

COPYRIGHT LAW

Syllabus & Course Schedule

Summer 2022, Law 278.3S, Quarter 4, 3 Units

Instructor Information

Instructor: Prof. Dr. Ben Depoorter

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Room: 105

Office hours: by appointment

Course Materials

All readings for this course are included in Depoorter, Copyright Law (2021, 3rd ed)

Available for order on Amazon:

https://www.amazon.com/dp/B09BT895GS?ref=pe_3052080_397514860

Course Description

This course reviews U.S. federal copyright law regarding creative works. We discuss the purposes of copyright law, investigate the requirements for copyright protection, rules concerning transfers of copyright ownership, the various infringement standards in federal courts, limitations of copyright protection, and remedies for infringement. We consider the constitutional, statutory, and common law dimensions of copyright law and related rights such as anti-circumvention rules. Upon completing a review of copyright law's core legal framework, we examine landmark disputes and recurring topics in some of the primary content industries, including modern art, television and motion pictures, music, literature, photography, databases, software, etc. We cover current controversies in copyright litigation, legislation, and novel topics related to emerging technologies throughout the semester.

Course site information

Our class bCourse site is located here
[<https://bcourses.berkeley.edu/courses/1514861>]

The bCourse site contain this syllabus (and any updates to it), prior exams, PDF versions of the slides, and a discussion forum where you can post questions.

Class Meetings Format

Class meetings will be offered in person **on campus**.

The class session will include lecturing, question to you about the cases, discussion, Q&A, polls, small-group discussions on Zoom.

Learning Outcomes for the course

Students in the course will be expected to achieve the following:

- (a) Knowledge and understanding of substantive and procedural copyright law;
- (b) Legal analysis and reasoning and problem-solving, and written and oral communication in the legal context;
- (c) Using the law to solve real-world problems and to create a more just society.

Course-Specific Learning Outcomes

- (a) Knowledge and understanding of substantive and procedural U.S. copyright law;
- (b) Legal analysis and reasoning and problem-solving in the area of copyright law
- (c) Students will have basic understanding of a host of cutting edge topics in copyright law and copyright related policy issues.
- (d) Students will gather insight into some of the main challenges in copyright law, including the ambiguities raised by new technologies and various difficulties in enforcement.
- (e) Student will develop an understanding of the economic purposes of copyright law.
- (f) Students will be able to identify, analyze, assess, and form their own opinions on a variety of policy issues in copyright.

(g) Students will be critical reflect on, reason about and form independent judgments on a variety of viewpoints in copyright scholarship and enforcement initiatives of copyright stakeholders.

(h) Students will be able to identify and formulate potential weaknesses in the arguments raised by scholars and copyright law stakeholders.

Exam

The exam will be a take-home, open book test. You will have 1 hour and a half to complete the exam.

During the semester (starting in week 2) we will have 3-4 formative assessments. This assessment, consisting of online quizzes on Zoom during class will provide you with feedback on your performance at different points. The grades are aimed to provide you information about your knowledge of the material covered in class but will not count towards the final grade for the course.

Grading

Your final grade will be determined primarily by your performance on the final examination. Class participation will serve as a tiebreaker for students at grade borderlines.

The examination is based on the assigned cases in the casebook, the contents of the class lectures, and the discussions in class.

The exam will test your familiarity with the concepts and doctrines of U.S. copyright law. The questions on the final exam consist of application of the theories, concepts and doctrines of copyright law to actual and hypothetical legal disputes. Questions on the final exam will emphasize the issues discussed in class.

Example exams and answers from previous years can be found on the Bcourse website.

School-wide Policies

- Student Services schedules all exams, including accommodated exams, as the law school is committed to anonymous grading. **Professors do not have the authority to reschedule exams.** Any student who seeks an accommodated or rescheduled exam for documented medical reasons, disability, or for religious observance, should contact [Student Services](mailto:kvalenti@berkeley.edu), 510-643-2744, kvalenti@berkeley.edu.
- The Academic Honor Code [[Academic Honor Code](#)] governs the conduct of all students during examinations and in all other academic and pre-professional activities at Berkeley Law. We expect students to adhere to this code scrupulously.

If you have any question whether your conduct may violate the code, please contact your professor before you act. You may face severe consequences, including a failing grade in this class or removal from the program, if you violate the code, even if similar conduct is not considered wrong in your home country.

