

TRAILBLAZERS

LITIGATION

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What was the genesis of the idea/path that has made you a trailblazer?

The scope of copyright protection was a central issue in the litigation between Starz and MGM. Starz sued MGM for copyright infringement. MGM asserted that Starz's damages were limited to those incurred within the three years before Starz filed suit, based on a Second Circuit decision, *Sohm v. Scholastic*, which had interpreted the Supreme Court's decision in *Petrella v. MGM* as imposing a "three year damages bar" for copyright infringement claims. We explained that a proper reading of *Petrella* did not impose any such "damages bar". We did not try to reconcile existing Ninth Circuit law with the Second Circuit's contrary decision in *Sohm*. Instead, we were up front that the Second Circuit's decision in *Sohm* simply is at odds with controlling Ninth Circuit law.

What sort of change has resulted from the concept?

The ruling confirms that *Petrella* did not add a new damages bar to copyright infringement claims and that the law in the Ninth Circuit remains the same as it has for decades. Ninth Circuit practitioners, including the technology and media companies they represent, now have comfort that the protections they have long relied on remain intact.

What bearing will this have on the future?

The Ninth Circuit explained that copyright infringement has become "easier to commit, harder to detect, and tougher to litigate". Against that new reality, confirming that the Ninth Circuit permits damages to be recovered for all timely infringement claims will allow all producers of works to protect their valuable intellectual property.

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