Licensing & Tech. Transfer

- Module 3
- Statutes of Frauds, Writings & Electronic Licenses

Commonwealth Film v. Courtaulds (WD Va. 1989)

- March 25, 1998 meeting
  - Subsidiary of Courtaulds is patent plaintiff
  - Oral license from discussions: “fairly complicated”
- Choice of law rules
  - Federal law for enforceability of agreements settling federal litigation
  - How to find that law?
- Federal common law?
- Statue of frauds
  - Agreements that cannot be fully performed in one year
- Provisions
  - Continuous
  - Royalty payments for 5 years
- Part performance exception to statue of frauds?
**Grappo v. Alitalia (2d. 1995)**

- Grappo customer service training programs – since 1988
  - Grappo to work for Alitalia to help Systema make a program
  - Alitalia switched to instead “purchase” Grappo’s program
- In Rome, Dinola distributed Grappo’s program as her own
- Alitalia alleges Dinola was an independent developer

- Dist. Ct. said UCC statute of frauds precluded Grappo’s suit
  - But, enforceable up to the $5k limit?

- Arguments that the UCC doesn’t apply
  - Services?
  - Goods between merchants w/ invoice?
  - Estoppel?
- Quantum meruit

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**Parma Tile Mosaic & Marble v. Short (NY 1996)**

- Fax machine automatic imprinting of name meet requirement that “writing be subscribed” under NY law?

- Plaintiff trying to recover payment for tile purchased by Sime Construction, after its owner, Mr. Short, died

- General contractor guarantee of payment by its subcontractor, Sime?

- Trial court treatment of the issue

- Treatment on appeal
### FTC v. Verity Intl. (SDNY 2000)

- ANI system to bill telephone numbers for adult content web surfing
  - But many phone numbers billed couldn’t have made certain calls
- Material representation, omission, or practice by Verity likely to mislead consumers acting reasonably in the circumstances?
- Unfair and deceptive practice by Verity to go after line subscribers who did not agree to pay?
  - Can filed rate doctrine help Verity - basic versus enhanced phone services
  - K between line subscribers and Verity?
- ANI billing as an unfair practice
  - Blocked numbers; misuse by children
  - Better than having to disclose a credit card
  - Fear of bill collector