

# COPYRIGHT LAW

Spring 2008

University of Pittsburgh School of Law  
Prof. Madison

## Course homepage:

<http://madisonian.net/homepage/copyright/spring08/home.htm>

## Prof. Madison's homepage:

<http://madisonian.net/homepage/index.htm>

### COURSE INFORMATION

#### Class Meeting Time and Place

Mondays and Tuesdays, from 9 a.m. to 10:15 a.m., in Room 111.

#### Contacting Prof. Madison

My office is in Room 303, and my email address is [madison@pitt.edu](mailto:madison@pitt.edu). You are welcome to knock on my door at any time when I am in the office, or to contact me by email with questions or comments.

#### Required Course Materials and How to Get the Readings

There are two required texts for the course. The casebook is *Copyright in a Global Information Economy* (Second Edition 2006) by Professors Cohen, Loren, Okediji, and O'Rourke. The required bound supplement is the softcover *Copyright in a Global Information Economy: 2007 Case and Statutory Supplement*, by the same authors. In addition, certain supplemental cases are posted online at <http://www.law.pitt.edu/madison/copyright/supplement.htm>

#### Grading

Your grade for this course will be based on three short open research memos. The first two memos will each be worth 30% of the final grade. The final memo will be worth 40% of the final grade.

The substance and format of the memos, their timing, and their due dates will be discussed in class as the semester progresses.

#### Slides

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#### Complete Syllabus

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### READING ASSIGNMENTS

The page numbers listed below under "Casebook" refer to Julie E. Cohen, Lydia Pallas Loren, Ruth Gana Okediji, & Maureen A. O'Rourke, *Copyright in a Global Information Economy* (Second Edition 2006).

**How to read the Syllabus:** Except as noted below, each assignment below corresponds tentatively to one class period, though the amount of material to be covered in class, the order of the assignments, and/or the contents of a particular assignment may be changed by prior announcement. (Note, for example, that we will have more class meetings than there are assignments.) I will make every effort to incorporate new developments in copyright law into the Syllabus, where appropriate.

Within each assignment, the Syllabus notes the principal case(s) covered in the text. In addition to the assigned readings, where a case or other material refers to the Copyright Act (Title 17 of the United States Code), you are responsible for locating and reading the section(s) of the Act to which the text refers. If you do not own a copy of the Copyright Act, you can access a free online version at <http://www4.law.cornell.edu/uscode/17/>.

For several of the units of reading, **optional** law review articles are included. Some of these are relatively short. Some are quite long. Reading some or all of them will give you a deeper picture of the current state of copyright law and policy than you will get by focusing on appellate cases and the statute alone. All of the articles are available via the University of Pittsburgh -- Copyright Law course page on the TWEN research service, in the Westlaw network.

#### I. Introduction

- **Class 1: Introductory Problems** Read Casebook 691-697 (*NBA v. Motorola*) and Casebook 325-330 (*Nichols v. Universal Pictures Corp.*)

#### II. The Purposes of Copyright Law

**Optional:** Stephen Breyer, *The Uneasy Case for Copyright: A Study of Copyright in Books, Photocopies, and Computer Programs*, 84 Harv. L. Rev. 281 (1970)

- **Class 2: Copyright in Context** Casebook 3-42

#### III. Limitations on Copyright: Fair Use

**Optional:** Michael J. Madison, *A Pattern-Oriented Approach to Fair Use*, 45 Wm. & Mary L. Rev. 1525 (2004)

- **Class 3: Cultural Interchange** Casebook 525-561 (*Harper & Row Publishers v. Nation Enterprises*; *Campbell v. Acuff-Rose Music, Inc.*; *New Era Publications Int'l v. Carol Publishing Group*; *Castle Rock Entertainment v. Carol Publishing Group, Inc.*; *Ty, Inc. v. Publications International, in the online Supplement*)
- **Class 4: Technical Interchange** Casebook 561-575 (*Sega Enterprises Ltd. v. Accolade, Inc.*; *Sony Computer Entertainment, Inc. v. Connectix Corp.*)

