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MARKETPLACE

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HEADLINE: MARTIN KAPLAN OF THE UNIVERSITY OF SOUTHERN CALIFORNIA DISCUSSES WHETHER FREELANCERS SHOULD BE COMPENSATED BY PUBLISHERS FOR ELECTRONIC REPRINTS OF THEIR MATERIAL

ANCHORS: DAVID BRANCACCIO

BODY:

DAVID BRANCACCIO, anchor: Some freelance writers also want the free ride to end. They say it's not fair that publishers can put their work online or in other digital forms without paying again. Publishers say they own what they paid for. The stakes in this dispute are rising as technology creates new and interesting ways to repackage what had once been just old newspaper fish wrap. The University of Southern California's Martin Kaplan is convening a summit this weekend to discuss technology and the ownership of content.

Marty, today the US Supreme Court heard arguments from freelance writers who say they want to get paid when their work is used again.

Dr. MARTIN KAPLAN (University of Southern California): That's a strange thing for us freelancers to want, isn't it? But on the other hand, they have signed agreements that the publishers have made them sign which gives their copyrights to the publishers. And so the hope they have is that the courts think that the electronic versions are revisions. It's a strange thing to think of the kind of DVD or Lexis/Nexis reprintings as revisions, but that's the basis on which the law is going to be argued.

BRANCACCIO: Now on the other side of this, there's some notables, including the PBS documentarian Ken Burns. He is not on the side of his writers.

Dr. KAPLAN: Well, that's right. Ken Burns and Doris Kearns Goodwin and Richard Goodwin and David McCullough are all, on behalf of the publishers, saying that the publishers really have a point. If they feel vulnerable to suits as a consequence of this, that the only way they can deal with it is to purge their files--their electronic files--of all works by freelancers. And that means that if you're a documentarian or a researcher, you go to the files, you can't find the stuff there. So the--the publishers are saying, 'We're

going to have to--to deprive you of stuff based on the copyright law,' which is a very odd thing to do, 'and therefore, that you researchers ought to be against your fellow writers, like Jacques Barzun and James Gleick and Justin Kaplan, who have said that writers ought to be paid for their product.'

BRANCACCIO: Now The New York Times has a huge vested interest in this case. They, in fact, are a great repository for information that they would prefer not to have to keep paying for, that they believe they purchased a couple years ago and...

Dr. KAPLAN: S--sure. Who wouldn't?

BRANCACCIO: Exactly.

Dr. KAPLAN: Who wouldn't? Every--every publisher or content provider wants to pay only once, and sometimes by virtue of the contracts that they can force people to sign, they can get it that way. That's the key problem of copyright law.

BRANCACCIO: And the irony here is that The New York Times' position in this case is rather different than their view in another high-profile, high-technology case, Napster.

Dr. KAPLAN: Yes, exactly. On their editorial page, which, of course, reports to the publisher, who is, in this instance, party to the Supreme Court case, they argued that people who create work ought to be paid for their work. In fact, in a recent editorial, they said that the Internet should not become a duty-free zone where people can plunder the intellectual property of others without paying for it. Well, excuse me. What is The New York Times doing when it republishes but not paying for it? Well, one can argue that the writers signed away their rights, but one can also argue: Is that a decent use of the law?

BRANCACCIO: Broadly, though, this is this giant, murky area that was unleashed by the advent of the Internet and new digital techniques for disseminating information.

Dr. KAPLAN: Both that and by the politicization of copyright and intellectual property law. Copyright law was created in order to protect authors and creators. It has now become the chief weapon of people who are content providers in order to protect their own economic interests. Add to it the new technology, and there's going to be an infinite number of situations that James Madison, the great founder of copyright law, would never have imagined. But in each case, it's a bit like the Oklahoma land grab. There are people who are going to want to be Sooners, and in this case, the publishers because they probably can hire more lawyers than the writers are going to get their covered wagons in there first.

BRANCACCIO: Marty Kaplan, thank you. Dr. Kaplan is associate dean at USC's Annenberg School for Communication.

And that's the top of our news for Wednesday. More details on that 6 percent drop for the NASDAQ when we do the numbers.

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