that even if some members of Congress believed the words carried the same meaning, that could not override the plain meaning of the statute.[61]

Amici argued that the Supreme Court has held that the distribution right of § 106(3) includes the right of publication defined in § 101.[62] It explained that in its opinion, the Court quoted a Report of the House Committee on the Judiciary that called the distribution clause of § 106(3) a right of publication.[63] However, elsewhere in the opinion, the Court referred to the rights of publication and distribution as distinct from one another, so the district court decided that the Supreme Court did not actually hold that the two rights were synonymous.[64]

The court also noted that the Copyright Act as a whole demonstrated that the two concepts were distinct, as the right of publication carries with it certain duties that are not required for the right of distribution.[65] The court concluded that just "because all distributions within the meaning of § 106(3) are publications does not mean that all publications . . . are distributions."[66] The

---

distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending") *with* 17 U.S.C. § 106 (2006) (stating that "the owner of copyright under this title has the exclusive rights to do and to authorize any of the following: . . . (3) to distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending").

58. *Capitol Records*, 579 F. Supp. 2d at 1219.

59. *Id.*

60. *Id.*

61. *Id.*

62. *Id.* (citing Harper & Row Publishers, Inc. v. Nation Enters., 471 U.S. 539 (1985)).

63. *Id.*

64. *Capitol Records*, 579 F. Supp. 2d at 1220.

65. *Id.*

66. *Id.*

definition of publication is broader than that of distribution.[67] The fact that Congress used both words in the statute shows its intent that the two words have distinct meanings.[68]

F. Existence of a Protected Right to Authorize Distribution

The recording companies next argued that the statute gives the copyright owner an exclusive right to authorize distribution and actual distribution, so that the act of making the recordings available for download violated their right to authorize distribution, even if the songs were never downloaded.[69] However, the court concluded that this statutory language merely provided a basis for secondary liability rather than another avenue for direct liability.[70] Settled case law does not hold that merely encouraging a party to infringe, without that party actually infringing, provides a basis for liability, and equating distribution with making available for distribution would undermine that law.[71] Additionally, the recording companies argued that another Supreme Court case demonstrated the existence of a separate right to authorize distribution when it stated that print publishers violated the authors' rights to authorize distribution by placing articles in electronic databases and aiding the electronic publishers in doing so.[72] However, the court concluded that this excerpt of the opinion was taken out of context, and that the opinion as a whole dispels that interpretation.[73] The Court actually meant that the print publisher's act of copying was at issue, not its distribution.[74]

The court concluded that case law, the text of the statute, and legislative history indicated that the authorization right is merely a means of establishing secondary liability rather than direct liability.[75]

---

67. *Id.*
68. *Id.*
69. *See id.* at 1220-21.
70. *Capitol Records*, 579 F. Supp. 2d at 1221.
71. *Id.*
72. *Id.* (citing New York Times Co. v. Tansini, 533 U.S. 483 (2001)).
73. *See id.* at 1222.
74. *Id.* at 1223.
75. *Id.*

G. Eighth Circuit Precedent: National Car Rental System, Inc. v. Computer Associates International, Inc.

Although the Eighth Circuit had no opinions dealing directly with the distribution of files over a peer-to-peer network, it did rule on the making available argument.[76] In *National Car Rental System, Inc. v. Computer Associates International, Inc.*, the court addressed whether a licensing issue was preempted by the Copyright Act.[77] In order to answer the question, the court rejected National Car Rental System, Inc.'s ("Defendant") argument that Computer Associates International, Inc.'s ("Plaintiff") claim was essentially that Defendant unlawfully distributed the functionality of the program, so the Copyright Act preempted Plaintiff's claim since it dealt with a right equivalent to one of the rights in copyright.[78] In rejecting this argument, the Eighth Circuit quoted Professor Nimmer as saying, "infringement of the distribution right requires an actual dissemination of either copies or phonorecords."[79] It concluded that making programs available for third party use did not constitute distribution.[80]

The court explained that this decision is binding law in the Eighth Circuit, and the statement quoted above was not dictum because it was an essential part of the reasoning behind the court's holding.[81] In addition, this interpretation was consistent with the only reasonable interpretation of the statute.[82]

However, Amici argued that even if the court follows *National Car Rental*, it should still find unlawful distribution in this unique case because peer-to-peer networks are specifically designed to eliminate any evidence of actual distribution, making it difficult to prove.[83] Amici cited the Fourth Circuit case of *Hotaling v. Church*

---

76. *Capitol Records*, 579 F. Supp. 2d at 1223.

