

Cinema Studies, Tisch School of the Arts
New York University
CINE-GT.1804: Copyright, Legal Issues, and Policy
Instructor: Greg Cram
Fall 2022

Syllabus

Time and Place

721 Broadway, Room 670
New York, NY 10003
Wednesdays from 6:30-9:30 PM

Instructor Contact Information

The New York Public Library
Stephen A. Schwarzman Building
476 Fifth Avenue
New York, NY 10018
Telephone: 212.621.0262
Email: Greg.Cram@nyu.edu (always preferable to telephone)
Gchat: [GregCram@nypl.org](https://www.nypl.org/chat/gregcram)

Office Hours

By appointment. Send me an email to schedule a time. Most office hour appointments will happen Zoom or Google Hangouts.

Course Description

With the advent of new technologies, film producers, distributors and managers of film and video collections are faced with myriad legal and ethical issues concerning the use of their works or the works found in various collections. The answers to legal questions are not always apparent and can be complex, particularly where different types of media are encompassed in one production. When the law remains unclear, a risk assessment, often fraught with ethical considerations, is required to determine whether a production can be reproduced, distributed or exhibited without infringing the rights of others. What are the various legal rights that may encumber moving image material? What are the complex layers of rights and who holds them? Does one have to clear before attempting to preserve or restore a work? How do these rights affect downstream exhibition and distribution of a preserved work? And finally, what steps can be taken in managing moving image collections so that decisions affecting copyrights can be taken consistently? This course will help students make intelligent decisions and develop appropriate policies for their institution.

Course Learning Objectives

Upon completion of the course, the students will:

- Be able to identify the types of content protected by copyright, trademark and patent law
- Gain a firm grounding in the theory and language that underlies copyright law that affects preservation, restoration, exhibition and repurposing of works
- Understand potential copyright reforms from different points of view

- Be able to research and make high-confidence determinations of the copyright status of items in collections
- Be able to make well-reasoned arguments as to whether a particular use is a fair use
- Be able to make well-reasoned arguments as to whether a particular use falls within some other exception granted to users of copyrighted works
- Comprehend copyright management as a function of collections management

Evaluation and Assessment

Students will be assigned three exercises and an intellectual property audit project to test their grasp of topics taught in class and covered in the readings. Technical aspects, logic, and demonstrations of critical thinking of these written assignments will be evaluated. For full credit, all assignments must be submitted in a timely manner and in a professionally appropriate form. All assignments should be submitted electronically through Brightspace. All assignments are due at the start of the class indicated on the syllabus.

Regular attendance is required and class participation is expected. This is an interactive class and students will be asked to regularly share their thoughts and contribute to classroom discussion. Because critical thinking and analytical reasoning are essential skills to future employment, students will also be asked to take and defend positions on copyright issues in class discussions.

There may be times during class where you will be asked to respond to a question by sending a text message or accessing a website. Although a cell phone is not required for this class, you are encouraged to bring one if you have one already. Other than the times where your responses are requested, there should be no active communication using computers or mobile devices during class. Interruptions will affect participation grades.

Exercises, the audit project and class participation will be weighed as follows:

Three copyright assignments/exercises	45%
Audit Project oral presentation	10%
Audit Project written report	25%
<u>Class participation</u>	<u>20%</u>
Total	100%

Course Credits

This is a four-credit course.

Attendance

Regular attendance is expected. Excused absences are those that are due to a) religious holidays; b) health reasons, justified by appropriate medical note; and c) mandatory court attendance and mandatory jury duty, justified by appropriate court clerk note. In the case of an excused absence, a student is expected to do the required coursework for the class(es) missed. In case a student has had, or expects to have, an excused absence, the student should notify the instructor as soon as possible. The instructor will assign the work the student must do in order to fulfill class participation credits for the missed class. Too many overall absences (more than 1/3 of total classes missed in a course for whatever reason) may lead to a failing grade.

Late Assignment Policy

All work is expected to be completed on time. Assignments turned in late (unless excused) are subject to a five percent (5%) penalty for every three days an assignment is late. The last day assignments will be accepted is 5:00 PM on December 21, 2022. Failure to submit an assignment by 5:00 PM on December 21, 2022, will result in a forfeiture of credit for that assignment.

Assignment Submission

Assignments should be submitted through Brightspace. Written comments will be delivered to students no later than three weeks after the assignment has been turned in.

Incompletes

Incomplete will only be given in the case of a dire emergency and only then if the majority of the class is completed and completed successfully. The awarding of a grade of incomplete is at the discretion of the instructor and not guaranteed. Before the last class meeting, the student must meet with the professor and MIAP staff to discuss the proposed incomplete grade.

