



# CopyrightX Lecture 8: Rights of Distribution and Performance

## Selected Illustrations

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The following images appear in the background of eighth lecture in the CopyrightX lecture series. A recording of the lecture itself is available at <http://copyx.org/lectures/>. Removed from their original context, the images will not make much sense. The function of this collection of images is to enable persons who have already watched the lecture to review the material it contains.

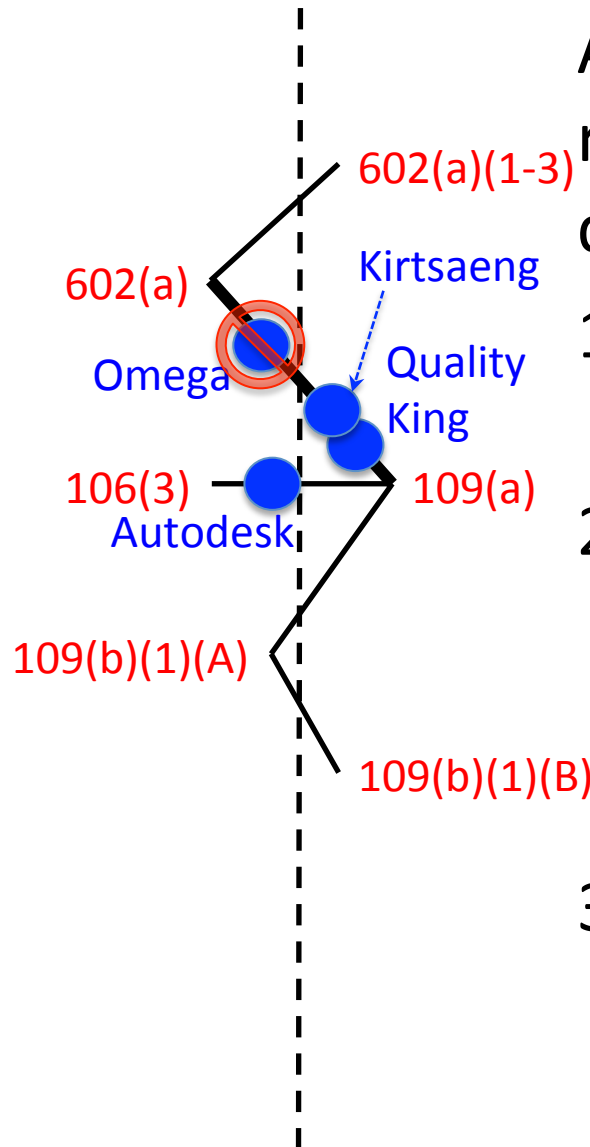
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# Opposed Forces

Interests of Copyright Owners

- 1) Leverage over Intermediaries
- 2) Maximize demand for copies
- 3) Restrict Arbitrage and thus facilitate differential pricing

