



CopyrightX Lecture 12: Remedies

Selected Illustrations

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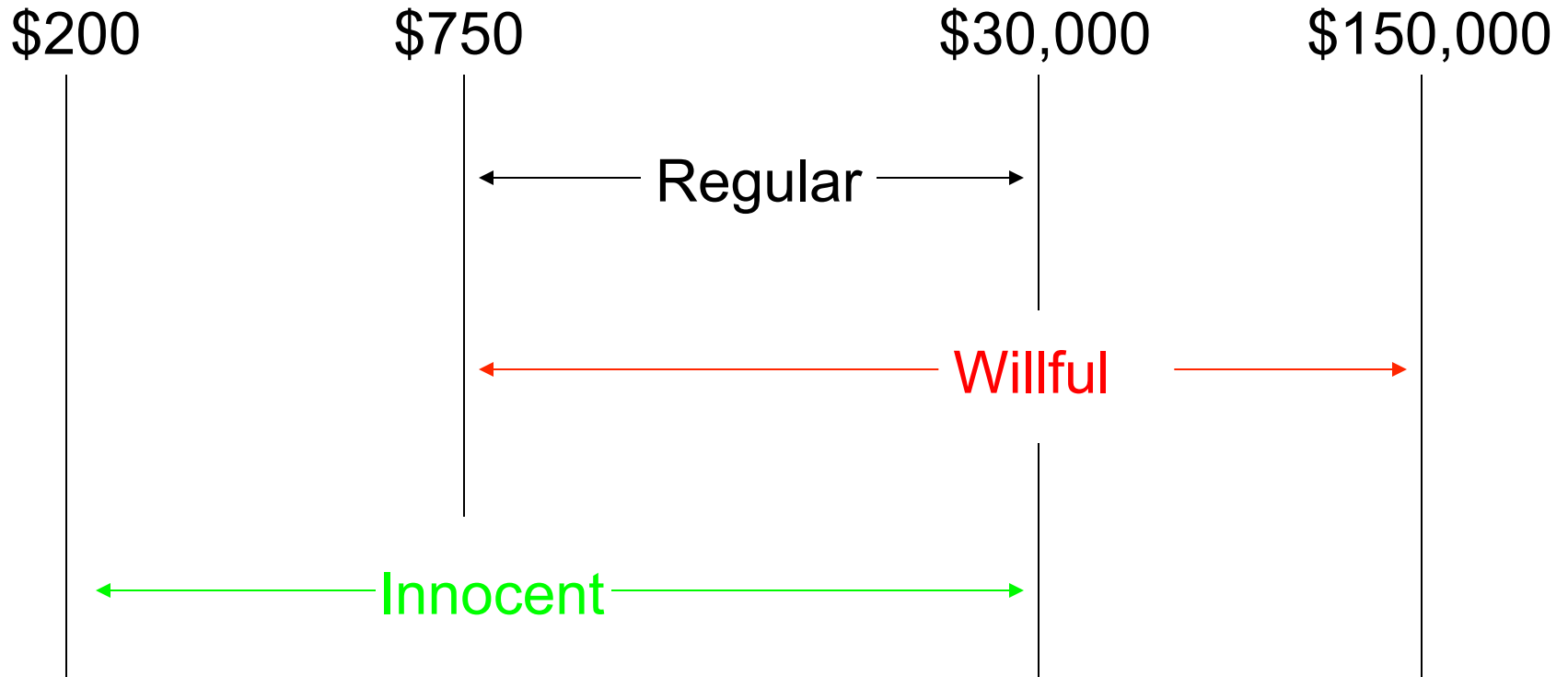


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Ranges of Statutory Damages





Purposes

- 1) Compensation
- 2) Avoid Unjust Enrichment
- 3) Deterrence
- 4) Punishment
- 5) Maintain the balance between private rights and the public interest



Thomas-Rasset (CA8 2012)

“Applying the *Williams* standard, we conclude that an award of \$9,250 per each of twenty-four works is not ‘so severe and oppressive as to be wholly disproportioned to the offense and obviously unreasonable.’ Congress, exercising its ‘wide latitude of discretion,’ set a statutory damages range for willful copyright infringement of \$750 to \$150,000 per infringed work. 17 U.S.C. 504(c). The award here is toward the lower end of this broad range. As in *Williams*, ‘the interests of the public, the numberless opportunities for committing the offense, and the need for securing uniform adherence to [federal law]’ support the constitutionality of the award.”



506(a)

- (1) In general. Any person who willfully infringes a copyright shall be punished as provided under section [2319 of title 18](#), if the infringement was committed--
- (A) for purposes of commercial advantage or private financial gain; → Up to 5 years, if at least 10 copies with retail value of \$2500;
Up to 1 year otherwise
 - (B) by the reproduction or distribution, including by electronic means, during any 180-day period, of 1 or more copies or phonorecords of 1 or more copyrighted works, which have a total retail value of more than \$ 1,000; or → Up to 3 years, if at least 10 copies with retail value of \$2500;
Up to 1 year otherwise
 - (C) by the distribution of a work being prepared for commercial distribution, by making it available on a computer network accessible to members of the public, if such person knew or should have known that the work was intended for commercial distribution. → Up to 5 years if for commercial advantage;
up to 3 years otherwise



The Growth of Criminal Copyright

- 1997: No Electronic Theft Act
- 1998: Digital Millennium Copyright Act
- 2004: Anti-Counterfeiting Amendments Act
- 2005: Family Entertainment and Copyright Act
- 2008: Pro-IP Act
- 2011: ACTA