Grading Rubric

Written assignments in this class will be graded according to the following guidelines:

Letter Grade	GPA	Definition
A	4.0	<i>Outstanding achievement.</i> Student performance demonstrates full command of the course materials and shows a high level of originality and/or creativity that far surpasses course expectations; grammatical errors, misspellings, and typos are minimal or non-existent.
A-	3.7	<i>Very good work.</i> Student performance demonstrates thorough knowledge of the course materials and exceeds course expectations by completing all requirements in a superior manner; grammatical errors, misspellings, and typos are minimal (average one-two per page) or non-existent.
B+	3.3	<i>Good work.</i> Student performance demonstrates above-average comprehension of the course materials and exceeds course expectations on all tasks as defined in the course syllabus; grammatical errors, misspellings, and typos are present (average two-three per page).
B	3.0	<i>Adequate work.</i> Student performance meets designated course expectations, demonstrates understanding of the course materials, and is at an acceptable level; grammatical errors, misspellings, and typos are present (average four-five per page).
B-	2.7	<i>Marginal work.</i> Student performance demonstrates incomplete understanding of course materials; grammatical errors, misspellings, and typos are frequent (average six-ten per page).
C+	2.3	<i>Unsatisfactory work.</i> Student performance demonstrates incomplete and inadequate understanding of course materials; grammatical errors, misspellings, and typos are very frequent (average 11-14 per page) and adversely affect the structure and flow of the narrative.
C	2.0	<i>Unacceptable work.</i> Student performance demonstrates incomplete and inadequate understanding of course materials; grammatical errors, misspellings, and typos are ubiquitous (average 15 or more per page) and adversely affect the structure and flow of the narrative.
F	0.0	<i>Failing.</i> Student failed to turn in assignments or plagiarized.

Required Texts

PETER B. HIRTLE ET AL., COPYRIGHT AND CULTURAL INSTITUTIONS: GUIDELINES FOR U.S. LIBRARIES, ARCHIVES, AND MUSEUMS (2009), <http://ecommons.cornell.edu/handle/1813/14142> (hereinafter HIRTLE).

In addition, a supplemental list of readings is included for each class. Please come to class having read all readings assigned for that class. Judicial opinions are particularly important because they will be the foundation of classroom discussion.

Citation Style

There is no one preferred citation format for this class. You should feel free to select one of the major formats you are most comfortable with (e.g., APA, MLA, Chicago, or Bluebook). However, once you have selected a format, you must continue to use that style throughout the class.

If you have questions about grammar or want to ensure that your style is clear, effective, and readable, see William Strunk, Jr.'s *The Elements of Style*, online through <http://www.bartleby.com/141/>. This succinct work is available cheaply in used copies at many used bookstores or online.

Digital Archive of Student Work

All student projects are to be collected and made accessible on the Student Work page of the MIAP website (<https://tisch.nyu.edu/cinema-studies/miap/student-work>). Certain types of assignments will be password-protected and made accessible only to MIAP students and faculty. Students are required to submit all of their work for each class to their professor in a digital format (.pdf is encouraged for cross-platform compatibility) via email or other available digital medium.

As a primary goal of NYU's MIAP Program is to be useful to the archival field, the default status of student works will be public (with the exception of internship reports and thesis proposals). Students, in consultation with their instructor, can make a case for why a particular assignment should be restricted to internal use. Proprietary information, confidential information, or copyright issues may lead to this decision, but not a general unwillingness to make work public.

When students submit digital files of their work, the file names should conform to MIAP's standard format, with *f* used to indicate fall semester and *s* used to indicate spring semester:

YYsemester_course number_author's last name_a[assignment#].file extension. Here is an example of a student with the surname Smith, submitting the first assignment in the fall 2022 course CINE-GT 1800: *22f_1800_Smith_a1.pdf*.

For multiple authors, the two initials of each author will be used, separated from each other by underscores. An underscore and the assignment number will follow this. Assignment numbers are determined by the order in which the assignments are given. They begin with an "a," followed by a number between one and ten. For assignments with multiple files, a letter can be added after the number. Thus, one could have "a1b," meaning that this is the second of multiple files from one student for one particular assignment. In the case of a restricted file that should not be made public, the student should add an "_x" to the end of the file name indicating the file's restricted status: *18f_1800_Smith_a1_x.pdf*. Otherwise, permission shall be implicitly granted for the student's work to be posted on the MIAP website.

Important Policies and Resources

Tisch Policy on Academic Integrity

The core of the educational experience at the Tisch School of the Arts is the creation of original work by students for the critical review of faculty members. Any attempt to evade that essential

transaction through plagiarism or cheating is educationally self-defeating and a grave violation of Tisch's community standards. Plagiarism is presenting someone else's original work as if it were your own; cheating is an attempt to deceive a faculty member into believing that your mastery of a subject or discipline is greater than it really is. Penalties for violations of Tisch's Academic Integrity Policy may range from being required to redo an assignment to dismissal from the School. For more information on the policy—including academic integrity resources, investigation procedures, and penalties—please refer to the [Policies and Procedures Handbook](https://tisch.nyu.edu/student-affairs/important-resources/tisch-policies-and-handbooks) (tisch.nyu.edu/student-affairs/important-resources/tisch-policies-and-handbooks) on the website of the Tisch Office of Student Affairs.

Health & Wellness Resources

Your health and safety are a priority at NYU. If you experience any health or mental health issues during this course, we encourage you to utilize the support services of the 24/7 NYU Wellness Exchange: contact 212-443-9999 or via their [website](#). Also, all students who may require academic accommodation due to a qualified disability, physical or mental, please register with the Moses Center for Student Accessibility (CSA): contact 212-998-4980 or via their [website](#). Please let your instructor know if you need help connecting to these resources. Students may also contact MIAP Director Juana Suárez (juana@nyu.edu) and/or Academic Program Manager, Jess Cayer (jess.cayer@nyu.edu) for help connecting to resources.

