





Class 9: Copying in Fact and Misappropriation

Section 106 ↗ Text

Arnstein v. Porter

Basic Facts

↗ Comparison

Evidence of "Access"

District Court: SJ for D

Held

Three Boys Music v. Michael Bolton

Facts

↗ Comparison

P: Isley Brothers, Love Is a Wonderful Thing

D: Michael Bolton, Love is a Wonderful Thing

Facts good for P

291-92

Bolton's a longtime fan of R&B

DJs from Bolton's hometown testify that song was played

Bolton known as longtime fan of Isley Brothers

Bolton taped wondering whether this was Marvin Gaye song

Facts good for D

Three R&B experts: never heard of this Isley Bros song

129 songs called "Love is a Wonderful Thing" registered Copyright

Jury award: \$5.4 Million

Held

Subconscious Copying

ABKCO v. Harrisongs

↗ Comparison

Selle v. Gibb

Facts

↗ Comparison

P: Ronald Selle, little-known songwriter from Chicago

D: The Bee Gees

Access Facts

Expert Witness

Jury

District Court

Held

Ty v. GMA