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rights for it to begin with, so long as there are no costs to bargaining this case, the court's decision determines the initial state of rights, and the lobbying process that informs legislators is analogous to the bargaining process that ultimately determines how resources are used. As long as the court's decision does not interfere with that process, it doesn't matter.

Sometimes however, a court's decision will impact the future capabilities of interested parties, specifically when a ruling against a firm implementing new technology has negative financial consequences. Any penalties suffered as a result of the initial court decision could reduce or even eliminate a firm's opportunity to fight for its interests in the second stage game thereby

Institutes of Health and the National Library of Medicine, claiming that the unauthorized photocopying of medical journal articles violated their copyright. The case eventually reached the Supreme Court in *Williams & Wilkins Co. v. United States* (1975) where a divided court ended up ruling 4-3 (Justice Harry Blackmun recused himself), affirming the lower court's ruling that the photocopying involved constituted "fair use" of copyrighted materials.

It was close,

would consume digital media for the foreseeable future. While copiers and VCRs allowed consumers to enjoy facsimiles of copyrighted materials in different ways than they had before (reading outside the library, watching at later times), filesharing went further, allowing seemingly