Sexual Misconduct, Relationship Violence, Stalking Policy & Reporting Procedures

New York University (NYU) is committed to providing a safe environment for its Students. Sexual Misconduct, Relationship Violence, and Stalking are emotionally and physically traumatic, and are a violation of one's rights. There are many on-campus and community support services and resources available to help Students. Students are encouraged to consult the online [Sexual Misconduct, Relationship Violence, and Stalking Resource Guide for Students](https://nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/sexual-misconduct--relationship-violence--and-stalking-resource-.html) (nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/sexual-misconduct--relationship-violence--and-stalking-resource-.html) for detailed information about on-campus and community support services, resources, and reporting procedures. Questions about if this policy applies to your case should be directed to the Assistant Vice President of the Office of Equal Opportunity & Title IX Coordinator at 212-998-2370. Students are also welcome to report any concerns to MIAP Director Juana Suárez (juana@nyu.edu) and/or Academic Program Manager, Jess Cayer (jess.cayer@nyu.edu).

NYU Title IX Policy

New York University (NYU) is committed to complying with Title IX and related laws and guidance, enforcing University policies prohibiting discrimination, and maintaining a safe learning, living, and working environment. To that end, the responsibilities of NYU's Office of Equal Opportunity (OEO) include managing the University's response to reports of discrimination, including alleged violations of [NYU's Sexual Misconduct, Relationship Violence, and Stalking Policy](#) (Sexual Misconduct Policy). Detailed information regarding these laws and related NYU policies and the resources that are available to students through the Title IX office can be found by using [this link](#). Questions about if this policy applies to your case should be directed to the Mary Signor, Assistant Vice President of the [Office of Equal Opportunity & Title IX Coordinator](#) at 212-998-2370 or mary.signor@nyu.edu. <https://www.nyu.edu/about/policies-guidelines-compliance/equal-opportunity/title9.html>

Non-Discrimination and Anti-Harassment Policy & Reporting Procedures

New York University is committed to equal treatment and opportunity for its students; to maintaining an environment that is free of bias, prejudice, discrimination, harassment, and retaliation; and to establishing complaint procedures for allegations involving students. This policy demonstrates the University's strong commitment to prevent discrimination and harassment against students on the bases of several protected characteristics as set forth below. This policy applies regardless of whether the alleged wrongdoer is a student. This policy applies when the conduct occurs on NYU premises, in the context of an NYU program or activity (including but not limited to NYU-sponsored study abroad, research, or internship program), or the conduct occurs outside the context of an NYU program or activity but (i) has continuing adverse effects on NYU premises or in any NYU program or activity or (ii) occurs in close proximity to NYU premises and is connected to violative conduct on NYU premises. NYU strongly encourages all members of the University community who have been victims of prohibited discrimination, prohibited harassment, or retaliation to report the conduct. In the case of incidents of prohibited discrimination and prohibited harassment alleged to have been committed against students, the student complainant or other reporting party may make a report to anyone listed on this website: [Non-Discrimination and Anti-Harassment Policy and Complaint Procedures](https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/non-discrimination-and-anti-harassment-policy-and-complaint-proc.html) (nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/non-discrimination-and-anti-harassment-policy-and-complaint-proc.html) which also has detailed information about on-campus and community support services, resources, and reporting procedures.

MIAP students may make such reports to MIAP Director Juana Suárez (juana@nyu.edu) and/or Academic Program Manager, Jess Cayer (jess.cayer@nyu.edu). Questions about if this policy applies to your case should be directed to the Mary Signor, Assistant Vice President of the [Office of Equal Opportunity & Title IX Coordinator](https://www.nyu.edu/about/policies-guidelines-compliance/equal-opportunity/title9.html) at 212-998-2370 or mary.signor@nyu.edu. <https://www.nyu.edu/about/policies-guidelines-compliance/equal-opportunity/title9.html>

NYU Guidelines for Compliance with the Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act of 1974 (FERPA) was enacted to protect the privacy of students' education records, to establish the rights of students to inspect and review their education records, and to provide students with an opportunity to have inaccurate or misleading information in their education records corrected. In general, personally identifiable information from a student's education records, including grades, may not be shared without a student's written consent. However, such consent is not needed for disclosure of such information between school officials with legitimate educational interests, which includes any University employee acting within the scope of their University employment. See [here](https://www.nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/FERPA.html) (nyu.edu/about/policies-guidelines-compliance/policies-and-guidelines/FERPA.html) for full policy guidelines.

NYU Student Religious Observance Policy

See [here](#) for the University Calendar Policy on Religious Holidays.

NYU Academic Support Services

NYU offers a wide range of academic support services to help students with research, writing, study skills, learning disability accommodation, and more. Here is a brief summary:

NYU Libraries

Main Site: library.nyu.edu; Ask A Librarian: library.nyu.edu/ask
70 Washington Square S, New York, NY 10012

Staff at NYU Libraries has prepared a guide (<http://guides.nyu.edu/c.php?g=276579&p=1844806>) covering services and resources of particular relevance to graduate students. These include research services and guides by topic area, subject specialists, library classes, individual consultations, data services, and more. There's also a range of study spaces, collaborative work spaces, and media rooms at Bobst, the library's main branch.

The Writing Center

nyu.mywconline.com

411 Lafayette, 4th Floor, 212-998-8860, writingcenter@nyu.edu

The Writing Center is open to all NYU students. There, students can meet with a faculty writing consultant or a senior peer tutor at any stage of the writing process, about any piece of writing (except exams). Appointments can be scheduled in person and online. Most appointments will be in-person in the fall, although some online appointments will also be available.