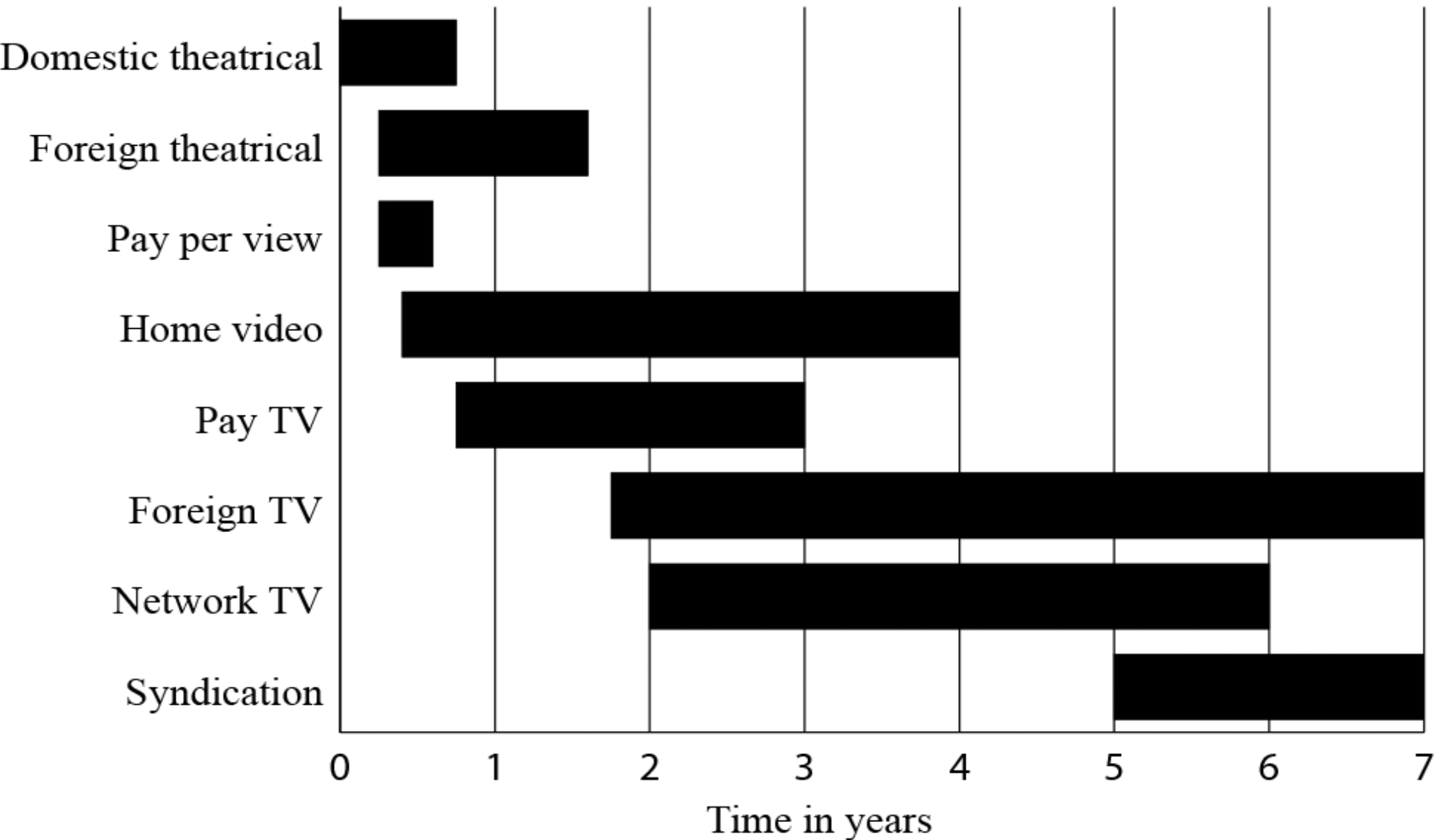


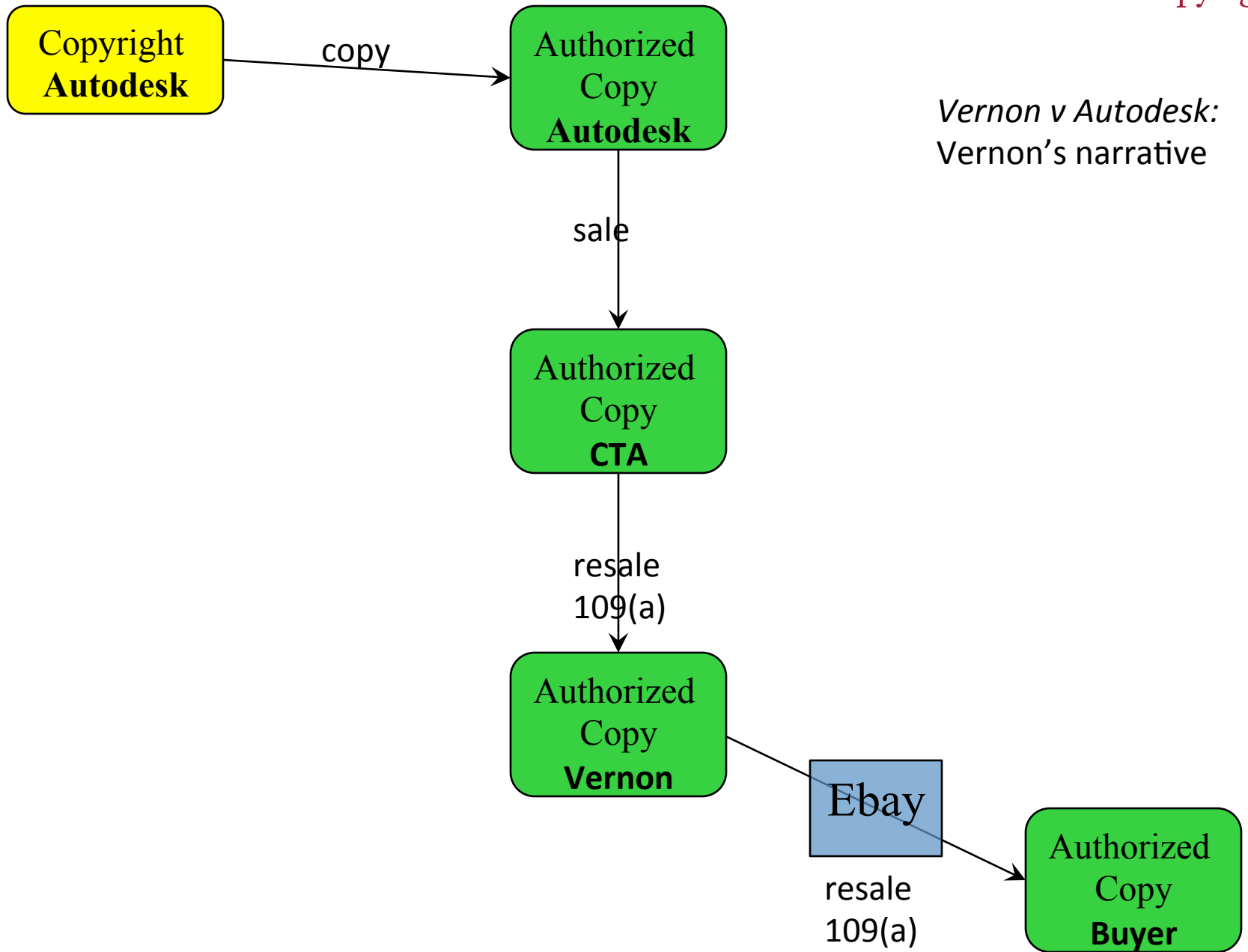
Attitudes resistant to restrictions on distribution

- 1) Resentment of greed
- 2) Skepticism concerning continuing control over objects
- 3) Hostility to differential pricing

