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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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**FELTNER v. COLUMBIA PICTURES TELEVISION,
INC.**

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

No. 96–1768. Argued January 21, 1998– Decided March 31, 1998

Respondent Columbia Pictures Television, Inc., terminated agreements licensing several television series to three television stations owned by petitioner Feltner after the stations' royalty payments became delinquent. When the stations continued to broadcast the programs, Columbia sued Feltner and others for, *inter alia*, copyright infringement. Columbia won partial summary judgment as to liability on its copyright infringement claims and then exercised the option afforded by §504(c) of the Copyright Act (Act) to recover statutory damages in lieu of actual damages. The District Court denied Feltner's request for a jury trial, and awarded Columbia statutory damages following a bench trial. The Ninth Circuit affirmed, holding that neither §504(c) nor the Seventh Amendment provides a right to a jury trial on statutory damages.

Held:

1. There is no statutory right to a jury trial when a copyright owner elects to recover statutory damages. Section 504(c) makes no mention of a right to a jury trial or to juries at all, providing instead that damages should be assessed in an amount "the court deems just," and that in the event that "the court finds" an infringement that is willful or innocent, "the court in its discretion" may increase or decrease the statutory damages. The word "court" in this context appears to mean judge, not jury. Other remedies provisions in the Act use the term "court" in contexts generally thought to confer authority on a judge, and the Act does not use the term "court" when addressing awards of actual damages and profits, see §504(b), which generally are thought to constitute legal relief, *Dairy Queen, Inc. v. Wood*, 369 U. S. 469, 477. Feltner's reliance on *Lorillard v. Pons*, 434

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U. S. 575, 585, for a contrary interpretation is misplaced. There being no statutory right to a jury trial on statutory damages, the constitutional question must be addressed. See *Tull v. United States*, 481 U. S. 412, 417. Pp. 4–7.

2. The Seventh Amendment provides a right to a jury trial on all issues pertinent to an award of statutory damages under §504(c), including the amount itself. Pp. 7–16.

(a) The Seventh Amendment applies to both common-law causes of action and to statutory actions more analogous to cases tried in 18th-century courts of law than to suits customarily tried in courts of equity or admiralty. *Granfinanciera, S. A. v. Nordberg*, 492 U. S. 33, 42. To determine the proper analogue, this Court examines both the nature of the statutory action and the remedy sought. See *ibid.* Pp. 7–8.

(b) There are close 18th-century analogues to §504(c) statutory damages actions. Before the adoption of the Seventh Amendment, the common law and statutes in England and this country granted copyright owners causes of action for infringement. More importantly, copyright suits for monetary damages were tried in courts of law, and thus before juries. There is no evidence that the first federal copyright law, the Copyright Act of 1790, changed this practice; and damages actions under the Copyright Act of 1831 were consistently tried before juries. The Court is unpersuaded by Columbia's contention that, despite this undisputed historical evidence, statutory damages are clearly equitable in nature. Pp. 8–13.

(c) The right to a jury trial includes the right to have a jury determine the *amount* of statutory damages, if any, awarded to the copyright owner. There is overwhelming evidence that the consistent common-law practice was for juries to award damages. More specifically, this was the consistent practice in copyright cases. *Tull v. United States, supra*— in which this Court determined that, although the Seventh Amendment grants a right to a jury trial on liability for civil penalties under the Clean Water Act, Congress could constitutionally authorize trial judges to assess the amount of the civil penalties— is inapposite to this case. In *Tull*, there was no evidence that juries historically had determined the amount of civil penalties to be paid to the Government, and the awarding of such penalties could be viewed as analogous to sentencing in a criminal proceeding. Here there is no similar analogy, and there is clear and direct historical evidence that juries, both as a general matter and in copyright cases, set the amount of damages awarded to a successful plaintiff. Pp. 13–15.

106 F. 3d 284, reversed and remanded.

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THOMAS, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and STEVENS, O'CONNOR, KENNEDY, SOUTER, GINSBURG, and BREYER, JJ., joined. SCALIA, J., filed an opinion concurring in the judgment.