

Transcribing Music by Ear and Derivative Infringement

The Music Publishers' Association and the National Music Publishers' Association have launched a campaign to eradicate websites that offer free guitar tablature. Operators of popular tablature sites, including olga.net, guitarzone.com and guitartabs.com have been approached. So far, the tactic has worked, since most sites are privately owned and lack the financial backing needed to effectively carry a fight of this nature, but the alleged infringers are regrouping. As there appears to be no legal precedent, it remains to be seen how the courts will interpret the issue. While the parties may agree that outright copying is illegal, most tablature is the result of "reverse-engineering" efforts by guitarists, whereby one tries to match the sound by ear. Trade groups allege copyright infringement, arguing that even when not copied outright, tablature is a derivative work at best; meaning it still cannot be legally produced without the copyright holder's permission. Tablature promoters, on the other hand, may challenge the derivative-work argument by demonstrating that each allegedly-infringing piece is meaningless (stripped of lyrics, each given tab can correspond to a number of different songs), as well as advancing first amendment and fair use defenses.

Scandal Causes Suspension of 74,000 .eu Domain Names

EURid, the organization that administers the .eu domain names, filed a lawsuit against 400 American registrars, and suspended 74,000 .eu domain names, after accusations of "warehousing." Registrars are only permitted to purchase domain names on behalf of their customers, but they allegedly were speculatively buying .eu domain names for resale at a higher price. EURid claims that three companies, Ovidio Ltd., Fausto Ltd. and Gabino Ltd., held all of the domain names that were suspended, and were also acting as a front for a number of registrars. While these domain names are "on hold," legitimate purchasers of .eu domains have not been affected. Proceedings on the lawsuit are scheduled to begin in October.

Malaysia Joins the Patent Cooperation Treaty

The Patent Cooperation Treaty (PCT) has become effective in Malaysia as of August 16, 2006. A patent application filed under the PCT now covers 131 countries, including all of the major industrial countries, in a single filing. Filing a PCT patent application provides valuable time (up to two and a half years) before nationalization is required in each of the contracting states. The decision of entry into a member state, as well as consequent translation and filing fees, can be delayed until business interests arise and/or until the patented technology is validated.