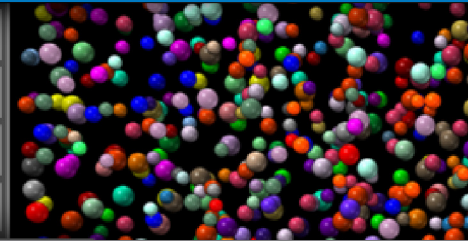




Mariah Carey	Yellow sphere
Enya	Purple sphere
The Eagles	Green sphere
Dido	Blue sphere



ARISTA RECORDS, INC., ET AL. v. LAUNCH MEDIA, INC. (S.D.N.Y., 2007)

A service. Just like any other.

THE CLIENT: WINSTON & STRAWN LLP

THE CASE: Winston & Strawn, counsel for Yahoo! which acquired LAUNCHcast shortly after the lawsuit was filed in 2001, successfully argued that the streaming internet radio application did not infringe the copyrights of music owned by BMG. BMG argued that LAUNCHcast was an interactive service and therefore was not eligible for statutory licensing provided by Congress in the 1998 Digital Millennium Copyright Act. They argued that Yahoo! was liable for \$72.2 million dollars in damages. .

THE TRIAL: Winston & Strawn hired DOAR to provide analytical graphics consulting, trial presentation and trial technology. Our experienced consultants worked alongside the trial team, in both the war room and courtroom, delivering a compelling array of demonstratives that bolstered expert testimony and supported closing arguments.

SPECIFIC CONTRIBUTIONS INCLUDED:

- Created a persuasive demonstrative that compared internet radio to traditional radio which enabled jurors to understand the specifics of the case based on something that was already familiar to them.

- Designed a graphic that depicted the impact of a listener's ratings on music that is streamed to them, showing that the more selections that are made, the more random the songs become. As one juror stated after the verdict, this demonstration helped show "randomness."
- Provided trial support and technology, linking the war room with the court room, throughout the duration of the trial.
- Provided a "visual road map" to help educate jurors about the behind-the-scenes process of how the system worked and the different procedures in place to assure the program worked in compliance with the law, including a depiction of how the performance complement prevented streaming more than two songs by one artist during 3 hours of song play.

THE OUTCOME: Given the ambiguity of the language in the DMCA, jurors looked at the spirit and the intent of the law to guide them in their decision. Due to the fact that Congress enacted the law to prevent the displacement of record sales, and LAUNCHcast operated to help listeners "discover new music", jurors unanimously agreed

that the service wasn't interactive because it served to promote music, and therefore help the recording industry. "This is a major win for Yahoo and Winston & Strawn," said Tom Lane. "The compelling demonstratives coupled with the hard working team of consultants at DOAR made the case easier for the jury to understand which ultimately contributed to our victory."

"After reading the case facts, I knew that I needed to find a way to show the jury, as simply as possible, that the service was just like any other radio station that they would listen to in their car, home, or office. I didn't want them to get bogged down in the vagueness of the law. I just wanted them to use their common sense and help them see that the service was about as interactive as tuning the dial on their radio."

Susan Valz

Jury Research & Graphics Design Consultant