

Syllabus for Copyright Law

Law 191-001
Spring 2009
3 Credits

Professor: T.J. Chiang
Office: 311
Office Phone: (703) 993-9868
E-mail: tchiang2@gmu.edu

I. COURSE SCHEDULE.

Class meets in room 221 on Mondays and Wednesdays from 2:00pm to 3:15pm. There is no class on January 19, 2009.

II. COURSE MATERIALS.

Robert A. Gorman and Jane C. Ginsburg, Copyright: Cases and Materials (7th Ed. 2006) and 2008 Supplement.

III. OFFICE HOURS.

Feel free to drop by any time that you can catch me in my office. In addition, my formal office hours are Mondays from 4-6pm; and you should be able to find me in my office at those times. You can also email me for an appointment. Generally, it is easier to contact me by email than by phone.

IV. GRADES.

Your grade will be based on the final exam, which is graded blindly. I may adjust the final grade by one-third of a letter, *e.g.*, a B+ would become an A- or B, for class participation.

Final exam. The final exam will include several essay questions. I will provide more information about the final exam towards the end of the semester.

I strongly prefer that you type your answers. If you have a good reason (*e.g.* your laptop died or you don't have one), you may write your answers in a bluebook. Please write legibly, for if I cannot read your answer, I cannot give you credit for it.

Class participation. Good class participation has more to do quality than quantity—it is better to be insightful when you speak than to speak often. Poor class participation includes being unprepared when called upon, coming into class late or missing class entirely, or playing around on a computer or other electronic device during class.

The University's attendance policy states that a student cannot earn credit for a course if that student misses more than two clock hours for each credit hour assigned to the course. Please refrain from skipping class too often.

V. ELECTRONIC DEVICES.

Please remember to turn off your cell phone before class.

Those who wish to bring their laptops to take notes may do so. Please refrain from surfing the internet, email, instant messaging, etc. during class.

VI. ASSIGNMENTS.

Generally, we will cover one topic per class. Classes with heavy reading (in excess of 35 pages) will likely carry over to the next session.

1. Introduction

Gorman and Ginsburg

Pages 4-28

2. Nature of Copyright

Gorman and Ginsburg

Pages 49-59, 63-74

Alfred Bell & Co. v. Catlada Fine Arts, 191 F.2d 99 (2d Cir. 1951)

Trade-Mark Cases, 100 U.S. 82 (1879)

Frederick Warne & Co. v. Book Sales, Inc., 481 F. Supp. 1191 (S.D.N.Y. 1979)

Forward v. Thorogood, 985 F.2d 604 (1st Cir. 1993).

3. Subject-Matter I: Core Requirements.

Gorman and Ginsburg

Pages 75-90 111-124

Magic Marketing v. Mailing Services of Pittsburgh, 634 F. Supp. 769 (W.D. Pa. 1986)

Feist Publications, Inc. v. Rural Telephone Serv., 499 U.S. 340 (1991)

Supplement

Pages 1-7

4. Subject-Matter II: Idea versus Expression

Gorman and Ginsburg

Pages 96-111, 124-131

Baker v. Selden, 101 U.S. 99 (1879)

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

Bibbero Sys., Inc. v. Colwell Sys., Inc., 893 F.2d 1104 (9th Cir. 1990)

Nash v. CBS, 899 F.2d 1537 (7th Cir. 1990)

5. Subject-Matter III: Facts and Compilations

Gorman and Ginsburg

Pages 131-163

CCC Information Servs. v. Maclean Hunter Market Reports, Inc., 44 F.3d 61 (2d Cir. 1994)

Assessment Techs. of WI, LLC v. WIREdata, Inc., 350 F.3d 640 (7th Cir. 2003)

Sparaco v. Lawler, Matusky, Skelly, Engineers LLP, 303 F.3d 460 (2d Cir. 2002)

6. Subject-Matter IV: Applied Art

Gorman and Ginsburg

Pages 221-249

Pivot Point Int'l, Inc. v. Charlene Prods, Inc., 372 F.3d 913 (7th Cir. 2004)

7. Subject-Matter V: Photographs and Characters

Gorman and Ginsburg

Pages 206-221, 259-268

Mannion v. Coors Brewing Co., 377 F. Supp. 2d 444 (S.D.N.Y. 2005)

Anderson v. Stallone, 11 U.S.P.Q.2d 1161 (C.D. Cal. 1989)

Gaiman v. McFarlane, 360 F.3d 644 (7th Cir. 2004)

8. Subject-Matter VI: Computer Programs and Sound Recordings

Gorman and Ginsburg

Pages 181-206, 268-273

Apple Computer, Inc. v. Franklin Computer Corp., 714 F.2d 1240 (3d Cir. 1983)

Lotus Development Corp. v. Borland Int'l, Inc., 49 F.3d 807 (1st Cir. 1995)

Newton v. Diamond, 349 F.3d 591 (9th Cir. 2003)

9. Subject-Matter VII: Exceptions

Gorman and Ginsburg

Pages 273-295

Veck v. Southern Bldg. Code Cong. Int'l, Inc., 293 F.3d 791 (5th Cir. 2002)

10. Ownership I: Authorship and Joint Authorship

Gorman and Ginsburg

Pages 301-304, 329-343

Lindsay v. R.M.S. Titanic, 52 U.S.P.Q.2d 1609 (S.D.N.Y. 1999)

Thomson v. Larson, 147 F.3d 195 (2d Cir. 1998)

Supplement

Pages 13-16

11. Ownership II: Works for Hire

Gorman and Ginsburg

Pages 304-329, 375-385

Community for Creative Non-Violence v. Reid, 490 U.S. 730 (1989)

