

**COPYRIGHT  
LAW 191 – FALL 2021**

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**COURSE SCHEDULE/MEETING TIMES/TYPE:**

This is an in person course that meets on Tuesdays and Thursdays from 6:05 to 7:30 PM.

Note: Because of professional travel obligations, the classes scheduled for September 9, October 7, and November 18 will be held online. (Assume they will be held at the usual time until further notice.)

**COURSE OVERVIEW/DESCRIPTION:**

This course will cover the fundamentals of U.S. copyright law and policy. After taking this course, you should:

- Be familiar with the structure and key provisions of the U.S. Copyright Act.
- Be familiar with the main judicial doctrines interpreting, applying, and supplementing the statutory framework.
- Be able to spot and analyze copyright issues arising in a given fact pattern.

Our primary materials will be the following:

- Fromer & Sprigman, Copyright Law: Cases and Materials (this book is available as a free download [here](#)).
- Title 17 of the U.S. Code (which is available [here](#)).
- Various supplemental materials I will provide on TWEN.

A tentative schedule of class readings follows. The casebook readings are generally in the range of 20-30 pages per class. **Note, however, that this body of law is governed by a statute, which means that (where applicable) the statutory language is the primary source we are supposed to be interpreting. Whenever you see citations to the statute within the assigned materials, it goes without saying that you need to actually read the text of the provisions in question.** When you are outlining, your starting point should be the statutory language, and then you can flesh out the interpretations thereof provided by caselaw or other sources. When you are asked to analyze a copyright problem (in class, on the exam, or in real life), the first thing out of your mouth should always be to identify the governing statutory language.

<b>Class</b>	<b>Date</b>	<b>Casebook assignment</b>	<b>Topic</b>
1	8/24	1-26	Introduction; Subject Matter: Fixation

2	8/26	26-53	Originality; Derivative Works
3	8/31	53-79	Compilations; Idea-Expression; Copyrightable Subject Matter
4	9/2	79-100	Useful Articles
5	9/7	101-129	Computer Software
6	9/9	137-162	Authorship and Ownership
7	9/14	163-183	Formalities; Duration Rules
8	9/16	183-211	Duration Policy; Renewals; Terminations of Transfer
9	9/21	213-237	Exclusive Rights: Reproduction Right
10	9/23	238-269	Reproduction Right (cont'd)
11	9/28	270-288 309-317	Distribution and Importation; Fictional Characters
12	9/30	289-309	Right to Prepare Derivative Works
13	10/5	317-339	Moral Rights
14	10/7	339-364	Public Performance and Display
15	10/14	364-388	Music Industry
16	10/19	389-418	Fair Use: Foundational Cases
17	10/21	419-440	Fair Use: Contemporary Cases
18	10/26	441-462	Fair Use: Contemporary Cases (cont'd)
19	10/28	463-484	Fair Use: Contemporary Cases (cont'd)
20	11/2	484-512	Fair Use: Contemporary Cases (cont'd); Volition
21	11/4	512-540	Secondary Liability; Liability of Online Service Providers
22	11/9	541-573	Liability of Online Service Providers (cont'd); Liability of Device Manufacturers
23	11/11	575-602	Litigation and Remedies
24	11/16	602-627	Remedies (cont'd); Technological Protections
25	11/18	628-654	Tech Protections (cont'd); Copyright Contracts
26	11/23	654-665 675-691	Contracts (cont'd) Preemption

### **BASIS OF EVALUATION & ASSESSMENTS:**

Grades will be determined based on two factors:

- Class participation (in-class and online)
- Final exam

#### In-class:

I understand that many of you who take evening classes have day jobs, and that it is therefore more difficult for you to be consistently as prepared for class as you would like. Rather than cold-calling, I will ask you to opt into being on call by using a sign-up sheet on TWEN to indicate that you are prepared to participate in class discussion. Over the

course of the term each of you is expected to **sign up seven times** to be on-call for a particular class session. There is a TWEN sign-up sheet for this purpose. Signing up is a representation that you have done all the assigned reading and have given sufficient thought to the material to have a constructive conversation about it. Don't overthink this—you are not expected to have perfectly mastered the material or to have fully articulated theories in response to every question. You're just preparing to contribute thoughtfully and usefully to class discussion, the way ideally you would every day. Since you're adults, I assume I don't need to explain the inadvisability of blowing off the reading for the class sessions in which you will not be on-call.

To get credit for signing up, you need to do it by 30 minutes before the start of class. There will be four sign-up slots available for each class—first come, first served. It's probably worth your while to make sure you sign up for some early slots rather than waiting till late in the term when you will feel more stressed. Should circumstances make it necessary, you can withdraw your sign-up on TWEN so long as you do so prior to the 30-minute cut off. No explanation is necessary or desired. Just make sure to make up for it some other time.