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- **Class 5: Market Failure or "Productive Consumption"?** Casebook 576-602 (*Sony Corporation of America v. Universal City Studios, Inc.*; *American Geophysical Union v. Texaco, Inc.*; *Princeton University Press v. Michigan Document Services, Inc.*; *A&M Records, Inc. v. Napster, Inc.*)

## IV. The Subject Matter of Copyright Law

**Optional:** David Nimmer, *Copyright in the Dead Sea Scrolls: Authorship and Originality*, 38 Hous. L. Rev. 1 (2001)

- **Class 6: Fixation** Casebook 45-57 (*Williams Electronics, Inc. v. Artic International, Inc.*; *MAI Systems Corp. v. Peak Computer, Inc.*)
- **Class 7: Originality** Casebook 57-72 (*Burrow-Giles Lithographic Co. v. Sarony*; *Bleistein v. Donaldson Lithographing Co.*; *Alfred Bell & Co. v. Catalda Fine Arts, Inc.*; *The Bridgeman Art Library, Ltd. v. Corel Corp.*)
- **Class 8: The Idea/Expression Dichotomy** Casebook 72-90 (*Baker v. Selden*; *A.A. Hoehling v. Universal City Studios, Inc.*; *American Dental Association v. Delta Dental Plans Association*)
- **Class 9: Derivative Works and Compilations** Casebook 90-110 (*L. Batlin & Son v. Snyder*; *Entertainment Research Group, Inc. v. Genesis Creative Group, Inc.*; *Pickett v. Prince*; *Feist Publications, Inc. v. Rural Telephone Service Co.*; *Roth Greeting Cards v. United Card Co.*; *Mason v. Montgomery Data, Inc.*)
- **Class 10: Authorship** Casebook 110-118 (*Lindsay v. The Wrecked and Abandoned Vessel R.M.S. Titanic*; *Erickson v. Trinity Theatre, Inc.*; *Almuhammed v. Lee*)
- **Class 11: Works Made for Hire** Casebook 118-134 (*Community for Creative Non-Violence v. Reid*; *Aymes v. Bonelli*; *Avtec Systems, Inc. v. Peiffer*)

**Memorandum Assignment Number One will be distributed around this time. The Assignment will be due on Friday, February 15.**

## V. Acquiring, Keeping, and Transferring Copyright

**Optional:** Maureen A. O'Rourke, *Bargaining in the Shadow of Copyright After Tasini*, 53 Case W. Res. L. Rev. 605 (2003)

- **Class 12: Mechanics of Transfers** Casebook 182-207 (*Effects Associates, Inc. v. Cohen*; *Boosey & Hawkes Music Publishers, Ltd. v. The Walt Disney Company*; *Random House v. Rosetta Books*; *New York Times Company v. Tasini*)
- **Class 13: Formalities** Casebook 139-152 (*Estate of Martin Luther King, Jr., Inc. v. CBS, Inc.*)
- **Class 14: Duration; Renewals and Terminations of Transfers** Casebook 153-182 (*Eldred v. Ashcroft*; *Stewart v. Abend*)

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## VI. Protected Works and Boundary Problems

**Optional:** Dennis S. Karjala, *Distinguishing Patent and Copyright Subject Matter*, 35 Conn. L. Rev. 439 (2003)

- **Class 15: Useful Articles with Pictorial, Graphic, or Sculptural Aspects** Casebook 209-226 (*Mazer v. Stein*; *Kieselstein-Cord v. Accessories by Pearl, Inc.*; *Carol Barnhart Inc. v. Economy Cover Corp.*; *Brandir International, Inc. v. Cascade Pacific Lumber Co.*)
- **Class 16: Characters** Casebook 280-290 (*Metro-Goldwyn-Mayer, Inc. v. American Honda Motor Co.*; *Titan Sports, Inc. v. Turner Broadcasting Systems, Inc.*)
- **Class 17: Architectural Works** Casebook 269-280 (*The Yankee Candle Co. v. New England Candle Co.*; *Nelson-Salabes, Inc. v. Morningside Holdings*)

