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For Professor Ramsey Intellectual Property Seminar Spring 2013

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What we will cover

- Finding what you need in and out of the LRC
 - Basic IP materials
 - USD's online catalog, the Circuit, ILL
- Useful Websites/Databases
 - Secondary sources
 - Current awareness services & journal searching
 - Federal case filings



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<http://www.sandiego.edu/law/lrc/>

- LRC & Main Library online catalog:

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- Remember that Sally can be used to find not just materials in our print collection, but it also provides direct access to materials in our subscription databases, and it also links to websites!
- You can link to [USD's online catalog](#) off of the LRC's webpage



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Circuit Catalog: Because USD is a member of a library consortium called the Circuit, you can search the catalogs of and borrow materials from any of the member libraries which include SDSU, UCSD, Cal State San Marcos, & the San Diego County Libraries. As you can imagine, this greatly increases the universe of materials that are accessible to you!

Access: You can link to the Circuit catalog through Sally (click on the hyperlinked logo) or go to: <http://circuit.sdsu.edu>



Searching the catalogs

Interlibrary Loan (ILL): But that's not all! If you're looking for an item and can't find it in Sally or the Circuit, then come ask a reference librarian if it can be interlibrary-loaned from a participating member of a worldwide network of libraries.

http://www.sandiego.edu/law/lrc/find_resources/ill.php



Practice-Oriented Treatises

Copyright

Nimmer on Copyright

LRC Reading Room KF 2991.5 N71 & online via LEXIS (type in “Nimmer” using “Find a Source”)

Patry on Copyright

Online via Westlaw (type in Patry using “search these databases” box)

Patents

Chisum on Patents

LRC Reading Room KF 3114 C47 & Online via LEXIS (type in “CHISUM” using “Find a Source”)

Moy’s Walker on Patents, 4th

LRC Reading Room KF 3114 D352

Trademarks

McCarthy on Trademarks and Unfair Competition

LRC Reading Room KF 3180 M116 & online via Westlaw (type in MCCARTHY in the “search these databases” box)

Trademark Protection & Practice (Gilson)

Online via LEXIS (type in “Gilson” using “Find a Source”)



Hornbooks/Treatises (materials to help you get a general overview)

Intellectual Property: the Law of Copyrights, Patents, & Trademarks / Roger E. Schechter

LRC Reserve Room KF 2980 S34

Intellectual Property Law in Cyberspace / G. Peter Albert, Jr.

LRC Reading Room KF 3095 A77 1999 (Supp. 2007)

Intellectual Property & Unfair Competition in a Nutshell

LRC Reserve Room KF 1610 M35

Fundamentals of Intellectual Property Law: Copyright, Patent, Trademark / Sheldon W. Halpern

LRC Reading Room KF 2979 H357



Practice-Oriented Treatises

Lindey on Entertainment, Publishing & the Arts

LRC Reading Room KF 2991.5 L74 and online via Westlaw (type in Lindey using “search for these databases”)

Milgrim on Trade Secrets

LRC Reading Room KF 3197 A6 M5 or online via LEXIS (type in “Milgrim” using “Find a Source”) in the “search these databases” box)

Patry on Fair Use

Online via Westlaw (type in “Patry” using “search for these databases”)



How do you find this stuff?

SALLY (the LRC's online catalog)

Do a keyword search: "copyright & practice", "patents and practice", "nimmer & copyright", etc.

Note that you can link to database like LEXIS & Westlaw via SALLY

You can link to Sally off of the LRC's webpage, or by going directly to: <http://sally.sandiego.edu>

Westlaw

Directory Location: All Databases > Topical Materials by Area of Practice > Intellectual Property

LEXIS

Legal > Area of Law - By Topic > [Patent Law][Copyright Law][Trademark Law]



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Document Title

- 4-13 Nimmer on Copyright § 13.05**

Nimmer on Copyright, CHAPTER 13 Infringement Actions—Substantive Aspects (Continued: Sections 13.05–13.09)

... so that acquisition of a film print based upon a misrepresentation as to its intended use constitutes a ground for denying a **fair use** defense. 129 Roy Export Co. Establish Inc., 503 F. Supp. 1137 (S.D.N.Y. 1980) , aff'd, 672 F.2d 1095 (2d Cir. 1982) . Cf. Salinger v. Random House, Inc., 650 F. Supp. 413 , 426 (S.D.N.Y. 1986) , rev'd, 811 F.2d [unreadable] equitable factor of whether the defendant violated terms of access ...

