

Copyright Law
Fall 2016
Prof. Julie E. Cohen

Administrative Details

Required Reading

- Cohen, Loren, Okediji & O'Rourke, *Copyright in a Global Information Economy* (Aspen, 4th ed. 2015) (“CB”).
- Case and note updates for 2016 (“Supp.”) available online both at coolcopyright.com and on the class Canvas site.
- A current version of the Copyright Act, either print or electronic. **Please note:** If you choose electronic access, you must bring a laptop or tablet to every class and keep a browser window open to the statute.
 - The Copyright Office maintains a current version of the Copyright Act at <http://www.copyright.gov/title17/>.
 - The Legal Information Institute at Cornell Law School maintains a current version at <https://www.law.cornell.edu/uscode/text/17>. If there is a budget-related government shutdown, this one will still work.
 - Alternatively, you can purchase either the 2015 Statutory Supplement for our casebook or any of a number of other current IP statute books in hard copy.
- Suggested reference materials (not required, but you may find them helpful):
 - *Nimmer on Copyright* (multi-volume treatise, in library).
 - Marshall Leaffer, *Understanding Copyright Law* (LexisNexis, 6th ed. 2014).
 - coolcopyright.com, the companion web site for the casebook.

Schedule Changes

- Class will not meet on Tues.-Thurs., Oct. 18-20
- We will make up those classes by extending the length of four regular classes. ***The extended classes will start at 9:00 a.m. instead of 9:35 a.m.*** The four extended class dates are:
 - Tues. and Thurs., Oct. 25 and 27
 - Tues. and Thurs., Nov. 1 and 3
- Please note that the reading assignments for the extended classes will be longer, so that we can cover the same material that we would have read using the default class schedule.

Office Hours and Contact Information

- Office hours are Wednesdays, 1-3 p.m., and other times by appointment. My office is McDonough 410.
- Please note that office hours will be cancelled on Weds., Oct 12 (for Yom Kippur) and Weds., Oct. 19.
- You can reach me at 202-662-9871 or jec@law....

Course Requirements

Grading Policy

- In general, your final exam grade will be your course grade. However, as explained below, I will make a downward adjustment of half a grade for failure to post your required discussion memo by the applicable deadline.

Final Exam

- The final exam will be an eight-hour take-home exam on Thursday, Dec. 8.
- The exam will consist of three sections, weighted equally, as follows.
 - One traditional, issue-spotter question;
 - One set of five short answer questions; and
 - One essay question asking for your analysis of a current legal or policy issue.
- In total, your exam may not exceed 4500 words. Answers exceeding the word limit will be marked down by half a grade for every 50 words over the limit.

Discussion Memos

- **What:** During the semester, each of you will be required to post *one* short (<300 words), informal discussion memo. The memo should discuss some issue relevant to the readings for the assigned class meeting and/or pose questions for class discussion.
- **Where:** Please post your memo in the “Discussion” section of the class Canvas site.
- **When:** Memos must be posted by 8 p.m. (Eastern time) on the day before the class for which they are assigned. On Weds., Sept. 8, I will distribute and post on the Canvas site a list of memo assignments for each remaining class meeting. The first memos will be posted for Class 5, which will meet on Tues., Sept. 13.
- **Why:** The memos help me to determine which issues you find most compelling and which issues may require more clarification. They also give you a different kind of opportunity to be heard in class (which helps me get to know you a little better). Please treat your classmates’ memos as part of the course reading assignment for that day.
- **Effect on Grade:** The memos will not be graded. *A memo will affect your grade only if you fail to post it by the required time. Failure to post a memo by the applicable deadline will reduce your course grade by half a grade.* If you foresee that you will be unable to post your memo on the appointed day, you may arrange a trade with another member of the class. However, I must be notified of all trades at least 24 hours before the memo is to be posted. If you experience technical difficulties when trying to post, please notify me by e-mail or voicemail, and please post your memo as soon as possible.

Class Participation

- While much class participation will be voluntary, some class participation will be conducted on a random on-call basis. Class participation is important practice for fielding questions from supervisors, clients, and judges. I appreciate that being questioned in class is not always the most enjoyable experience. Please know that my intent is to have a thoughtful conversation among reasonable adults. I encourage you to take the time you need to reflect while answering, and to ask for clarification as needed.

