

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

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