View Table of Contents
- 5-21 Nimmer on Copyright § 21.01**

Nimmer on Copyright, CHAPTER 21 Copyright Office Forms, Practices, and Related Materials

... relationship between this section and the provisions of section 108 relating to reproduction by **libraries** and archives. The doctrine of **fair use** applies to **library** photocopying. Section 108 "in any way affects the right of **fair use**." No provision of section 108 is intended to take away any rights existing under the **fair use** doctrine. To the contrary, section 108 recognizes practices which may not qualify as a fair use.

View Table of Contents
- 104 Law Libr. J. 195**

Law Library Journal, GENERAL ARTICLE: Restoring the Public Library Ethos: Copyright, E-Licensing, and the Future of Librarianship * (c) William M. Cross, 2012. This is a revised version of the 2011 AALL/LexisNexis Call for Papers competition., William M. Cross , 13438 words

P42 As the copyright statute makes clear, contracts such as the licenses that **libraries** sign trump copyright exceptions, leaving **libraries** without the **fair use** "balancing test" of U.S.C. § 108 (f)(4) (2006). See also Elizabeth M.N. Morris, Will Shrinkwrap Suffocate **Fair Use**? , 23 SANTA CLARA COMPUTER & HIGH TECH. L.J. 237, 241 (2006-2007). The copyright's "safety valve" might suggest that completely removing **fair use** would ...
- 92 Law Libr. J. 157**

GENERAL ARTICLE: Pursuing Fair Use, Law Libraries, and Electronic Reserves * (c) Steven J. Melamut, 2000. This is a revised version of the winning entry in the student division of the 2011 AALL/LexisNexis Call for Papers competition., Steven J. Melamut , 19037 words

Libraries may make single copies of copyrighted works for users under sections 108(d) and (e), but there are restrictions that apply even to the making of these copies. First, the user must be a member of the library; second, the **library** must have no notice that the copy will be used for other than **fair use** purposes; and lastly, the **library** must post appropriate warnings. Unless these exceptions apply to **library** reserve copying,
- 88 Law Libr. J. 158**

General Article: The Impact of Recent Litigation on Interlibrary Loan and Document Delivery * James S. Heller, 1996., James S. Heller , 9898 words

... of information. The IIA believes that **libraries** that provide document delivery services without paying royalties have an unfair advantage over commercial information brokers. The IIA asserts that **libraries** that promote and offer fee-based services beyond their primary patron base are engaged in commercial copying and are not eligible for **library** exemption. 10 I think the economic pressures on **libraries** to come up with ...
- Cyberlaw § 2.04**

Cyberlaw: Intellectual Property in the Digital Millennium Chapter 2: Legal Reinforcement of Technological Measures for Protecting Copyrighted Works: The Anti-Circumvention

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Document Title

- 1. 4-13 Nimmer on Copyright § 13.05
Nimmer on Copyright, CHAPTER 13 Infringement Actions—Substantive Aspects (Continued: Sections 13.05–13.09)
... so that acquisition of a film print based upon a misrepresentation as to its intended use constitutes a ground for denying a fair use defense. 129 Roy Export Co. Establishment v. Columbia Inc., 503 F. Supp. 1137 (S.D.N.Y. 1980) , aff'd, 672 F.2d 1095 (2d Cir. 1982) . Cf. Salinger v. Random House, Inc., 650 F. Supp. 413 , 426 (S.D.N.Y. 1986) , rev'd, 811 F.2d 90 (2d Cir. 1986) .
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2. 5-21 Nimmer on Copyright § 21.01
Nimmer on Copyright, CHAPTER 21 Copyright Office Forms, Practices, and Related Materials
... relationship between this section and the provisions of section 108 relating to reproduction by libraries and archives. The doctrine of fair use applies to library photocopying, and nothing in section 108 "in any way affects the right of fair use." No provision of section 108 is intended to take away any rights existing under the fair use doctrine. To the contrary, section 108 authorizes certain practices which may not qualify as a fair use.
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3. 3-12A Nimmer on Copyright § 12A.06
Nimmer on Copyright, CHAPTER 12A Copyright Protection Systems and Management Information, PART I CIRCUMVENTING TECHNOLOGICAL PROTECTION OF COPYRIGHTS
... not hinder a child's learning ... or complicate an academic's research ... or prevent a high-tech engineer in Illinois from improving innovative products"); 144 Cong. Rec. H7093 (daily ed. A of Rep. Bliley) (stressing that a strong fair use provision was included "to ensure that consumers as well as libraries and institutions of higher learning will be able to continue to exercise their rights to use information").
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4. 9-16 Nimmer on Copyright [57]CHAPTER III
Nimmer on Copyright, APPENDIX 16 Second Supplementary Register's Report on the General Revision of the U.S. Copyright Law (1975)
Clause (2) of subsection (f) confirms the liability of a library patron who, beyond fair use, makes copies on a machine located in the library or has them made by the library for him. The bill provides that any such copies are not "lawfully made" within the meaning of a number of sections throughout the bill, including sections 109 and 110. This means that, in a variety of situations, that would be exempted, including cases involving the resale, display, or importation of the ...
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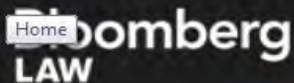
5. 9-16 Nimmer on Copyright [26]CHAPTER II
Nimmer on Copyright, APPENDIX 16 Second Supplementary Register's Report on the General Revision of the U.S. Copyright Law (1975)
... of Claims in favor of Williams & Wilkins , in its copyright infringement suit against the National Library of Medicine. ... The Commissioner's ruling has caused considerable consternation among the educational community not only because of its effect on libraries but also because it would undercut the accepted and traditional meaning of "fair use" for teachers. The language and ratio applicable against teachers and schools as against libraries.
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6. 3-12 Nimmer on Copyright § 12.04
Nimmer on Copyright, CHAPTER 12 Infringement Actions—Procedural Aspects
... This presents the anomalous circumstance whereby the person performing the infringing act is exempted from liability, while the person who is the subject of the infringement is liable. (See also, Nimmer on Copyright, § 8.03[E][2] supra .)
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JPMorgan Seeks Shield From Liability in WaMu Bondholder Suit (1)

