

THE COPYRIGHT SOCIETY OF THE U.S.A.

New York Chapter

Rose Auslander and Jonathan Purow, Co-Chairs

October 6, 2008

Dear Members of the New York Chapter of the Copyright Society:

We are delighted to invite you to our Second event of the season: a **October 20 LUNCHEON** program, at noon, at the Princeton Club, 15 West 43rd Street, New York, NY:

CABLEVISION: BUFFERED FROM INFRINGEMENT?

Once upon a time, yes, over twenty-years ago, the Supreme Court held that recording of television programming was a fair use, in the "Betamax decision," *Sony Corp. of Amer. v. Universal City Studios, Inc.*, 464 U.S. 417 (1984). Today, what home is without its television set-top digital recorder? But what if cable companies allow subscribers to streamline their décor -- recording programs on a remote server (housed and maintained by the cable company) -- and not a device in the subscriber's home? Is recording on a remote server also a fair use, as in Betamax, or does it directly infringe the content holders' copyrights?

On August 4, 2008, the Second Circuit (reversing the district court), ruled that a remote server system Cablevision planned to offer would **not** directly infringe plaintiffs' copyrights. *Cartoon Network LP, LLLP v. CSC Holdings, Inc.*, 536 F.3d 121 (2d Cir. 2008). The Second Circuit held: (1) buffer copies lasting 1.2 seconds were not sufficiently "fixed" and thus did not constitute "copies" under the Copyright Act; (2) individual consumers were the ones who "made" the copies, akin to a VCR, despite the presence of the copies on the Cablevision servers; and (3) the playback of those copies was not a public performance because each copy could be played only by the subscriber who recorded it.

In this age of "cloud computing" where a growing number of computing services are offered on remote devices, the decision in the Cablevision case is potentially far-reaching and significant.

We are honored to present our distinguished panelists on this topic: Bakari Brock (Associate Corporate Counsel at Youtube LLC), Daniel M. Kummer (Vice President, Litigation & Content Protection at NBC Universal, Inc.), Timothy A. Macht (The Law Offices of Timothy A. Macht), and Robert Penchina (Levine, Sullivan, Koch & Schulz), moderated by Professor James Grimmelmann of New York Law School.

Date: Monday, October 20, 2008

Time: 12:00 p.m.-12:30 p.m.: Cocktails (cash bar)

12:30 p.m.-1:00 p.m.: Lunch

1:00 p.m.-2:00 p.m.: Program

(Please note: event will end promptly)

Place: The Princeton Club, 15 West 43rd Street, New York, NY

Cost: \$60.00 (members) \$70.00 (non-members)

CLE: ***The Copyright Society of the U.S.A. is a NY CLE Approved Provider. This course is Transitional and Nontransitional, and provides 1.0 CLE Credit (based on 50 minutes).***

To attend this exciting panel discussion, please complete the attached form, and mail or fax it to The Copyright Society of the U.S.A., 352 7th Ave., Suite 739, NY, NY 10001, fax # (212) 354-2847, **by October 13**. We look forward to seeing you on **October 20, 2008**.

Mark Your Calendars NOW!

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SPEAKERS:

Bakari Brock, is Associate Corporate Counsel, Youtube LLC. As counsel for YouTube, Mr. Brock negotiates professional music and video content licenses. He also advises on a variety of YouTube initiatives including mobile and television syndication, contests, and monetization. Prior to joining Google/YouTube, he was an associate at Kilpatrick Stockton, LLP, practicing copyright, trademark, and entertainment law. Mr. Brock holds a J.D. from Harvard Law School and a B.B.A. in Banking and Finance from the University of Georgia and currently sits on the advisory board of the University of Georgia's music business certification program.

Daniel M. Kummer is Vice President, Litigation & Content Protection at NBC Universal, Inc. in New York. Mr. Kummer has been with the NBC Universal Law Department since 1997, and currently focuses on new technology, content protection and anti-piracy issues. He works closely with the technology, business development and legal groups at NBC Universal to develop and implement enforcement and business strategies to protect the company's intellectual property and commercial interests in the digital arena. He has also represented NBC Universal's various business divisions in numerous litigation matters covering a wide range of areas, including libel defense, news access, intellectual property, journalist privilege, commercial disputes, bankruptcy and employment. Prior to NBC, Mr. Kummer practiced law at Beldock Levine & Hoffman LLP in New York, and worked in refugee camps in Thailand with the U.S. resettlement operation for Indochinese refugees. He served as Law Clerk to the late Hon. Whitman Knapp of the U.S. District Court for the Southern District of New York. He is a graduate of New York University School of Law and Wesleyan University.