N.Y. Times. Co. v. Tasini, 533 U.S. 483 (2001)

12. Ownership III: Assignment and Transfer

Gorman and Ginsburg

Pages 344-368, 493-494

Effects Assocs. v. Cohen, 908 F.2d 555 (9th Cir. 1990)

Cohen v. Paramount Pictures Corp., 845 F.2d 851 (9th Cir. 1988)

Boosey & Hawkes Music Publishers, Ltd. v. Walt Disney Co., 145 F.3d 481 (2d Cir. 1998)

13. Term I: Duration

Gorman and Ginsburg

Pages 388-415, 425-432, 435

Eldred v. Ashcroft, 537 U.S. 186 (2003)

Luck's Music Library, Inc. v. Gonzales, 407 F.3d 1262 (D.C. Cir. 2005)

14. Term II: Renewal

Gorman and Ginsburg

Pages 415-446

Stewart v. Abend, 495 U.S. 207 (1990)

Russell v. Price, 612 F.2d 1123 (9th Cir. 1979)

15. Term III: Termination

Gorman and Ginsburg

Pages 447-459

Marvel Characters, Inc. v. Simon, 310 F.3d 280 (2d Cir. 2002)

Supplement

Pages 32-57

Siegel v. Warner Bros. Entertainment Inc., 542 F. Supp. 2d 1098 (C.D. Cal. 2008)

16. Formalities

Gorman and Ginsburg

Pages 467-493

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

17. Infringement I: Copying Versus Independent Creation

Gorman and Ginsburg

Pages 509-514, 516-524, 572-580

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

Bright Tunes Music Corp. v. Harrisongs Music, Ltd., 420 F. Supp. 177 (S.D.N.Y. 1976)

Steinberg v. Columbia Pictures Indus., 663 F. Supp. 706 (S.D.N.Y. 1987)

Kisch v. Ammirati & Puris Inc., 657 F. Supp. 380 (S.D.N.Y. 1987)

18. Infringement II: The Idea/Expression Dichotomy Revisited

Gorman and Ginsburg

Pages 529-542, 559-572

Herbert Rosenthal Jewelry Corp. v. Kalpakian, 446 F.2d 738 (9th Cir. 1971)

Educational Testing Servs. v. Katzman, 793 F.2d 533 (3d Cir. 1986)

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

Computer Assocs. Int'l, Inc. v. Altai, Inc., 982 F.2d 693 (2d Cir. 1992)

19. Infringement III: Derivative Works

Gorman and Ginsburg

Pages 164-180, 604-618

L. Batlin & Son v. Snyder, 536 F.2d 456 (2d Cir. 1976)

Horgan v. Macmillan, Inc., 789 F.2d 157 (2d Cir. 1986)

Lee v. A.R.T. Co., 125 F.3d 580 (7th Cir. 1997)

Micro Star v. Formgen Inc., 154 F.3d 1107 (9th Cir. 1998)

20. Fair Use I

Gorman and Ginsburg

Pages 715-739

Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994)

21. Fair Use II

Gorman and Ginsburg

Pages 739-768

Mattel, Inc. v. Walking Mountain Prods., 353 F.3d 792 (9th Cir. 2003)

Harper & Row Publishers, Inc. v. Nation Enters., 471 U.S. 539 (1985)

22. Fair Use III

Gorman and Ginsburg

Pages 776-802

Sega Enters. Ltd. v. Accolade, Inc., 977 F.2d 1510 (9th Cir. 1992)

Princeton University Press v. Mich. Document Servs., Inc., 99 F.3d 1381 (6th Cir. 1996).

23. First Sale Doctrine

Gorman and Ginsburg

Pages 651-673

Fawcett Publications v. Elliot Publishing Co., 46 F. Supp. 717 (S.D.N.Y. 1942)

Quality King Distributors, Inc. v. L'anza Research Int'l, Inc., 523 U.S. 135 (1998)

Columbia Pictures Indus., Inc. v. Aveco, Inc., 800 F.2d 59 (3d Cir. 1986)

24. Secondary Liability I

Gorman and Ginsburg

Pages 826-843, 852-866

Sony Corp. of Am. v. Universal City Studios, Inc., 464 U.S. 417 (1984)

A & M Records, Inc. v. Napster, Inc., 239 F.3d 1004 (9th Cir. 2001)

25. Secondary Liability II

Gorman and Ginsburg

Pages 866-891

MGM Studios Inc. v. Grokster, Ltd., 125 S. Ct. 2764 (2005)

Religious Tech. Center v. Netcom On-Line Communication Servs., Inc., 907 F. Supp. 1361 (N.D. Cal. 1995)

Supplement

Pages 145-158

Perfect 10, Inc. v. CCBill LLC, 481 F.3d 751 (9th Cir. 2007)

26. Remedies I: Damages and Injunction

Gorman and Ginsburg

Pages 908-944

Davis v. The Gap, Inc., 246 F.3d 152 (2d Cir. 2001)

Frank Music Corp. v. Metro-Goldwyn-Mayer, Inc., 772 F.2d 505 (9th Cir. 1985)

27. Remedies II: DMCA

Gorman and Ginsburg

Pages 945-982

Realnetworks, Inc. v. Streambox, Inc., 2000 WL 127311 (W.D. Wash. 2000)

I.M.S. Inquiry Mgmt. Sys. Ltd. v. Berkshire Information Sys. Inc., 307 F. Supp. 2d 521 (S.D.N.Y. 2004)

Universal City Studios, Inc. v. Reimerdes, 111 F. Supp. 2d 294 (S.D.N.Y. 2000)

28. Revision and Catch-up

No new reading.