(Updates with excerpt from filing in fourth paragraph.) By Tom Gohagan, Nov 7 (Bloomberg)

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(Updates with excerpt from filing in fourth paragraph.) By Tom Schabas on 11/7/2012

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Property Rights - Copyrights [*820]

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Mid-America Pool Renovations, Inc. v. Perry, Docket No. 4:12-cv-01491 (W.D. Mo. Dec 27, 2012), Court Docket (12/27/2012)

fair use under Policy 4cii. Complainant asserts that Respondent uses the disputed domain name to resolve to the website of Respondents business Maverick Pool. Complainant argues that Respondent is a direct competitor of Complainant as both parties provide pool refinishing services. The Panel finds that Respondents competing use

Last Updated Dec. 27, 2012 at 03:03 PM
 Date Filed Dec. 27, 2012
 Judge Scott O. Wright
 Federal Nature of Suit Property Rights - Trademark [840]
 Parties Mid-America Pool Renovations, Inc., Robert Perry
 Cause of Action 15:44 Trademark Infringement

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- DAVID G. TRAGER
- ANN D. MONTGOMERY
- A. HOWARD MATZ

Authors Guild, Inc. v. Hathitrust, Docket No. 12-04547 (2d Cir. Nov 14, 2012), Court Docket (11/14/2012)

OWP claims are not ripe. Defendants and Defendant Intervenors motions for summary judgment are GRANTED their participation in the MDP and the present application of the HDL are protected under fair use. The two unopposed motions for leave to file briefs as amici are GRANTED. The Clerk of the Court is instructed

Last Updated Jan. 15, 2013 at 04:16 AM
 Date Filed Nov. 14, 2012
 Federal Nature of Suit Property Rights - Copyrights [3820]
 Parties Alfredo Mireles, Jr., Andre Roy, Andrea Fischer Newman, Andrew C. Richner, Angelo Loukakis, Australian Society Of Authors Limited, Authors Guild, Inc., Authors League Fund, Inc., Authors' Licensing and Collecting Society, Blair Seiditz, Board Of Regents Of The University Of Wisconsin System, Bonnie Reiss, Brent Smith, Bruce Cole, Bruce D. Vamer, Charlene Zettel, in his official capacity as the Regents of the University of California, Charles Pruitt, Cora J. Griffin, Cornell University, Courtney Wheeler, Daniele Simpson, Danielle Simpson, David Crane, David G. Walsh, in his official capacity as the Regents of the University of Wisconsin System, Denise Ilitch, Derica W. Rice, in his official capacity as the Trustee of Indiana University, Eddie Island, Edmund Manydeeds, Erik Grundstrom, Fay Weldon, Fred Ruiz, George Kieffer, George M. Marcus, Georgina Kleege, Hadi Makarechian, Hathitrust, Helge Ronning, Jack R. Salamanca, James Shapiro, Jeffrey Bartell, John Drew, Jose F. Vazquez, in his official capacity as the Regents of the University of Wisconsin System, Judith V. Crain, Julia Donovan Darlow, Katherine E. White, in her official capacity as the Regents of the University of Michigan, Katherine Pointer, Laurence B. Deitch, Leslie Tang Schilling, Mark J. Bradley, MaryEllen Kiley Bishop, Michael J. Falbo