The University Learning Center (ULC)

nyu.edu/ulc; Academic Resource Center (18 Washington Pl, 212-998-8085) or University Hall (110 East 14th St, 212-998-9047)

The University Learning Center (ULC) aims to help students meet the challenge of the College's rigorous academic standards, to guide students in their adjustment to the college learning environment, and to prepare them for a lifetime of self-sufficient learning. On the website you can find sign-ups for free one on one peer tutoring, group review workshops, academic skills workshops, and more.

Moses Center for Students with Disabilities

<https://www.nyu.edu/students/communities-and-groups/student-accessibility.html>

726 Broadway, 3rd Floor, 212-998-4980, mosescsd@nyu.edu

New York University is committed to providing equal educational opportunity and participation for all students. The Moses Center for Student Accessibility (CSA) works with NYU students to determine and implement appropriate and reasonable accommodations as well as access available programs and resources to support equal access to a world-class education.

MIAP Resources for Current Students

More resources for current MIAP students can be found here: <https://tisch.nyu.edu/cinema-studies/miap/current-students> including the Program Contacts, links to the NYU MIAP Student Handbook, Academic Policies, Important Dates, and additional information for current MIAP students.

Syllabus Subject to Revision

Because of the ever-changing nature of copyright law and the COVID-19 health crisis, this syllabus is subject to revision during the semester. Please check Brightspace for the most recent version.

Overview of Class Schedule

September 7 (Class 1): Overview of Intellectual Property; Copyright Background

September 14 (Class 2): Scope of Copyright Protection

September 21 (Class 3): Exclusive Rights Granted by Copyright Law; Copyright Ownership
Assignment 1 (Copyright Registration) Due

September 28 (Class 4): Ownership (cont'd); Contracts Introduction; Duration

TBD (Class 5): WNET Audit Project Introduction

October 5 (Class 6): Duration (cont'd); Advanced Copyright Issues

October 12 (Class 7): First Sale; Public Broadcasting Music Exception

October 19 (Class 8): Section 108—The Library Exceptions
Assignment 2 (Copyright Reform) Due

October 26 (Class 9): Section 107—Fair Use

November 2 (Class 10): Section 107—Fair Use (cont'd); Orphan Works

November 9 (Class 11): Licensing and Donor Agreements
Assignment 3 (Fair Use in the News) Due

November 16 (Class 12): International Copyright Issues

November 23: *No Class: Thanksgiving*

November 30 (Class 13): Class Presentations of WNET Audit Project (Group 1); DMCA
Assignment 4 (WNET Audit Project Written) Due

December 7: *No Class: AMIA Conference*

December 14 (Class 14): Class Presentations of WNET Audit Project (Group 2); IP Policy for Libraries, Archives and Museums

Class Schedule

September 7 (Class 1): Overview of Intellectual Property; Copyright Background

Topics

Why copyright is important to libraries
What is intellectual property? What is a copyright? Trademark? Patent?
When do you infringe a copyright, trademark or patent?
What are the damages for infringement?
Right of publicity and how it can impact digitization
Purpose of copyright
Major changes in copyright law over time

Readings (to be read in advance of class)

1. HIRTLE, 173-191.
 2. HIRTLE, 1-38.
 3. *Right of Publicity of Internet Law Treatise*, ELECTRONIC FRONTIER FOUND., https://ilt.eff.org/Right_of_Publicity.html (last modified April 7, 2010).
 4. William M. Landes and Richard A. Posner, *An Economic Analysis of Copyright Law*, 18 J. LEG. STUD. 325 (1989), available at <http://cyber.law.harvard.edu/IPCoop/89land1.html>.
 5. William Fisher, *Introduction to Copyright for Librarians*, BERKMAN CTR FOR INTERNET & SOC'Y, <http://cyber.law.harvard.edu/copyrightforlibrarians/Introduction> (last visited Sep. 6, 2022).
 6. 17 U.S.C. § 101 (2006), available at <http://www.copyright.gov/title17/92chap1.html#101>.
- Optional: William W. Fisher III, *The Growth of Intellectual Property: A History of the Ownership of Ideas in the United States* (1999), <http://cyber.law.harvard.edu/people/tfisher/iphistory.pdf>. Note that the duration of copyright protection was extended after this article was published.
- Optional: Browse Chillingeffects.org for copyright, trademark and patent cease and desist letters.

September 14 (Class 2): Scope of Copyright Protection

Topics

Scope of copyright protection
What is a “work”?
Does a work need to be published to receive protection?
Types of works protected by copyright
Examples of works that are at the edge of protection, including fragrances, choreography, fashion, mixed drinks and software code

Readings (to be read in advance of class)

1. 17 U.S.C. § 102 (2006), available at <http://www.copyright.gov/title17/92chap1.html#102>.
2. Orin S. Kerr, *How to Read a Legal Opinion*, 11 GREEN BAG 2d 51 (2007), available at <http://www.volokh.com/files/howtoreadv2.pdf>.
3. Feist Publications, Inc. v. Rural Telephone Service, 499 U.S. 340 (1991). An abridged version will be made available on Brightspace.
4. Bleistein v. Donaldson Lithographing Company, 188 U.S. 239 (1903). An abridged version will be made available on Brightspace.

