

**Eriq Gardner (Senior Editor, The Hollywood Reporter)**

**Written CLE Materials for 2018 Annual Meeting  
New York State Bar Association/Entertainment, Arts & Sports Law Section**

**Content Distribution in the 21<sup>st</sup> Century: Traditional TV, VOD, Streaming and More**

**Top Ten Cases of 2017 (Five Down and Five To Go)**

*A. Five Significant Decisions in 2017*

1. FCC Votes to Repeal Net Neutrality Rules

(a) FCC Action December 14, 2017 (FCC 17-166)

<https://www.fcc.gov/document/fcc-takes-action-restore-internet-freedom>

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/fcc-votes-repeal-net-neutrality-rules-1067667>

2. Google Stuck With Worldwide Injunction in Canadian Legal Fight; New Suit in California

(a) Google Inc. v. Equustek Solutions Inc. (Supreme Court of Canada, 2017 SCC 34)

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/16701/index.do>

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/google-stuck-worldwide-injunction-canadian-legal-fight-1017407>

(c) Google Inc. v. Equustek Solutions Inc. (U.S. District Court, N.D. Cal, San Jose Div.)  
Case 5:17-cv-04207

<https://assets.documentcloud.org/documents/3900043/Google-v-Equustek-Complaint.pdf>

(d) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/google-has-a-big-canadian-problem-getting-desperate-1024149>

3. European Court Rules ISPs Can Be Forced to Block Pirate Bay

(a) Stichting Brein v. Ziggo BV, XS4ALL Internet BV (Case C-610/15, rel. 2/8/17)

<http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30d6948b75e6d81a476f8b42cd6adb2daf8c.e34KaxiLc3qMb40Rch0SaxyLchb0?text=&docid=187646&pageIndex=0&doclang=en&mode=req&dir=&occ=first&part=1&cid=565267>

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/european-court-rules-isps-can-be-forced-block-pirate-bay-1013993>

4. Appeals Court Rules TV Streamers Don't Get Compulsory License to Broadcast Networks

(a) Fox Television et al v. Aereokiller (FilmOnX), 851 F. 3d 1002 (9th Circuit, 2017)

<http://cdn.ca9.uscourts.gov/datastore/opinions/2017/03/21/15-56420.pdf>

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/appeals-court-rules-tv-streamers-dont-get-compulsory-license-broadcast-networks-987614>

5. Rock Band Wins First Amendment Appeal Over "Disparaging" Trademarks

(a) Matal v. Tam (Slants), 137 U.S. Supreme Court 1744 (2017)

[https://www.supremecourt.gov/opinions/16pdf/15-1293\\_1o13.pdf](https://www.supremecourt.gov/opinions/16pdf/15-1293_1o13.pdf)

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/rock-band-wins-first-amendment-850689>

*B. Five Pending Cases Worth Watching*

6. Justice Department Files Lawsuit to Block AT&T-Time Warner Merger

(a) United States of America v. AT&T et al (US District Court, D.C. Cir.)

Case 1:17-cv-02511

<https://www.justice.gov/opa/press-release/file/1012896/download>

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/justice-department-files-lawsuit-block-at-t-time-warner-merger-1058483>

7. Fox News Appears to Have Edge in Showdown That Could Curtail Sharing of Clips

(a) Fox News Network v. TV Eyes (appeal from SDNY pending at 2<sup>nd</sup> Circuit)

<https://www.scribd.com/document/316896277/Fox-News-Network-v-TVEyes-Brief-for-Fox-News-Network-2nd-Circuit-Redacted>

(b) Fox News Network v. TV Eyes, 124 F.Supp.3d 325 (U.S. Dist. Court, SDNY, 2015)

<https://docs.justia.com/cases/federal/district-courts/new-york/nysdce/1:2013cv05315/415525/173>

(c) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/fox-news-appears-have-appellate-edge-showdown-could-curtail-sharing-clips-983955>

8. Vizio Can't Dodge Claims Its TVs Spy on Viewers

(a) In Re Vizio, Consumer Privacy Litigation (U.S. Dist. Ct., CD California)

Case 8:16-ml-02693-JLS-KES

<https://www.documentcloud.org/documents/3901160-Vizio-725.html>

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/vizio-cant-dodge-claims-tvs-spy-viewers-1024438>

9. U.S. Government, Hollywood Studios Weigh in on Dispute Exploring Reach of

U.S. Copyright Law

(a) Spanski v. Telewizja Polska (appeal from U.S. Dist. Ct., D.C. Cir, pending DCCA)  
USCA Case 17-7051

Appellant's Brief: <https://www.documentcloud.org/documents/4081747-TVP.html>

CO Amici Brief: <https://www.copyright.gov/rulings-filings/briefs/spanski-enters-v-telewizja-polska-sa-no-17-7051-dc-cir-2017.pdf>

(b) Spanski v. Telewizja Polska (U.S. District Court, D.C. Circuit)

2/14/17 [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2012cv0957-85](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2012cv0957-85)

(Memorandum Opinion currently on appeal)

9/30/17 [https://ecf.dcd.uscourts.gov/cgi-bin/show\\_public\\_doc?2012cv0957-95](https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2012cv0957-95)

(re attorney fees in copyright infringement action)

(c) Gardner/THR re Spanski

<https://www.hollywoodreporter.com/thr-esq/us-govt-hollywood-studios-weigh-dispute-exploring-reach-us-copyright-law-1046433>

(d) Gardner/THR re related story

Dish Claims Univision Breached Contract by Streaming Soccer Matches on Facebook  
<https://www.hollywoodreporter.com/thr-esq/dish-claims-univision-breached-contract-by-streaming-soccer-matches-facebook-1025006>

10. Olivia de Havilland Gets Judge's Green Light in 'Feud' Lawsuit Against FX

(a) De Havilland v. FX Networks et al, California Superior Court, Los Angeles

Case No. BC 667011

<https://pmcdeadline2.files.wordpress.com/2017/06/olivia-de-havilland-feud-suit-2.pdf>

Complaint (6/30/17)

(b) Gardner/THR

<https://www.hollywoodreporter.com/thr-esq/olivia-de-havilland-gets-judges-green-light-feud-lawsuit-fx-1044359>