Don't sign up more than seven times. People who don't sign up won't be cold-called that day, but are always welcome and encouraged to raise their hands and spontaneously participate in class discussion. Signing up doesn't guarantee you'll be called that day, but over the course of the term I'll try to make sure everyone does get called an even amount.

#### Online:

Class time is a very limited resource, and I do not want those limitations to prevent us from carrying on conversations about whatever aspects of the materials interest you. Ideally I would like our TWEN discussion forum to function as an extension of class in which we can pursue trains of thought as far as people wish to take them.

The "Copyright Discussion" forum is a place where you can raise questions or comments that we didn't get to in class, and share any relevant articles or other links related to copyright issues. In fact, if you have a question that doesn't get answered in class I'd prefer that you post it here rather than emailing or seeing me privately, as that way it can be the spark of a group discussion from which everyone can benefit.

I have also started compiling a page of copyright-related web links to explore. Note that inclusion does **NOT** constitute endorsement of the various viewpoints or organizations that may be represented. It means only that I find them somehow relevant or useful. I encourage you to explore them all with an open and critical mind, and if you want to suggest other links that you think I should include, by all means let me know.

#### Grade adjustments for class participation:

People who stand out over the course of the term as notably helpful contributors through either oral class participation (whether on-call or volunteer), and/or online discussion may receive a positive grade adjustment. "Notably helpful" is about quality, not quantity—it means the sort of contributions that show thoughtful engagement and enrich

our collective consideration of the topics at hand. Failure to sign up seven times for on-call participation, or failure to be adequately prepared on a day when you do sign up, may result in a negative adjustment.

### Final exam:

Most of the grade will be determined by the final exam. Like most law school exams, this one will pose fact patterns and ask you to write legal analyses applying the doctrines we have studied over the course of the term. The final will be a take-home. You will be free to take it at any point during the exam period and will have 24 hours to turn it in from the time you pick it up. There will also be a word limit; the intention is not that you spend 24 hours working on it, but that you have ample time to give a less-hurried, more-polished answer than you do under the clock in class. During the course of the term, I will make available an opportunity to post a practice answer to a sample question and get feedback so you can get an idea of what I will be looking for on the exam.

### **COMMUNICATION/OFFICE HOURS:**

This class has a TWEN page, which is where class materials and sign-up sheets will be posted. You will be regarded as having constructive notice of anything posted there.

I highly encourage use of the discussion forums on TWEN to ask questions and carry on conversations related to class. This enables everyone to participate in the conversation whenever temporally convenient for them, and provides practice in clear written communication about legal issues.

In order to provide live office hours, I will make a practice (barring conflicts) of remaining available after each class to discuss whatever students wish. If you would like to schedule an individual meeting, feel free to email me. As a general matter, feel free to email me about any concerns or personal matters.

### Class concerns:

If you have any concerns about what is happening in the classroom, I strongly encourage you to reach out directly to me through email. I promise you that you have nothing to fear in doing so. But in case I haven't yet earned your confidence in that regard, or you have a comment that you would like everyone to see, I have also created an online forum called Class Concerns. You are empowered to post there anonymously if you wish. Whatever you post there is visible to the entire class, and others will be able to respond, also anonymously should they wish. I trust that each of you will use this forum constructively and responsibly.

### **CLASS RECORDINGS PROHIBITED:**

Pursuant to Academic Regulation 4-2.2, no portion of a class session or an examination may be preserved by means of a recording device such as an audio recording device or camera. Any exceptions to this policy must be expressly permitted in writing by me.

Upon request, I may record a class session for the benefit of a student who has a valid reason for unavoidable absence.

### **ACADEMIC INTEGRITY:**

It is expected that students adhere to the Antonin Scalia Law School Honor Code. The Honor Code prohibits lying, cheating, or stealing. This includes a student obligation to never represent the work of another as their own, and to never provide or accept unauthorized assistance on any school related assignment. The Honor Code is available here: <https://sls.gmu.edu/honor/>.

### **CLASSROOM ACCOMMODATIONS:**

Disability Services at George Mason University is committed to providing equitable access to learning opportunities for all students by upholding laws that ensure equal treatment of people with disabilities. If you are seeking accommodations for this class, please visit <http://ds.gmu.edu/> for detailed information about the Disabilities Registration Process. Faculty may not receive or respond to requests for an accommodation. All requests must be handled by the office of Disability Services. You may contact Disability Services directly via email at [ods@gmu.edu](mailto:ods@gmu.edu) or phone at (703) 993-2474. If you have any questions about how in-class or testing accommodations are implemented at the law school, please contact the Assistant Dean, Student Academic Affairs for more information.