5. *Burrow-Giles Lithographic Co. v. Sarony*, 111 U.S. 53 (1884). An abridged version will be made available on Brightspace.
 6. 17 U.S.C. § 103 (2006), *available at* <http://www.copyright.gov/title17/92chap1.html#103>.
 7. *MAI Systems Corp. v. Peak Computer, Inc.*, 991 F.2d 511 (9th Cir. 1993). An abridged version will be made available on Brightspace.
 8. U.S. COPYRIGHT OFFICE, CIRCULAR 14: COPYRIGHT REGISTRATION FOR DERIVATIVE WORKS (2013), *available at* <http://www.copyright.gov/circs/circ14.pdf>.
- Optional: U.S. Copyright Office, Circular 1: Copyright Basics (2017), *available at* <http://www.copyright.gov/circs/circ01.pdf>.
- Optional: U.S. COPYRIGHT OFFICE, CIRCULAR 33: WORKS NOT PROTECTED BY COPYRIGHT (2017), *available at* <http://www.copyright.gov/circs/circ33.pdf>.
- Optional: U.S. COPYRIGHT OFFICE, CIRCULAR 31: IDEAS, METHODS, OR SYSTEMS (2012), *available at* <http://www.copyright.gov/circs/circ31.pdf>.
- Optional: U.S. COPYRIGHT OFFICE, CIRCULAR 34: COPYRIGHT PROTECTION NOT AVAILABLE FOR NAMES, TITLES, OR SHORT PHRASES (2012), *available at* <http://www.copyright.gov/circs/circ34.pdf>.

September 21 (Class 3): Exclusive Rights Granted by Copyright Law; Copyright Ownership

Topics

- What are the exclusive rights granted by copyright law?
- Infringement of copyright
- Who owns the exclusive rights?
- Work for hire doctrine

Assignment 1 (Copyright Registration) Due

Readings (to be read in advance of class)

1. 17 U.S.C. § 106 (2006), *available at* <http://www.copyright.gov/title17/92chap1.html#106>.
2. 17 U.S.C. §§ 501-506 (2006), *available at* <http://www.copyright.gov/title17/92chap5.html#501>.
3. HIRTLE, 67-86.
4. 17 U.S.C. §§ 201-202 (2006), *available at* <http://www.copyright.gov/title17/92chap2.html#201>.
5. HIRTLE, 55-65.
6. 17 U.S.C. § 204 (2006), *available at* <http://www.copyright.gov/title17/92chap2.html#204>.

September 28 (Class 4): Copyright Ownership (cont'd); Contracts Introduction; Duration

Topics

- Joint works in film
- Fundamentals to contracts and agreements
- Common elements of an agreement
- Common terms found in agreements
- Complex works that have multiple layers of copyrights (e.g., movies, dramatic works, music)
- Duration of copyright protection
- Comparing term of published and unpublished works
- Copyright formalities and the impact of failure to follow formalities
- Copyright renewal under 1909 Copyright Act

Readings (to be read in advance of class)

1. Garcia v. Google, Inc., 786 F.3d 733 (9th Cir. 2015) (en banc). An abridged version will be made available on Brightspace.
2. HIRTLE, 39-54.
3. 17 U.S.C. § 303 (2006), available at <http://www.copyright.gov/title17/92chap3.html#303>.
Optional: Garcia v. Google, Inc., 766 F.3d 929 (9th Cir. 2014). An abridged version will be made available on Brightspace.

TBD (Class 5): WNET Audit Project Introduction

Zoom Call with WNET

Readings (to be read in advance of class)

1. *About WNET*, WNET, <http://www.wnet.org/about/> (last visited Sept. 8, 2021).
2. RINA ELSTER PANTALONY, MANAGING INTELLECTUAL PROPERTY FOR MUSEUMS (2013), available at http://www.wipo.int/edocs/pubdocs/en/copyright/1001/wipo_pub_1001.pdf. Read pages 22-25.

October 5 (Class 6): Duration (cont'd); Advanced Copyright Issues

Topics

Researching copyright status of published works using available information/databases
How international works fit into US copyright law
Federal copyright protection of sound recordings
Music Modernization Act
Section 109—First Sale Doctrine
What is the first sale doctrine?

Readings (to be read in advance of class)

1. U.S. COPYRIGHT OFFICE, CIRCULAR 22: HOW TO INVESTIGATE THE COPYRIGHT STATUS OF A WORK (2013), available at <http://www.copyright.gov/circs/circ22.pdf>.
2. Peter Hirtle, *Copyright Term and the Public Domain in the United States*, CORNELL COPYRIGHT INFO. CTR., <https://copyright.cornell.edu/publicdomain> (last updated 1 January 2021).
3. Estate of Martin Luther King, Jr., Inc. v. CBS, Inc., 194 F.3d 1211 (11th Cir. 1999). An abridged version will be made available on Brightspace.
4. 17 U.S.C. § 104A (2006), available at <https://www.copyright.gov/title17/92chap1.html#104a>.
5. 17 U.S.C. § 301(c) (2006), available at <http://www.copyright.gov/title17/92chap3.html#301>.
6. U.S. COPYRIGHT OFFICE, *Classics Protection and Access Act*, <https://www.copyright.gov/music-modernization/pre1972-soundrecordings/> (last visited Sept. 8, 2021).
7. 17 U.S.C. § 1401, available at <https://www.law.cornell.edu/uscode/text/17/1401>.
7. Barry M. Massarsky, *The Operating Dynamics Behind ASCAP, BMI and SESAC, The U.S. Performing Rights Societies*, COAL. FOR NETWORKED INFO., <https://www.cni.org/resources/historical-resources/technological-strategies-for-protecting-intellectual-property-in-the-networked-multimedia-environment/the-operating-dynamics-behind-ascap-bmi-and-sesac-the-u-s-performing-rights-societies/> (last visited Sept. 8, 2021).
8. 17 U.S.C. § 109 (2006), available at <http://www.copyright.gov/title17/92chap1.html#109>.

