

Int'l IP

- Module 6
- Int'l Enforcement of Intellectual Property Rights

Commercial Piracy

- Apex MNE hypothetical
 - Role of organized crime
- Copyright piracy
- Trademark piracy
 - the most serious form of piracy
- Patent piracy?
 - deemphasized as commercial piracy
- Comparison to narcotics trafficking for the above
- Trading partners and border seizure

London Film v. ICI (S.D.N.Y. 1984)

- Locations
 - London a UK plaintiff
 - ICI a NY defendant
 - Alleged infringement in Chile and South America
- ICI specializes in distributing “public domain” works
- ICI claims the NY district court should abstain from exercising jurisdiction
 - Alien treaty rights
 - Forum non conveniens
 - Complex foreign law for many countries
 - Act of state doctrine
- Comity
 - Difficulty of determining foreign IP rights validity
 - But, validity not as large an issue in copyright
 - No good alternative forum

Sarl Louis Feraud Int'l v. Viewfinder Inc. (S.D.N.Y. 2005)

- French fashion clothing companies
- Viewfinder fashion websites
- Default judgment in France in favor of French companies
- Comity
- Source of law to determine if foreign judgment is enforced
 - NY state law via uniform act
- Copyright law analysis
 - Fashion designs not copyrightable under U.S. law
 - Even if copyrightable, Viewfinder's use was fair use
 - But, French copyright law isn't “repugnant”
- Freedom of expression under the U.S. Constitution
 - Against this, the French copyright law is “repugnant”
 - Commercial speech is still protected speech
- But, the French companies argue . . .
 - Not action by Viewfinder to send a message
 - Not news