

Copyright Law
Spring 2009
Professor David G. Post

Readings and Outline of Classes

Readings consist entirely of **unedited** cases (and accompanying statutory material, primarily from the Copyright Act, 17 USC §101 *et seq.*), as indicated. All material is posted on Blackboard; if you prefer, you may download these cases from Lexis or Westlaw instead of using the material on Blackboard. You **must** also obtain a current version of the Copyright Act and the Berne Convention on Literary Property.

Class 1

No reading – copyright review

Classes 2 & 3

Common Law & Statutory Copyright

Pushman v. NY Graphic Society 287 N.Y. 302, 39 N.E.2d 249 (1942)

Chamberlain v. Feldman, 300 NY 135 (1949)

Hemingway v. Random House, Inc., 23 N.Y.2d 341, 296 N.Y.S.2d 771, 244 N.E.2d 250 (1969)

Estate of Martin Luther King, Jr., Inc. v. CBS, Inc., 194 F.3d 1211 (11th Cir. 1999)

Classes 4 & 5

Limits of Statutory Subject Matter

Copyright Act §102

Baker v. Selden, 101 U.S. 99, 25 L. Ed. 841 (1879)

Morrissey v. Procter & Gamble Co., 379 F.2d 675 (1st Cir. 1967)

Nichols v. Universal Pictures, 45 F.2d 119 (1930)

Nash v. CBS, Inc., 704 F. Supp. 823, 832 (N.D. Ill. 1989)

Classes 6 & 7

Commercial Designs; Useful Articles

Copyright Act, §102(a) and §101 (definition of “pictorial, graphic, or sculptural work”)

Mazer v. Stein, 347 U.S. 201, 219 (1954)

Kieselstein-Cord v. Accessories by Pearl, Inc., 632 F.2d 989 (2d Cir. 1980) [**and photo**]

Carol Barnhart Inc. v. Economy Cover Corp., 773 F.2d 411, 421 (2d Cir. 1985) [**and photos**]

Brandir Int’l Inc. v Cascade Pacific Lumber Co., 834 F.2d 1142, 1145 (2d Cir.

1987) [**and photo**]

Classes 8, 9 and 10

Derivative Works

Copyright Act §103, §106(2), and §101 (definition of “derivative work”)

L. Batlin & Son, Inc. v. Jeffrey Snyder, 536 F.2d 486 (1976) [**plus photos**]
Mirage Editions, Inc. v. Albuquerque A.R.T. Company, 856 F.2d 1341 (9th Cir. 1988)

Lee v. A.R.T. Company, 925 F. Supp. 576 (N.D. Ill. 1996)

Castle Rock Entertainment, Inc. v. Carol Publishing Group, 150 F.3d 132(2d Cir. 1998

Warner Bros. & Rowling v. RDR Books & DOES 1-10, 575 F.Supp.2d 513 (SDNY 2008)

Lewis Galoob Toys, Inc. v. Nintendo of America, Inc., 964 F.2d 965 (9th Cir. 1992)

Micro Star v. FormGen Inc. 154 F.3d 1107 (CA 9 1998)

Huntsman v. Soderbergh, Amicus Brief (filed by Intel Corp.) (D. Colo. 2003)

Class 11

Review – No new reading

Classes 12, 13, and 14

Infringement: Musical Works/Sound Recordings

Copyright Act, §§ 102, 106, 114, 115, and 1101 (and §101 (definitions) as necessary to understand the treatment of “musical works” and “sound recordings”); skim §§801 – 803

Three Boys Music v. Bolton, 212 F.3d 477 (9th Cir. 2000)

Arnstein v. Porter, 154 F.2d 464 (2d Cir. 1946)

Fantasy v. Fogerty, 94 F.3d 553 (CA 9 1996)

Selle v. Gibb, 741 F.2d 894 (CA7 1984)

Bright Tunes v. Harrisongs, 420 F.Supp 177 (SDNY 1977)

Bridgeport Music v. Dimension Films, 383 F.3d 390 (6th Cir. 2004)

You may **SKIP** Section III of the Bridgeport opinion

Newton v. Diamond, 383 F.3d 1189 (9th Cir. 2004)

Classes 15, 16, 17, 18, and 19

Special Issues: Digital Copyright

Shapiro, Bernstein & Co. v. H.L. Green Co., 316 F.2d 236 (2d Cir. 1963)

Sony Corp. of America v. Universal City Studios, Inc., 464 U.S. 417 (1984)
Religious Technology Center v Netcom Online Communications Services, Inc.,
907 F.Supp 1361 (N.D.Cal. 1995)

A&M Records v. Napster, 239 F.3d 1004 (9th Cir. 2001)
MGM v. Grokster, 125 S. Ct. 2764 (2005).

Case Study: Viacom v. Youtube (and §512 safe harbors)

Copyright Act §512 [all of it!]
Hendrickson v. eBay, 165 F.Supp.2d 1082 (CD CA 2001)
Perfect 10, Inc. v CCBill LLC, 481 F.3d 751 (CA9 2007)
Viacom, Int'l v. Youtube, Inc., Complaint for Declaratory and Injunctive Relief &
Damages

Case Study: Twentieth Century Fox v. Cablevision

Twentieth Century Fox et. al v. Cablevision, 2007 US Dist Lexis 20787 (SDNY
2007)

Appellant's Brief
Appellee's Brief
ASCAP Amicus Brief in favor of Appellees
Law Professors' Amicus Brief in favor of Appellants
Cartoon Network v. Cablevision, 536 F.3d 121 (CA2 2008)
Cablevision, Inc. Petition for Certiorari

Classes 20 and 21
Termination of Transfers, Assignments, Licenses

Cohen v. Paramount Pictures, 845 F.2d 851 (9th Cir. 1988)
Boosey & Hawkes v. Walt Disney Co., 145 F.3d 481 (2d Cir. 1998)

NY Times Co. v. Tasini, 533 U.S. 483 (2001)
Effects Associates v. Cohen, 908 F.2d 555 (9th Cir. 1990)
Nelson-Salabes, Inc. v. Morningside Dev., LLC, 284 F.3d 505 (4th Cir. 2002)

Class 22
Review – No New Reading

Classes 23, 24, 25, and 26
International Copyright

Copyright Act §104
Jurisdictional provisions: 28 USC §§ 1331, 1332, 1338
Berne Convention for the Protection of Literary Property (Skim)

Itar-Tass News Agency v. Russian Kurier, Inc., 153 F.3d 82 (CA2 1998)
London Film Productions v. Intercontinental Communications, 580 F.Supp 47
(SDNY 1984)

Subafilms v. MGM-Pathe, 24 F.3d 1088 (9th Cir. 1994)
Creative Technology v. Aztech Systems, 61 F.3d 696 (CA 9 1995)

Gilliam v. American Broadcasting Co., Inc. 538 F.2d 14 (2d Cir. 1976)
Copyright Act §104A [restored works]
Dam Things from Denmark v. Russ Berrie & Company, Inc., 290 F.3d 548 (3d
Cir. 2002) [**with photo**]

Bridgeman Art Library v. Corel 25 F.Supp 421 (SDNY 1998)
Bridgeman Art Library v. Corel, 36 F.Supp 191 (SDNY 1999) [on
reconsideration]

Copyright Act §§ 601 – 603
Quality King Distributors v. L'anza Research Intern., Inc., 523 U.S. 135 (1998)