## VII. The Statutory Rights of Copyright Owners I

**Optional:** Lydia Pallas Loren, *Untangling the Web of Music Copyrights*, 53 Case W. Res. L. Rev. 673 (2003)

- **Class 18: The Elements of Infringement** Casebook 313-325 (*Three Boys Music Corp. v. Michael Bolton*; *Selle v. Gibb*; *Ty, Inc. v. GMA Accessories, Inc.*)
- **Class 19: The Reproduction Right** Casebook 325-26; 330-364 (*Arnstein v. Porter*; *Sid & Marty Krofft Television Productions, Inc. v. McDonald's Corp.*; *Steinberg v. Columbia Pictures Industries, Inc.*; *Boisson v. Banian, Ltd.*; *Computer Associates International, Inc. v. Altai, Inc.*; *Cavalier v. Random House, Inc.*; *Swirsky v. Carey*; *Marobie-FL, Inc. v. National Association of Fire Equipment Distributors*)

**Memorandum Assignment Number Two will be distributed around this time. The Assignment will be due on Friday, March 28.**

- **Class 20: The Distribution Right** Casebook 365-384 (*Marobie-FL, Inc. v. National Association of Fire Equipment Distributors*; *Hotaling v. Church of Jesus Christ of Latter-Day Saints*; *Bobbs-Merrill Company v. Straus*; *Quality King Distributors, Inc. v. L'anza Research International, Inc.*)
- **Class 21: The Right to Prepare Derivative Works, and Moral Rights** Casebook 385-426 (*Castle Rock Entertainment, Inc. v. Carol Publishing Group, Inc.*; *Dam Things from Denmark a/k/a Troll Company ApS v. Russ Berrie & Company, Inc.*; *Mirage Editions, Inc. v. Albuquerque A.R.T. Company*; *Lee v. A.R.T. Company*; *Lewis Galoob Toys, Inc. v. Nintendo of America, Inc.*; *Micro Star v. FormGen, Inc.*; *Gilliam v. American Broadcasting Companies, Inc.*; *Carter v. Helmsley-Spear, Inc.*; *Martin v. City of Indianapolis*; *Dastar Corp. v. Twentieth Century Fox Film Corp.*)
- **Class 22: The Public Performance and Public Display Rights** Casebook 426-443 (*Columbia Pictures Indus. v. Redd Horne, Inc.*)

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## VIII. The Statutory Rights of Copyright Owners II

- **Class 23: Copyright and Collective Rights Organizations: The Case of the Music Industry** Casebook 443-472 (*Newton v. Diamond*; *Bridgeport Music, Inc. v. Dimension Films*)
- **Class 24: The Direct Infringer** Casebook 473-479 (*Religious Technology Center v. Netcom On-Line Communication Services, Inc.*)
- **Class 25: Vicarious and Contributory Infringement** Casebook 479-501 (*Fonovisa, Inc. v. Cherry Auction, Inc.*; *Religious Technology Center v. Netcom On-Line Communication Services, Inc.*; *MGM Studios Inc. v. Grokster Ltd.*)

## IX. Technological Protection and Copyright Substitutes

**Optional:** R. Anthony Reese, *Will Merging Access Controls and Rights Controls Undermine the Structure of Anticircumvention Law*, 18 Berkeley Tech. L.J. 619 (2003)

- **Class 26: The Technological Protection Debate, the DMCA, and Copyright Liability** Casebook 603-639 (*University City Studios, Inc. v. Reimerdes*; *Chamberlain Group, Inc. v. Skylink Tech, Inc.*; *Lexmark International v. Static Control Components*)
- **Class 27: Preemption of State Law Claims** Casebook 666-676 (*Harper & Row, Publishers, Inc. v. Nation Enterprises*; *Video Pipeline, Inc. v. Buena Vista Home Entertainment, Inc.*)

**Memorandum Assignment Number Three will be distributed during the last week of class. The Assignment will be due on the last day of exams.**