

Moot Court Legal Brief

In re: Suit for copyright infringement against Sharon Rock

Background: Sharon Rock, 18-year-old student, is given the gift of a new computer and broadband Internet connection by her parents as soon as it appears that she will, after all, graduate from High School. She immediately logs on to a variety of peer-to-peer music file sharing services and downloads a total of 2.4 gigabytes of mp3 files. She saves her money and gets a portable mp3 player, on which she carries selected downloaded music for her enjoyment and that of her friends.

She continues buying CDs through her local retailer, and takes an active interest in making her own music, even writing songs with the band in which she sings and plays keyboards (“RockMania”). She gets used to ripping mp3 files by sharing a few of the band’s songs on the Web (with no particular response). She then buys the newest CD by the hit band, “Stutter,” which she rips and puts on the Web – with an apparent 400,000 downloads of the file that she originated.

Over the next few months, the record company that released the CD finds that sales are disappointing – as are the sales of other releases during the time period, many of which also appeared on the web. The company’s stock falls, and Blind Willie McPherson III (the veteran songwriter of the hit from the CD, “Baby Baby Baby Baby”) finds that the comeback he expected to make does not materialize, so he has to take a day job cleaning local offices.

The Case: Ms. Rock is sued by the Recording Association of the United States Trust (RAUST) on behalf “Stutter,” of Blind Willie McPherson, of Banner Bros., publications, and of MegaDisco Recordings, Inc., for willful infringement of their copyright.

Arguments: The plaintiffs argue that Ms. Rock’s actions materially reduced their expected income from the release, on which copyright for all songs and materials were properly registered with the Register of Copyrights at the U.S. Library of Congress.

Ms. Rock argues that: (1) She had no idea that this file sharing was wrong; (2) Her actions as an individual could not have any effect on major corporations, and (3) The spirit of music, particularly music on the internet, is to be free.

Witnesses: Sharon Rock, student; Blind Willie McPherson III (songwriter); John Law, CEO of Banner Bros. Publications.

The Task: First, the jury must decide, based on the facts of the case, whether Ms. Rock infringed the copyright of the copyright owners. If they find that she did so, they must determine whether the infringement was willful or whether it was unintentional. Note that the burden of proof is on the copyright owner to show that the infringement was willful.

If they find that the infringement was unintentional, they must recommend that Ms. Rock pay the plaintiffs the statutory rate, which can be set from \$750 to \$30,000. If they find that the infringement was willful, they may recommend setting damages at up to \$150,000.

The parties can also ask for a recess and settle out of court at any time.

