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Elliot Brown
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1800 Avenue of the Stars
Suite 900
Los Angeles, CA 90067-4276

Professor Lawrence Lessig
Stanford Law School
Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305-8610

Dear Morgan, Elliot and Larry:

Earlier this week, an article appeared in Law.Com written by Eriq Gardner concerning, among other things, the Mathew Bender and HyperLaw litigation against West Publishing Company.[1] Morgan was quoted in the article. Larry was mentioned, and perhaps was a source for the article, although, I assume that Larry did not gloss over justiciability.

We are all aware reporters do not always appreciate the subtleties of legal publishing, litigation and intellectual property, and this reporter certainly did miss the mark in many respects.

I am writing just to ask your cooperation, when you discuss litigation with reporters, that you point out that there were two decisions in the Matthew Bender-HyperLaw litigation: one related to the citation and the other relating to the copyrightability of the text of the court opinion as modified by West's enhancements.

Only Hyperlaw was involved in the part of the case and trial relating to the text. Matthew Bender specifically opted out of involvement in the text motions, trial, and appeals. Interestingly, on the text decision appeal, Reed Elsevier (which owns Lexis) filed a brief opposing HyperLaw, and soon thereafter Reed Elsevier acquired Matthew Bender. Even

[1] "An Operating System for Law: Online Cases" By Eriq Gardner; IP Law & Business, Law.com. March 31, 2008. http://www.law.com/jsp/legaltechnology/pubArticleLT.jsp?id=1206700930604

the United States Department of Justice would not file an amicus on the text claims, though it did on the citation claims.

There were two distinct opinions of the Second Circuit, and two distinct petitions for certorari. Carl Hartmann and Paul Ruskin represented HyperLaw on both parts of the case, although I was quite involved as well in the representation of HyperLaw.

Of course, we were quite chagrined when we were denied attorney's fees in the unpublished Second Circuit opinion, which has received little discussion. In my view the fee opinion chills those who defend against baseless copyright claims. Having not received fees (i.e., not paid) and having engaged in a pure pro bono activity, at least we would like the "history" to reflect our "contributions."

Of course, we had a terrific relationship with Irell & Manella, and they provided much intellectual and other support in these cases and even on the text issue.

HyperLaw still exists as a company, although, I earn my living practicing law.

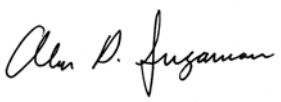
Notwithstanding, HyperLaw is compiling, formatting, and hosting local zoning opinions on its web site at present, initiated because of a zoning matter I am handling.

HyperLaw this past year has completed and successfully tested in production a software system to collect and host United States District Court opinions and associated meta-data, but, I do not wish to release a product where we cannot assure that all opinions have been collected. Nor am I inclined to dump the opinions into a formless repository or to fund public access to these decisions.

HyperLaw still has res judicata protection against claims from West Publishing should it decide to copy and publish West opinions. It is my thought that Yahoo, Microsoft, or Google would rather buy HyperLaw, than relitigate against West.

Best regards.

Sincerely



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