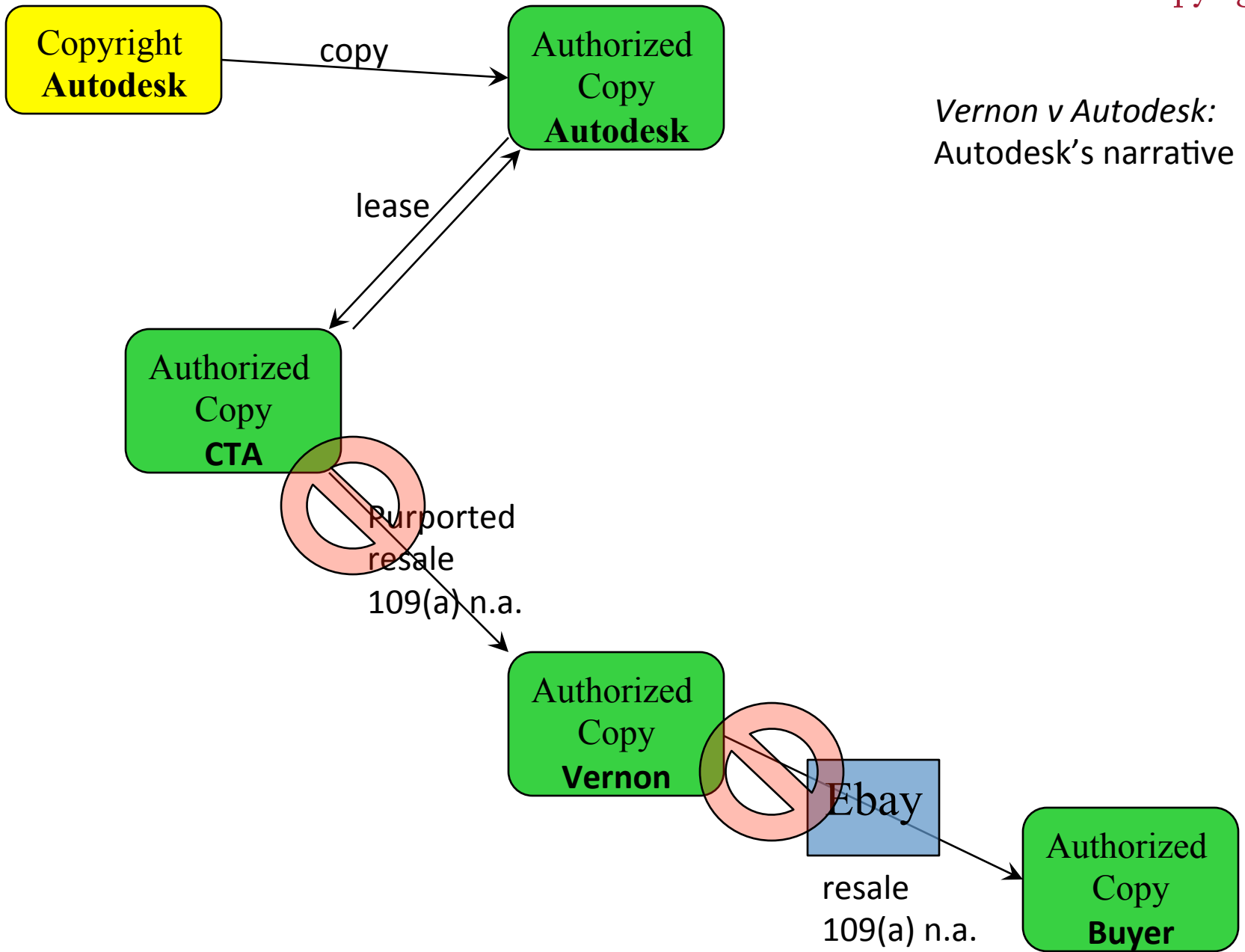


# Market Windows for Major Films from Release Date, circa 1990.





*Vernon v Autodesk:*  
Vernon's narrative



*Vernon v Autodesk:*  
Autodesk's narrative



# *Vernon v. Autodesk*: Holding

We hold today that a software user is a licensee rather than an owner of a copy where the copyright owner

- (1) specifies that the user is granted a license;
- (2) significantly restricts the user's ability to transfer the software; and
- (3) imposes notable use restrictions