- A common and serious form of misconduct and Honor Code violation is plagiarism. You must cite the sources of any words or ideas that are not your own. Cite all sources — hard copy, web-based, and others — in proper academic format.

Course Schedule & Assigned Readings

July 22 (1): THERE ARE NO ASSIGNED READINGS FOR THE FIRST CLASS

1. Foundations of Copyright Law

Current Issues

Philosophical Perspectives

The Economics of Copyright Law

Incentives for Creativity: Evidence

July 25 (2)

2. The Basics of a Copyright Lawsuit: Rules

2.A. Originality

Meshworks v. Toyota

2.B. Infringement

2.B.i. Copying in Fact

Three Boys Music Corp. v. Michael Bolton

Selle v. Gibb

Ty v, GMA Accessories

Briggs v. Blomkamp

July 26 (3)

2. The Basics of a Copyright Lawsuit: Rules

2.B.ii Improper Appropriation

Nichols v. Universal

Funky Films v Time Warner

2.C. Defenses

2.D. Remedies

July 27 (4)

3. Limiting Concepts

3.A. Idea-Expression

Baker v. Selden

A.A. Hoehling v. Universal City Studios, Inc.

3.B. Fixation

Kelley v. Chicago Park District

3.C. Usefulness

Mazer v. Stein

Brandir International, Inc. v. Cascade Pacific Lumber Co.

Star Athletica v. Varsity Brands

July 28 (5)

3.D. First Sale Doctrine

3.E. Preemption

ProCD v. Zeidenberg

4. Authorship in Copyright Law

Lindsay v. The Wrecked and Abandoned Vessel R.M.S. Titanic

Erickson v. Trinity Theatre, Inc.

Aalmuhammed v. Lee

Community for Creative Non-Violence v. Reid

July 29 (6)

5. Copyright on Photography

Burrow-Giles Lithographic Co. v. Sarony

Manion v. Coors

Rentmeester v Nike

6. Copyright on Literary Works

Harper & Row, Publishers v. Nation Enterprises

JK Rowling and Warner Brothers v RDR Books

Leadsinger Inc V. Bmg Music Publishing

August 1 (7)

7. Copyright on Music

William v Gaye

Campbell v. Acuff-Rose Music, Inc.

Newton v. Diamond

Bridgeport Music, Inc. v. Dimension Films LLC

Salsoul, LLC v. Madonna Louise Ciccone

August 1 (8)

8. Copyright on Audiovisual Works

16 Casa Duse v. Merkin

Gayle v. Home Box Office, Inc.

Sandoval v. New Line Cinema

9. Copyright on Architectural Works

The Yankee Candle Co. v. New England Candle Co.

Tiseo Architects, Inc. V. B & B Pools Service And Supply

August 2 (9)

10. Copyright & the Arts

Batlin & Son, Inc v. Snyder

Entertainment Research Group, Inc. v. Genesis Creative Group, Inc

Boisson v. Banian

Mirage Editions, Inc. v. Albuquerque A.R.T. Company

Lee v. A.R.T. Company

Cariou v. Prince (p 393 of the casebook)

August 3 (10)

11. Copyright in Characters

11.1. Basics

Metro-Goldwyn-Mayer, Inc. v. American Honda Motor Co.

DC Comics v Towle

11.2. Friction with Right of Publicity

Bette Midler v. Ford Motor Co

White v. Samsung Electronics America

12. Copyright on Software

Computer Associates International, Inc. v. Altai, Inc.

Lotus Development Corporation v. Borland International, Inc.

Oracle v Google II (fair use)

August 4 (11)

13. Copyright on Databases

Kregos v Associated Press

CCC Information Services, Inc. v. Maclean Hunter Market Reports, Inc.

14. Moral Rights in Copyright Law

Gilliam v. American Broadcasting Companies, Inc.

Cohen v. G & M Realty L.P

August 5 (NO CLASS)

August 8 (12)

15. Copyright Secondary Liability

Fonovisa, Inc. v. Cherry Auction, Inc.

Sony Corporation of America v. Universal City Studios, Inc.

Metro-Goldwyn-Mayer, Inc. v. Grokster

Viacom v. Youtube

Lenz v. Universal

August 9 (13)

Remainder + Review