Fox Broadcasting Company, Inc., et al v. Dish Network L.L.C., et al. Docket No. 12-57048 (9th Cir. Nov 09,

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JANET C. HALL

A. HOWARD MATZ

FREDA L. WOLFSON

DOLLY M. GEE

HAROLD BAER

Federal Nature of Suit

Property Rights: Copyright [3820]

Weldon, Fred Ruiz, George Kietfer, George M. Marcus, Georgina Kleege, Hadi Makarechian, Hathitrust, Helge Ronning, Jack R. Salamanca, James Shapiro, Jeffrey Bartell, John Drew, Jose F. Vazquez, in his official capacity as the Regents of the University of Wisconsin System, Judith V. Crain, Julia Donovan Darlow, Katherine E. White, in her official capacity as the Regents of the University of Michigan, Katherine Pointer, Laurence B. Deitch, Leslie Tang Schilling, Mark J. Bradley, MaryEllen Kiley Bishop, Michael J. Falbo



Fox Broadcasting Company, Inc., et al v. Dish Network L.L.C., et al, Docket No. 12-57048 (9th Cir. Nov 09, 2012), Court Docket (11/09/2012)

for on demand commercial free viewing is a **fair use**. The coUr did not even discuss the **fair use** factors set out in the Copyright Act before reaching this conclusion. **Fair use** requires a case bycase analysis of those factors all of which weigh against finding **fair use** here. Finally Fox submitted substancial evidence that its hars

Last Updated Jan. 07, 2013 at 09:48 AM

Date Filed Nov. 09, 2012

Federal Nature of SuitProperty Rights - Copyrights [3820]

Parties ABC TELEVISION AFFILIATES ASSOCIATION, CBS TELEVISION NETWORK AFFILIATES ASSOCIATION; NBC TELEVISION AFFILIATES; and FOX TELEVISION AFFILIATES ASSOCIATION, ADVERTISING COUNCIL, INC., CABLEVISION SYSTEMS CORPORATION, DISH NETWORK CORPORATION, DISH NETWORK L.L.C., FOX BROADCASTING COMPANY, INC., FOX TELEVISION HOLDINGS, INC., NATIONAL ASSOCIATION OF BROADCASTERS, PARAMOUNT PICTURES CORPORATION, SONY PICTURES ENTERTAINMENT INC.; WARNER BROS. ENTERTAINMENT INC.; RECORDING INDUSTRY ASSOCIATION OF AMERICA; NATIONAL MUSIC PUBLISHERS ASSOCIATION, INC.; METRO-GOLDWYN-MAYER STUDIOS INC.; DIRECTORS GUILD OF AMERICA, INC.; and INTERNATIONAL ALLIANCE OF THEATRICAL STAGE EMPLOYEES, MOVING PICTURE TECHNICIANS, ARTISTS AND ALLIED CRAFTS OF THE UNITED STATES, ITS TERRITORIES AND CANADA, AFL-CIO, CLC, TWENTIETH CENTURY FOX FILM CORPORATION

The Authors Guild v. Google, Inc., Docket No. 12-03200 (2d Cir. Aug 14, 2012), Court Docket (08/14/2012)

millions of absent class members worldwide in violation of national and international copyright law for the sole benefit of Google. If as Google claims its limited search engine activities were protected by **fair use** the public deserves an adjudication on this matter to allow the creation of a competitive book search market.

Last Updated Jan. 07, 2013 at 05:13 AM

Date Filed Aug. 14, 2012

Federal Nature of SuitProperty Rights - Copyrights [3820]

Parties Academic Authors, American Library Association, Association of American Publishers, Inc., Association of College and Research Libraries, Association of Research Libraries, Betty Miles, Canadian Standard Association, Daniel Hoffman, individually and on behalf of all others similarly situated, Electronic Arts, Inc., Google, Inc., Herbert Mitgang, Jim Bouton, John Wiley & Sons, Inc., individually and on behalf of all others similarly situated, Joseph Goulden, individually and on behalf of all others similarly situated, Paul Dickson, Pearson Education, Inc., Pinterest, Inc., Simon & Schuster, Inc., The Authors Guild, The McGraw-Hill Companies, Inc., Yahoo! Inc.