MW

# Violations of §106

B



D



MW SR  
MW SR

E



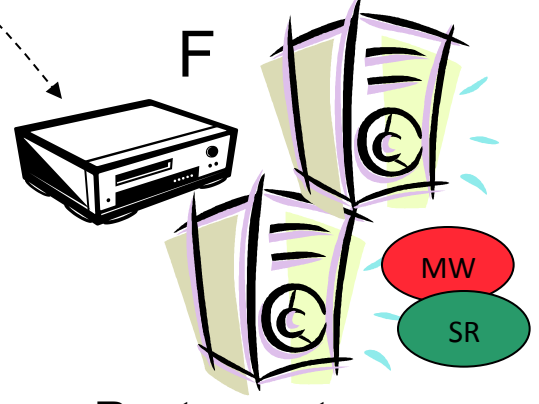
MW SR

C



MW SR

F



MW SR

Restaurant

Internet

Digital broadcast

I

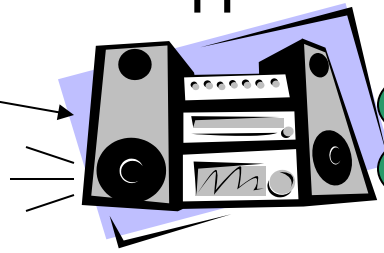


MW SR

Cable TV & Radio System

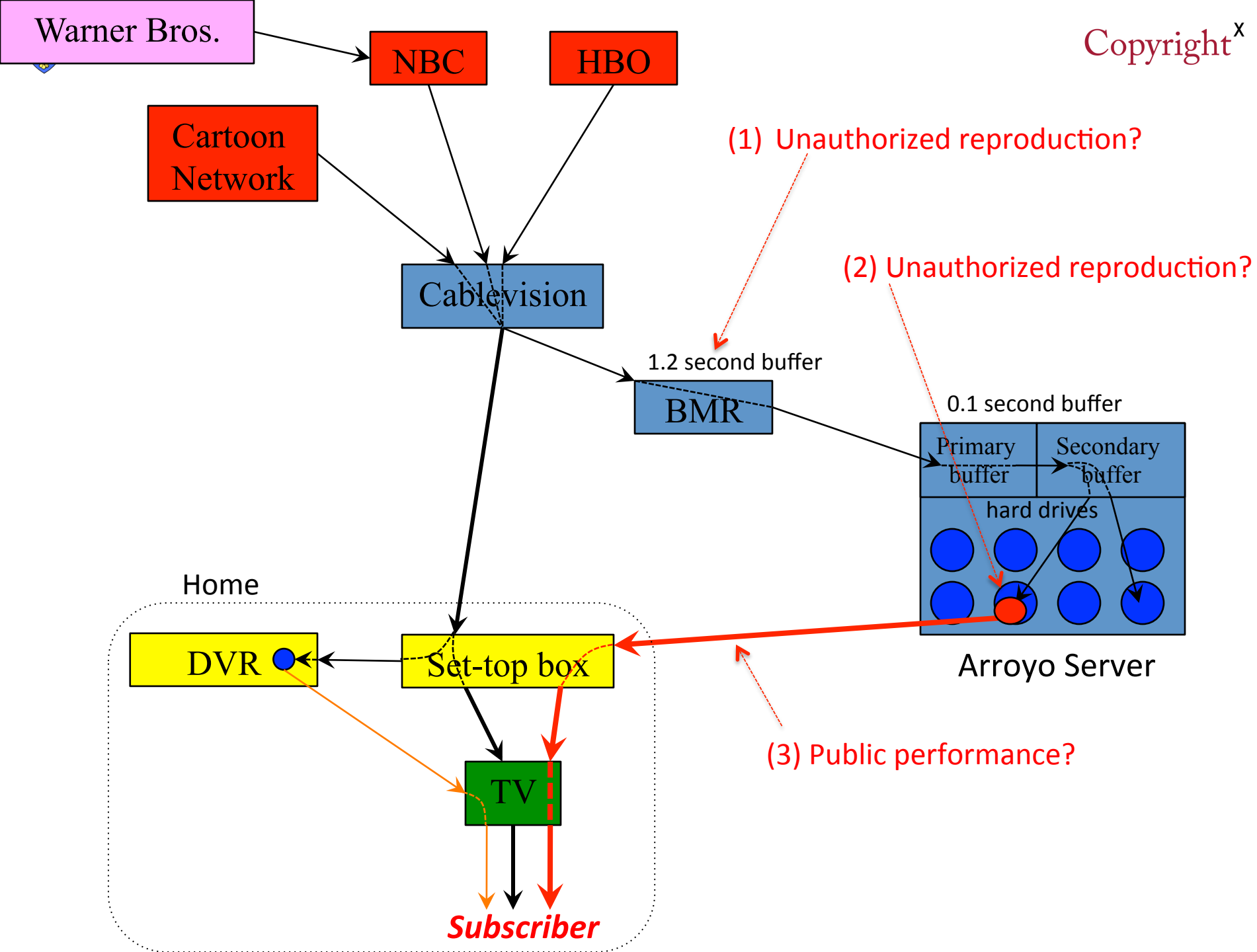
MW SR

H



MW SR







# Aereo (2014)

“[I]n light of the purpose and text of the [Transmit] Clause, we conclude that when an entity communicates the same contemporaneously perceptible images and sounds to multiple people, it transmits a performance to them regardless of the number of discrete communications it makes.”



# Aereo (2014)

“[A]n entity that transmits a performance to individuals in their capacities as owners or possessors does not perform to ‘the public,’ whereas an entity like Aereo that transmits to large numbers of paying subscribers who lack any prior relationship to the works does so perform.”



# Aereo (2014)

“[T]he doctrine of ‘fair use’ can help to prevent inappropriate or inequitable applications of the [Transmit] Clause.”