77. *Id. See* Nat'l Car Rental Sys., Inc. v. Computer Assocs. Int'l, 991 F.2d 426 (8th Cir. 1993).

78. *Capitol Records*, 579 F. Supp. 2d at 1223 (citing *Nat'l Car Rental Sys.*, 991 F.2d at 434).

79. *Nat'l Car Rental Sys.*, 991 F.2d at 434 (quoting 2 MELVILLE B. NIMMER & DAVID NIMMER, NIMMER ON COPYRIGHT § 8.11[A] (2008).

80. *Capitol Records*, 579 F. Supp. 2d at 1223.

81. *Id.* at 1223-24.

82. *Id.* at 1224.

83. *Id.*

of Jesus Christ of Latter-Day Saints as the basis for this argument.[84]

H. Hotaling v. Church of Jesus Chris of Latter-Day Saints

The *Hotaling* case involved a library making unauthorized works available to the public.[85] The Fourth Circuit held that when a library adds a work to its collection, lists it in its catalog system, and makes the work available to the public, it has completed all the steps necessary for distribution.[86] If the court did not consider this distribution, then libraries who did not keep records of public use would unjustly profit.[87]

The court here noted that the Fourth Circuit did not cite any authority for its holding, but rather relied on equitable concerns to make its decision.[88] Some district courts, however, have used this opinion to justify holding defendants liable who use peer-to-peer networks to make unauthorized works available to the public.[89] Amici analogized *Hotaling* to the present case, arguing that if the court failed to consider making works available distribution, then persons using peer-to-peer networks that eliminate evidence of wrongdoing would be rewarded.[90]

The court rejected Amici's argument in favor of following the precedential *National Car Rental* decision because it was consistent with the plain meaning of the statute, the legislative history, and copyright case law.[91] It noted, however, that its decision did not mean that copyright holders have no remedy for these acts.[92] It stressed that the standards for evidence were not as difficult to meet as Amici made them out to be, and that the conduct still violates the copyright holder's reproduction right.[93]

---

84. *Id. See* Hotaling v. Church of Jesus Christ of Latter-Day Saints, 118 F.3d 199 (4th Cir.1997).
85. *Capitol Records*, 579 F. Supp. 2d at 1224.
86. *Id.*
87. *Id.*
88. *Id.*.
89. *Id.*
90. *See id* at 1225..
91. *See Capitol Records*, 579 F. Supp. 2d at 1225.
92. *Id.*
93. *Id.*

The violators may also be liable for indirect infringement if their acts caused others to commit acts of infringement.[94]

In addition, those who download the works may also be liable for direct infringement, depending on the facts of the case and applicability of defenses.[95] Those who market products or services that enable others to infringe may also be liable for indirect infringement or for violating the Digital Millennium Copyright Act.[96] Also, direct proof of actual dissemination is not necessary to establish a violation of the Copyright Act.[97] Plaintiffs are free to argue actual dissemination using circumstantial evidence.[98] Thus, though making available is not a violation of the Copyright Act, copyright holders will be able to hold peer-to-peer network users liable for infringement.[99]

I. Implications of International Law

1. U.S. Treaty Obligations Regarding the Making-Available Right

The United States has entered into several international treaties involving copyrights that recognize a making-available right not dependent on actual dissemination.[100] By ratifying and adopting the treaties, the United States agreed to protect that right.[101] The United States has also entered into various Free Trade Agreements that provide the same right.[102]

---

94. *Id.*
95. *Id.*
96. *Id. See* 17 U.S.C. §§ 1201(a)(2), (b) (2006).
97. *Capitol Records*, 579 F. Supp. 2d at 1225.
98. *Id.*
99. *Id.*
100. *Id.* These treaties include the World Intellectual Property Organization Copyright Treaty, Apr. 12, 1997, S. Treaty Doc. No. 105-17, 2186 U.N.T.S. 152 and the World Intellectual Property Organization Performances and Phonograms Treaty, Dec. 20, 1996, 36 I.L.M. 76 (1997).
101. *Capitol Records*, 579 F. Supp. 2d at 1225.
102. *Id.*