Timothy A. Macht, of the Law Offices of Timothy A. Macht, is a summa cum laude graduate of Yale College, where he received a simultaneous B.A. and M.A. in Political Science; a former Marshall scholar (Oxford University); and a magna cum laude graduate of Harvard Law School. Following law school, Macht clerked for U.S. District Court Judge Louis H. Pollak (E.D.Pa) and then worked for nearly a decade in the U.S. Department of Justice. As an Assistant U.S. Attorney in the Eastern District of New York (Brooklyn), Macht prosecuted some of that office's most significant public corruption, health care fraud, and money laundering cases. Since in private practice, Macht has handled a wide range of civil and criminal matters for Fortune 500 companies, smaller businesses, and individuals. He represents Cablevision in The Cartoon Network v. CSC Holdings Inc. case.

Robert Penchina is a partner in the law firm Levine, Sullivan Koch & Schulz, LLP and concentrates his practice in intellectual property, media, sports, entertainment and gambling related litigation and counseling matters. Mr. Penchina is a graduate of Queens College/City University of New York (B.A. 1985 *magna cum laude*) and received his law degree from New York University School of Law (J.D. 1988), where he was a Note and Comment Editor of the Law Review and recipient of numerous awards and honors, including first prize in the national Nathan Burkan Memorial Competition for papers on copyright law, the Paul D. Kaufman Memorial Award, and the Moot Court Advocacy Award. Following law school, he served as law clerk to the Honorable Frank X. Altimari of the United States Court of Appeals for the Second Circuit. Prior to joining Levine Sullivan Koch & Schulz, LLP in 2004, Mr. Penchina was head of the Copyright and Trademark Practice in the Americas for Clifford Chance LLP.

MODERATOR:

Professor James Grimmelmann teaches Copyright, Intellectual Property, and Internet Law at New York Law School. Formerly a resident fellow at the Information Society Project at Yale Law School, his background is in computer technology: Professor Grimmelmann worked for Microsoft as a programmer and has been blogging since 2000. He studies how the law governing the

creation and use of software affects the distribution of wealth, power, and freedom in society. As both a lawyer and a technologist, he aims to help these two groups speak intelligibly to each other. He writes on such topics as intellectual property, virtual worlds, search engines, electronic commerce, online privacy, and the use of software as a regulator and was a legal intern for Creative Commons and the Electronic Frontier Foundation. He graduated summa cum laude from Harvard, earned his J.D. at Yale University Law School, and clerked for the Hon. Maryanne Trump Barry, U.S. Court of Appeals for the Third Circuit.

Very truly yours,

Rose Auslander
Jonathan Purow
Chapter Co-Chairs

THE COPYRIGHT SOCIETY OF THE USA

Registration Form – New York Chapter

Return This Form To: 352 Seventh Avenue, Suite 739 New York, NY 10001 Telephone: (212) 354-6401 Fax: (212) 354-2847 Email: amy@csusa.org	Event: Cablevision: Buffered from Infringement? Monday, October 20, 12:00 PM The Princeton Club 15 West 43 rd Street New York, NY 10036-7497
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Please print clearly:

NAME: _____

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ADDRESS: _____

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Registration Fees:

Payment by check or credit card *must* accompany this form.

Type	Cost	After 10/14	Quantity	Total	Total Cost
<input type="radio"/> Members	\$60.00	\$70.00	_____	_____	_____
<input type="radio"/> Nonmembers	\$70.00	\$80.00	_____	_____	_____

Method of Payment:

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Credit Card No.: _____ Expiration Date: MM / YY

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Please make check payable to "THE COPYRIGHT SOCIETY OF THE USA"

Cancellation and Refund Policy:

Full refund will be issued if a cancellation is received in writing 5 days prior to the event. No refunds or credits will be issued for cancellations 3 business days before the event. Registrations are transferable.

Additional Registrants:

First Name	Last Name	Email

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Scholarship / Financial Hardship Policy

A limited number of scholarships are available to judges, law clerks, law professors, law students, attorneys, pro bono attorneys and paralegals who work for nonprofit organizations, legal service organizations or government agencies, recent graduates not yet employed, and unemployed attorneys who must take CLE courses in order to meet their state requirements.

All requests must be made in writing accompanied by a completed registration form. No more than three requests per person will be considered in any one year. Requests should describe the applicant's interest in the topic and justification for a waiver of fees.

Requests should be accompanied by a recommendation from an instructor in the case of students, or supervisors in the case of law clerks or paralegals.

Requests and scholarships are not transferable. Approval will be based on need and funds available on a first come first served basis. If approved, the scholarship will result in a waiver of the course fees for the specific program application. To apply, please send your request, in writing, prior to the reservation form deadline. Students must submit a copy of their student identification cards.

All requests for scholarships should be sent to: The Copyright Society of the U.S.A, 352 Seventh Avenue, Suite 739, New York, NY 10001. Please call (212) 354-6401 or e-mail amy@csusa.org for further information.