

Identifying Information

Name:	McFarlin, Tim
School:	University of La Verne College of Law

Paper Information

Title:	Tear Down the Stairway? Copyright Injunctions and the Public Interest
Abstract:	The public interest, the last (and often least considered) factor in the post-eBay world of IP injunctive relief, bears closer examination in light of copyright's policy goals. In particular, when deciding whether to permanently enjoin the further distribution of an infringing work—and even to destroy its existing copies—how exactly should courts take the public interest into account? Using examples like the film “Rear Window” in the 1988 case of <i>Abend v. MCA</i> , as well as the song “Stairway to Heaven” in the contemporary case of <i>Skidmore v. Led Zeppelin</i> , this Article will explore: (1) the effect on the public interest if, as the Ninth Circuit worried in <i>Abend</i> , a permanent injunction ends up “denying the public the opportunity to view a classic film,” or hear a classic song, or read a classic book, “for many years to come,” and (2) how best to balance this concern with the harm that authors could suffer if defendants, after a finding of liability, are permitted to continue distributing infringing works.