2. Charming-Betsy Doctrine

a. Introduction to the Doctrine

According to the Charming-Betsy doctrine, the United States ordinarily construes any ambiguous statute to avoid interfering with other sovereign nations' authority. Amici argued that the court must adopt any reasonable interpretation of the Act that allowed the United States to comply with its treaty obligations.[103]

b. Application of the Doctrine to Non-Self-Executing Treaties

The World Intellectual Property Organization ("WIPO") treaties are not self-executing, which means that they have no binding authority except as implemented through the Copyright Act.[104] Thus, the making available right is not enforceable separately from the Act.[105] The only way it could be enforced is if the statute was ambiguous and a reasonable interpretation aligned with the treaty obligations.[106]

c. Application of the Doctrine in this Case

The court acknowledged that past presidents, congresses, and register of copyrights have indicated that they believe the Copyright Act contains a make-available right in accordance with WIPO.[107] It also recognized that the Charming-Betsy doctrine indicates that ambiguous laws should be construed to be consistent with the country's international obligations.[108] However, the court found that in this case, the congressional intent was clear that under § 106(3), simply making a work available without actual

103. *Id.* at 1226.
104. *Id.*
105. *Id.*
106. *Id.*
107. *Capitol Records*, 579 F. Supp. 2d at 1226.
108. *Id.*

dissemination did not count as distribution.[109]

J. Grant of a New Trial

The court concluded that liability for violating the exclusive distribution right of § 106(3) required actual dissemination.[110] Therefore, the jury instruction was in error, and that error substantially prejudiced Thomas's rights.[111] The court granted Thomas a new trial.[112] It therefore did not reach Thomas's excessive damages claim and denied the recording companies' motion to amend judgment since the judgment was vacated.[113]

K. Need for Congressional Action

The court then implored Congress to amend the Copyright Act to deal with cases of liability and damages using peer-to-peer networks.[114] It explained that in all of the cases cited by both parties, the high statutory damage awards were granted against commercial businesses infringing copyrights for commercial gain.[115] However, in this case, Thomas was an individual consumer who infringed the copyrights not for any financial gain, but for her own personal enjoyment.[116]

The court explained that the statutory damage awards are not a deterrent for those who pirate music for profit.[117] Though Thomas's conduct was not appropriate, such high statutory damages equate her actions with large businesses seeking gains of hundreds of thousands or even millions of dollars from their infringement.[118] Even though collectively, illegal downloading harms recording companies, the damages here were completely out

109. *Id.*
110. *Id.*
111. *Id.* at 1226-27.
112. *Id.* at 1227.
113. *Capitol Records*, 579 F. Supp. 2d at 1227.
114. *Id.*
115. *Id.*
116. *Id.*
117. *Id.*
118. *Id.*

of proportion with Thomas' actions.[119] She infringed the copyrights of twenty-four songs, the equivalent of three CDs.[120] The damage award was more than four thousand times the cost of three CDs.[121] Even though statutory damages are meant to be more than simply the actual damage caused by the defendant, the court believed that damages of more than one hundred times the injury would be a sufficient deterrent.[122] Thomas acted like countless others in downloading music from a peer-to-peer network simply to enjoy the music.[123] Though her behavior is not excusable, damages of hundreds of thousands of dollars for her behavior are unprecedented and oppressive.[124]

IV. CONCLUSION

The court vacated the verdict rendered by the jury and remanded the case for a new trial, and it vacated the judgment.[125] It also granted Thomas's motion for a new trial and denied plaintiff's motion to amend judgment.[126]

-Megan Murphy

119. *Capitol Records*, 579 F. Supp. 2d at 1227.
120. *Id.*
121. *Id.*
122. *Id.*
123. *Id* at 1228.
124. *Id.*
125. *Capitol Records*, 579 F. Supp. 2d at 1228.
126. *Id.*