



# CopyrightX Lecture 12: Remedies

Selected Illustrations

William Fisher

April 18, 2013

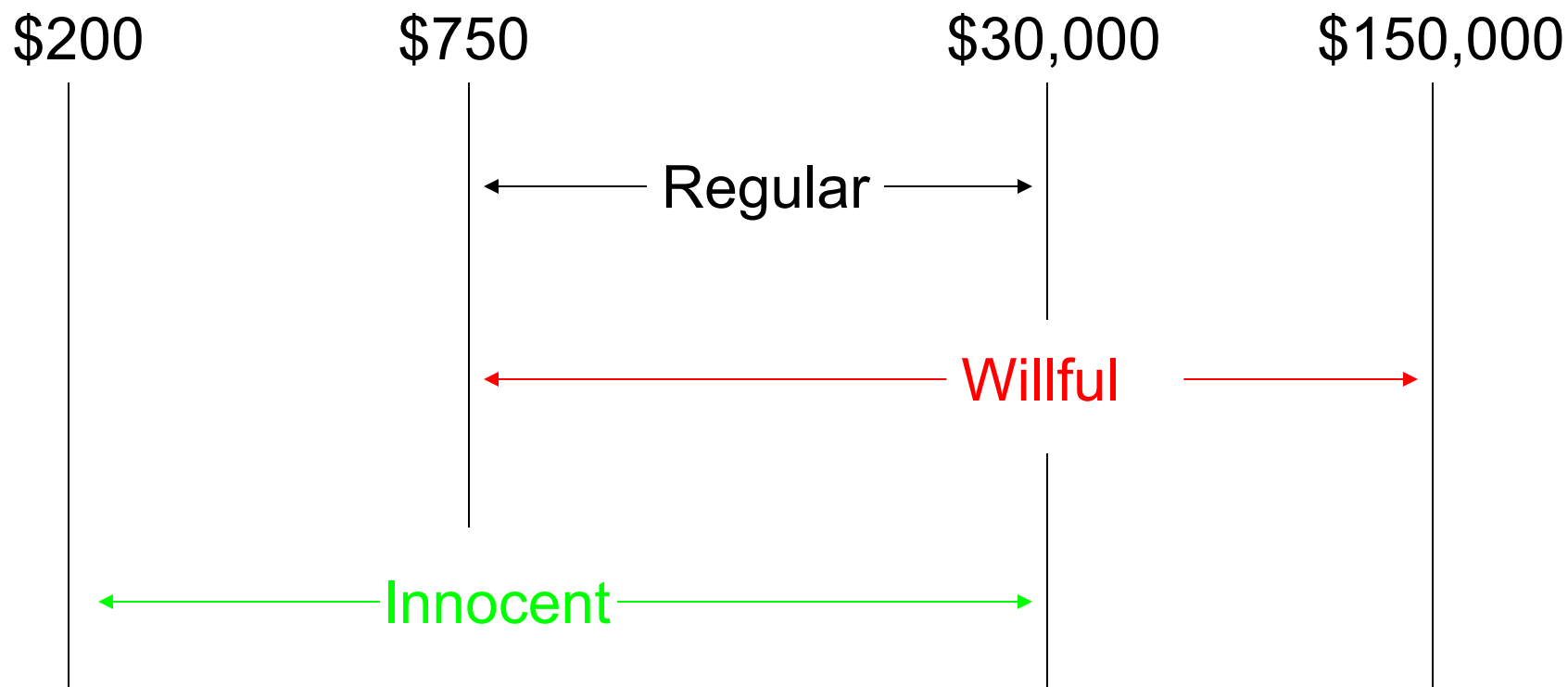


The following images appear in the background of the 12th lecture in the CopyrightX lecture series. A recording of the lecture itself is available at <http://ipxcourses.org/lectures/>. Removed from their original context, the images will not make much sense. The function of this collection of images is to enable persons who have already watched the lecture to review the material it contains.

The terms on which these materials may be used or modified are available at <http://ipxcourses.org>.



# 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