9. *Bobbs-Merrill Co. v. Straus*, 210 U.S. 339 (1908). An abridged version will be made available on Brightspace.
- Poke around: *Stanford Copyright Renewal Database*, <https://exhibits.stanford.edu/copyrightrenewals> (last visited Sept. 8, 2021).
- Poke around: *Welcome to Copyright Records*, INTERNET ARCHIVE, <https://archive.org/details/copyrightrecords> (last visited Sept. 8, 2021).
- Optional: *Golan v. Holder*, 565 U.S. 302 (2012), available at <http://www.supremecourt.gov/opinions/11pdf/10-545.pdf>.
- Optional: Menesha A. Mannapperuma et al., *Is it in the Public Domain?* (2014), available at [https://www.law.berkeley.edu/files/FINAL_PublicDomain_Handbook_FINAL\(1\).pdf](https://www.law.berkeley.edu/files/FINAL_PublicDomain_Handbook_FINAL(1).pdf).
- Optional: Eric Schaefer & Dan Streible, *Archival News*, 42 *Cinema J.* 139, Autumn 2002, available at www.jstor.org/stable/1225546.
- Poke around: *Frequently Asked Questions*, MUSIC LIBRARY ASS'N, https://www.musiclibraryassoc.org/mpage/copyright_faq (last visited Sept. 8, 2021).
- Optional: Chapter 2 of EDWARD SAMUELS, *MUSIC AND SOUND RECORDINGS 31-56* (2000), available at <http://www.edwardsamuels.com/illustratedstory/isc2.htm>.
- Optional: Chapter 3 of EDWARD SAMUELS, *MUSIC AND SOUND RECORDINGS 57-73* (2000), available at <http://www.edwardsamuels.com/illustratedstory/isc3.htm>.

October 12 (Class 7): First Sale; Public Broadcasting Music Exceptions

Topics

- How does the first sale doctrine protect library lending?
- How does the first sale doctrine function with digital objects?
- Special exception for public broadcasters for music
- Exceptions for classroom teaching
- Exceptions for readers with print disabilities

Readings (to be read in advance of class)

1. 17 U.S.C. § 602 (2006), available at <http://www.copyright.gov/title17/92chap6.html#602>.
2. *Quality King Distributors, Inc. v. L'anza Research Int'l, Inc.*, 523 U.S. 135 (1998). An abridged version will be made available on Brightspace.
3. *Kirtsaeng v. John Wiley & Sons, Inc.*, 568 U.S. 519 (2013). An abridged version will be made available on Brightspace.
4. The Executive Summary of U.S. COPYRIGHT OFFICE, *DMCA SECTION 104 REPORT* (2001), available at <http://www.copyright.gov/reports/studies/dmca/sec-104-report-vol-1.pdf>.
5. *Capitol Records, LLC v. ReDigi Inc.*, 910 F.3d 649 (2d Cir. 2018). An abridged version will be made available on Brightspace.
6. 17 U.S.C. § 114(b) (2006), available at <https://www.copyright.gov/title17/92chap1.html#114>.
7. 17 U.S.C. § 118 (2006), available at <https://www.copyright.gov/title17/92chap1.html#118>.
8. 17 U.S.C. §§ 110(1)-(2) (2006), available at <http://www.copyright.gov/title17/92chap1.html#110>.
9. Kenneth Crews, *The TEACH Act and Some Frequently Asked Questions*, AM. LIBRARY ASS'N, <https://web.archive.org/web/20180408224010/http://www.ala.org/advocacy/copyright/teachact/faq> (last visited Sept. 8, 2021).
10. 17 U.S.C. § 121 (2006), available at <http://www.copyright.gov/title17/92chap1.html#121>.

October 19 (Class 8): Section 108–The Library Exceptions

Topics

What is section 108?

What does it cover?

What rules are set forth in section 108 regarding the making copies in response to patron requests?

What rules are set forth in section 108 regarding personal photography in reading rooms?

How does section 108 enable cultural institutions to make copies for preservation purposes?

Potential issues with section 108

Assignment 2 (Copyright Reform) Due

Readings (to be read in advance of class)

1. 17 U.S.C. § 108 (2006), available at <http://www.copyright.gov/title17/92chap1.html#108>.
2. HIRTLE, 107-128.
3. “I. Background” and “V. A Review of Several Possible Solutions” from ROBERT L. OAKLEY, COPYRIGHT AND PRESERVATION: A SERIOUS PROBLEM IN NEED OF A THOUGHTFUL SOLUTION (1990), available at <http://www.clir.org/pubs/reports/oakley/index.html>.
4. HOWARD BESSER ET AL., VIDEO AT RISK: STRATEGIES FOR PRESERVING COMMERCIAL VIDEO COLLECTIONS IN LIBRARIES (2012), available at http://guides.nyu.edu/ld.php?content_id=24818036.
5. The Executive Summary of SECTION 108 STUDY GROUP, THE SECTION 108 STUDY GROUP REPORT (2008), available at <http://www.section108.gov/docs/Sec108StudyGroupReport.pdf>.
6. The Executive Summary of U.S. COPYRIGHT OFFICE, SECTION 108 OF TITLE 17: A DISCUSSION DOCUMENT OF THE REGISTER OF COPYRIGHTS (2017), available at <https://www.copyright.gov/policy/section108/discussion-document.pdf>.