Syllabus

I. Copyright in Context

- Class 1 (Aug. 30): Copyright in Context
 - CB 6-35
 - Skim CB 35-46

II. The Subject Matter of Copyright

- Class 2 (Sept. 1): Fixation; Originality
 - Act §§101 (“fixed” only), 102(a)
 - CB 49-89
- Class 3 (Sept. 6): The Idea/Expression Distinction
 - Act §102(a)-(b)
 - CB 90-109
 - Act §§101 (“pictorial, graphic, and sculptural works,” “useful article”), 113(a)-(c)
 - CB 177-92
- Class 4 (Sept. 8): Derivative Works and Compilations
 - Act §§101 (“derivative work”, “compilation”), 103
 - CB 109-36
- Class 5 (Sept. 13): Authorship
 - Act §§101 (“joint work”, “work made for hire”), 201(a)-(b)
 - CB 137-72
 - **Begin reading discussion memos, posted by 8 pm the night before each class**

III. The Statutory Rights of Copyright Owners

- Class 6 (Sept. 15): The Reproduction Right
 - Act §§101 (“copies,” “phonorecords”), 106 117, 405(b)
 - CB 247-70
- Class 7 (Sept. 20): The Reproduction Right (cont'd)
 - CB 270-304
- Class 8 (Sept. 22): The Right to Prepare Derivative Works
 - CB 309-34
- Class 9 (Sept. 27): Copyright in Characters; Moral Rights
 - Act §§101 (“work of visual art”), 106(A)
 - Supp. 3-7 (*Towle* and notes/questions) plus CB 342-43 (Questions 3-5)
 - CB 449-72
- Class 10 (Sept. 29): The Distribution Right
 - Act §§106, 109(a)-(b)(2) & (d), 108, 501(a), 602
 - CB 345-77
- Class 11 (Oct. 4): The Public Performance and Public Display Rights
 - Act §§106, 101 (“display”, “perform”, “publicly”, “transmit”, “digital transmission”), 110
 - CB 377-408

- Class 12 (Oct. 6): Copyright and the Music Industry
 - Act §§101 (“phonorecords”, “sound recordings”), 106, 114(a)-(c), 115(a)-(b)
 - CB 409-19
 - Supp. 9-19 (*VMG Salsoul* and notes/questions)
 - CB 429-45
- **No class on Tuesday, Oct. 11 – GULC will follow a Monday schedule**
- Class 13 (Oct. 13): Copyright and Computer Software
 - Act §101 (“computer program”, “literary work”)
 - Skim CB 206-12
 - CB 212-20, 304-08
 - CB 221-40

No class on Tues.-Thurs., Oct. 18-20

IV. Fair Use

- Class 14 (**EXTENDED LENGTH: Oct. 25, 9:00-11:00 a.m.**): Fair Use in Culture
 - Act §107
 - CB 563-601
- Class 15 (**EXTENDED LENGTH: Oct. 27, 9:00-11:00 a.m.**): Fair Use in Technology; Other Productive Uses
 - CB 602-45
 - Supp. 30-31 (*Hathitrust* followup)

V. The Different Faces of Infringement

- Class 16 (**EXTENDED LENGTH: Nov. 1, 9:00-11:00 a.m.**): Types of Infringement; Indirect Liability; Inducement
 - Act §106
 - CB 483-509, 542-53
- Class 17 (**EXTENDED LENGTH: Nov. 3, 9:00-11:00 a.m.**): Online Service Provider Liability
 - Act §512
 - CB 509-26
 - Supp. 22-29 (*Lenz* and notes/questions)
 - CB 530-41, 554-62

VI. Practical Considerations in Licensing and Enforcing Copyrights

- Class 18 (Nov. 8): Formalities; Duration
 - Act §§302, 303, 304(a)-(b)
 - CB 651-86
- Class 19 (Nov. 10): Renewals; Terminations of Transfers
 - Act §§203, 304(c)-(d)
 - CB 686-703

- Class 20 (Nov. 15): Modes of Transfer; New Uses; Standing to Sue
 - Act §§101 (“collective work,” “transfer of copyright ownership”), 201(c)-(d), 202, 204, 501(b)
 - CB 705-31
 - CB 767-71
- Class 21 (Nov. 17): New Licensing Models; Subject Matter Jurisdiction
 - Act §106, 411
 - CB 731-48
 - CB 761-67
- Class 22 (Nov. 22): Remedies
 - Act §§502-505
 - CB 802-28, 831-40

VII. Technological Protections; State Law Protections and Preemption

- Class 23 (Nov. 29): Technological Protections
 - Act §§1201(a)-(j), 1202(a)-(c)
 - CB 861-85, 899-907
- Class 24: (Dec. 1): State Law Protections and Preemption
 - Act §301(a)-(e)
 - CB 911-31, 949-57