October 26 (Class 9): Section 107–Fair Use

Topics

Historical background of the principal of fair use

Discuss the four statutory factors of fair use

Discuss disputes that highlight each fair use factor

How fair use can help libraries and cultural institutions satisfy their mission

Readings (to be read in advance of class)

1. 17 U.S.C. § 107 (2006), available at <http://www.copyright.gov/title17/92chap1.html#107>.
 2. HIRTLE, 87-102.
 3. Sony Corp. of America v. Universal City Studios, Inc., 464 U.S. 417 (1984). An abridged copy will be made available on Brightspace.
 4. Pierre N. Leval, *Toward a Fair Use Standard*, 103 HARV. L. REV. 1105 (1990), available at <https://www.law.berkeley.edu/files/Leval - Fair Use.pdf>.
 5. Campbell v. Acuff-Rose, 510 U.S. 569 (1994). An abridged copy will be made available on Brightspace.
- Optional: Copyright Advisory Office, *Fair Use Checklist*, <https://copyright.columbia.edu/basics/fair-use/fair-use-checklist.html> (last visited Sept. 8, 2021).
- Optional: Poke around Rich Stim, *Fair Use*, COPYRIGHT AND FAIR USE, <http://fairuse.stanford.edu/overview/fair-use> (last visited Sept. 8, 2021).

Optional: Watch: Eric Faden, *A Fair(y) Use Tale*, CENTER FOR INTERNET AND SOC'Y (March 1, 2007), <http://cyberlaw.stanford.edu/blog/2007/03/fairy-use-tale>.

November 2 (Class 10): Section 107—Fair Use (cont'd); Orphan Works

Topics

Continue fair use review

Specific fair use cases relevant to libraries and archives, including course packs and reserves
Fair use guidelines over time—from 1976 classroom guidelines to today's "Best Practices" documents

Fair use best practices for documentary filmmakers

What are orphan works?

What are some potential solutions to the orphan works problems?

If no exceptions or limitations protect our desired use, what's next?

Readings (to be read in advance of class)

1. Bill Graham Archives v. Dorling Kindersley Ltd., 448 F.3d 605 (2d Cir. 2006), *available at* http://fairuse.stanford.edu/primary_materials/cases/GrahamKindersley.pdf.
 2. Castle Rock Entertainment, Inc. v. Carol Publishing Group, 150 F.3d 132 (2d Cir.1998). An abridged copy will be made available on Brightspace.
 3. Matthew Sag, *Predicting Fair Use*, 73 OHIO ST. L.J. 47 (2012), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1769130.
 4. ASS'N OF RES. LIBRARIES, CODE OF BEST PRACTICES IN FAIR USE FOR ACADEMIC AND RESEARCH LIBRARIES (2012), *available at* <http://www.arl.org/storage/documents/publications/code-of-best-practices-fair-use.pdf>.
 6. ASS'N OF INDEP. VIDEO & FILMMAKERS, ET AL., DOCUMENTARY FILMMAKERS' STATEMENT OF BEST PRACTICES IN FAIR USE (2005), *available at* http://www.cmsimpact.org/sites/default/files/fair_use_final.pdf.
 7. The Authors Guild, Inc. v. Hathitrust, 755 F.3d 87 (2d Cir. 2014). An abridged version will be made available on Brightspace.
 8. The Authors Guild, Inc. v. Google, Inc., 804 F.3d 202 (2015). An abridged version will be made available on Brightspace.
 9. Jennifer M. Urban, *How Fair Use Can Help Solve the Orphan Works Problem*, 27 BERKELEY TECH. L.J. 1379 (2012), *available at* <https://lawcat.berkeley.edu/record/1125074>.
 10. HIRTLE, 129-172.
 11. The Executive Summary of: U.S. COPYRIGHT OFFICE, ORPHAN WORKS AND MASS DIGITIZATION (2015), *available at* <http://copyright.gov/orphan/reports/orphan-works2015.pdf>.
- Optional: Mary Minow, *How I Learned to Love Fair Use*, COPYRIGHT AND FAIR USE (July 6, 2003), http://fairuse.stanford.edu/2003/07/06/how_i_learned_to_love_fair_use.

November 9 (Class 11): Licensing and Donor Agreements

Topics

Deeds of gift

Major collective rights organizations (ARS, CCC, Sound Exchange, ASCAP, etc.)

How Creative Commons licenses can be used to solve copyright problems

Assignment 3 (Fair Use in the News) Due

Readings (to be read in advance of class)

1. Sample deeds of gift from NYPL, available on Brightspace.
 2. *A Guide to Deeds of Gift*, SOC'Y OF AM. ARCHIVISTS, <http://www2.archivists.org/publications/brochures/deeds-of-gift> (last visited Sept. 8, 2021).
 3. *About Artist's Rights Society*, ARTISTS RIGHTS SOCIETY, <http://www.arsny.com/about/> (last visited Sept. 8, 2021).
 4. *About Us*, COPYRIGHT CLEARANCE CENTER, <http://www.copyright.com/about/> (last visited Sept. 8, 2021).
 5. *About*, SOUND EXCHANGE, <http://www.soundexchange.com/about> (last visited Sept. 8, 2021).
 6. Poke around: CREATIVE COMMONS, <http://creativecommons.org> (last visited Sept. 8, 2021). In particular, read "About CC."
 7. Watch: *Wanna Work Together?*, CREATIVE COMMONS, <https://creativecommons.org/about/videos/wanna-work-together/> (last visited Sept. 8, 2021).
- Optional: Peter B. Hirtle, Anne R. Kenney & Judy Ruttenberg, *Digitization of Special Collections and Archives: Legal and Contractual Issues*, RESEARCH LIBRARY ISSUES, June 2012, available at <http://publications.arl.org/rli279>.
- Optional: *Welcome to the LIBLICENSE Project*, CTR. FOR RESEARCH LIBRARIES, <http://liblicense.crl.edu> (last visited Sept. 8, 2021). You should poke around this site, especially the "Resources" section.

November 16 (Class 12): International Copyright Issues

Topics

- Calculating copyright status of works outside United States
- Section 104A, the restoration of certain foreign works
- Moral rights
- Resale rights
- International copyright agreements and their effect on domestic copyright law

*November 23: *No Class: Thanksgiving**

November 30 (Class 13): Class Presentations of WNET Audit Project (Group 1); DMCA

Topics

- Class presentations of WNET Audit Project
- DMCA and patron-generated content
- DMCA prohibition of content protection systems
- DMCA notice and takedown safe harbors for user-generated content

Assignment 4 (WNET Audit Project Written) Due

Readings (to be read in advance of class)

1. Jonathan Band, *A User Guide To The Marrakesh Treaty*, LIBRARY COPYRIGHT ALLIANCE (Sep. 9, 2013), <https://www.llrx.com/2013/08/a-user-guide-to-the-marrakesh-treaty/>.

[More TBD]

*December 7: *No Class: AMLA Conference**

December 14 (Class 14): Class Presentations of WNET Audit Project; IP Policy for Libraries, Archives and Museums

Complete class presentations of WNET Audit Project
Licensing practices and commercialization of collections
Closing Thoughts

Readings (to be read in advance of class)

1. Kenneth D. Crews and Melissa A. Brown, *Control of Museum Art Images: The Reach and Limits of Copyright and Licensing* (Jan. 20, 2010), <http://ssrn.com/abstract=1542070>.
2. *Exemption to Prohibition on Circumvention of Copyright Protection Systems for Access Control Technologies*, U.S. COPYRIGHT OFFICE (Oct. 28, 2015), <http://www.copyright.gov/fedreg/2015/80fr65944.pdf>. Skim the Section III to get a sense of the exceptions requested.
3. *Unintended Consequences: Twelve Years under the DMCA*, ELECTRONIC FRONTIER FOUND. (Mar. 3, 2010), <https://www.eff.org/wp/unintended-consequences-under-dmca>.
4. *Copyright on YouTube*, YOUTUBE, <http://www.youtube.com/yt/copyright/index.html> (last visited Sept. 8, 2021).
5. *Policy on Patron-Generated Web Content*, N.Y. PUB. LIBRARY, <https://www.nypl.org/policies/crowdsourcing> (last visited Sept. 8, 2021).
6. HIRTLE, 193-212

**Cinema Studies, Tisch School of the Arts
New York University
CINE-GT.1804: Copyright, Legal Issues, and Policy
Instructor: Greg Cram
Fall 2022**

Grading Rubric for Class Participation
(20% of Final Grade)

Objective

Understand copyright issues from different points of view
Work collaboratively with peers to solve problems
Refine public speaking skills necessary to become a leader

Criteria	Excellent (3)	Competent (2)	Needs Work (1)
Frequency	Plays an active role in discussions.	Participates in some discussions.	Participates in few or no class discussions.
Content Contribution (x 2, max of 6 points)	Discussion contributions are factually correct, clear, reflective, and substantive; advances discussion.	Discussion contributions are factually correct and clear but sometimes lack full development of concept or thought.	Discussion contributions are frequently off-topic, incorrect, or irrelevant.
Level of Preparation	Arrives fully prepared at every session.	Arrives mostly, if not fully, prepared.	Preparation, and therefore level of participation, are both inconsistent.
Peer Interaction and Level of Discussion	Actively supports, engages and listens to peers; group dynamic and level of discussion are often better because of the student's presence.	Makes a sincere effort to interact with peers; group dynamic and level of discussion are occasionally better (never worse) because of the student's presence.	Virtually no interaction with peers; group dynamic and level of discussion are harmed by the student's presence.

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Written Assignments/Exercises Overview

- 1) Copyright Registration. To familiarize students with copyright ownership and the terms commonly used in copyright registrations, students will describe a work they have created. Students will also locate the copyright registration of a film created after 1978.
- 3) Copyright Reform. To encourage students to think critically about copyright law and reforms, students will write a short 3-4 page paper arguing for a particular reform to copyright law of the students' choosing.
- 2) Fair Use in the News. To encourage students to stay current on copyright issues, students will research a current fair use dispute and write a 3-5 page summary of the situation, including arguments supporting each side.
- 4) WNET Audit Report. To measure the result of student learning throughout the semester, students will be required to submit an audit report of a WNET item. The audit report will demonstrate an understanding of copyright law based on the fields of information selected by the students in the spreadsheet and in the written summary submitted to WNET.