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Case Name

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Docket Number

12-57048

Court

United States Court of Appeals for the Ninth Circuit

Nature of Suit

Property Rights: Copyright

Docket updated on Bloomberg Law on Jan. 07, 2013 09:48:38

United States Court of Appeals for the Ninth Circuit

Docket for Case #: 12-57048

Fox Broadcasting Company, Inc., et al v. Dish Network L.L.C., et al

**Parties and Attorneys
Docket Proceedings**

Date Filed: Nov. 09, 2012
 Status: Open
 Nature of suit: 3820 Copyright
 Original Cases: 2:12-cv-04529-DMG-SH on 05/24/2012, U.S. District Court for Central California, Los Angeles
 District: 0973
 NOA Date: 11/09/2012

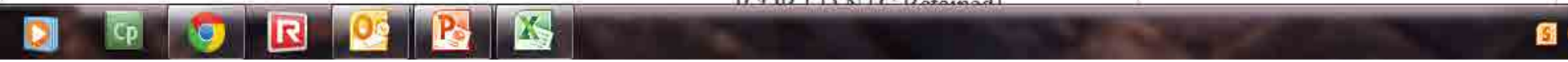
Parties and Attorneys

Plaintiff - Appellant,

FOX BROADCASTING COMPANY, INC.

Attorneys and Firms

Amy Marshall Gallegos
 JENNER & BLOCK LLP
 633 West 5th Street
 Los Angeles, CA 90071-2054
 Personal: 213-239-5136
 [CORP ID NOTIC Retained]



Docket Proceedings

Reverse Proceedings

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Req #	Filed	Docket Text
1	Nov. 09, 2012	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 11/16/2012. Referred to MOATT pursuant to FRAP 3-3 - Preliminary Injunction Appeal. [8396915] (JN)
2	Nov. 09, 2012	Received Appellants' Representation Statement. Served on 11/09/2012. [8396942] (JN)
3	Nov. 13, 2012	Filed clerk order (Deputy Clerk: TP): The appeal filed November 9, 2012 is a preliminary injunction appeal. Accordingly, Ninth Circuit Rule 3-3 shall apply. The mediation questionnaire is due three days after the date of this order. If they have not already done so, within 7 calendar days after the filing date of this order, the parties shall make arrangements to obtain from the court reporter an official transcript of proceedings in the district court that will be included in the record on appeal. The briefing schedule shall proceed as follows: the opening brief and excerpts of record are due not later than December 7, 2012; the answering brief is due January 4, 2013 or 28 days after service of the opening brief, whichever is earlier; and the optional reply brief is due within 14 days after service of the answering brief. See 9th Cir. R. 3-3(b). Failure to file timely the opening brief shall result in the automatic dismissal of this appeal by the Clerk for failure to prosecute. See 9th Cir. R. 42-1. [8397659] (WL)
4	Nov. 13, 2012	Filed (ECF) Appellants Fox Broadcasting Company, Inc., Fox Television Holdings, Inc. and Twentieth Century Fox Film Corporation Correspondence: JOINT STIPULATION ESTABLISHING BRIEFING SCHEDULE RE APPEAL FROM DENIAL OF PRELIMINARY INJUNCTION MOTION. Date of service: 11/13/2012 [8398938] (RLS)
5	Nov. 14, 2012	Filed (ECF) Appellants Fox Broadcasting Company, Inc., Fox Television Holdings, Inc. and Twentieth Century Fox Film Corporation Mediation Questionnaire. Date of service: 11/14/2012. [8401549] (DS)
6	Nov. 15, 2012	Filed clerk order (Deputy Clerk: TSP): This is a preliminary injunction appeal. The joint stipulation to amend the briefing schedule is granted. The opening brief and excerpts of record are now due December 13, 2012; the answering brief is due January 17, 2013; and the optional reply brief is due January 31, 2013. [8403337] (WL)
7	Nov. 15, 2012	Filed clerk order (Deputy Clerk: VLS): Based on a review of the Mediation Questionnaire, this case is not selected for inclusion in the Mediation Program. The existing briefing schedule remains in effect. Counsel for any party interested in obtaining assistance from the court in pursuing settlement of the case on appeal or learning more about the Mediation Program is encouraged to contact Roxane G. Ashe, Circuit Mediator, by fax (415) 355-8566. The communication will be kept confidential, if requested, from the other parties in the case. Counsel are requested to send copies of this order to their clients. [8403755] (WL)
8	Dec. 13, 2012	Submitted (ECF) Opening brief for review. Submitted by Appellants Fox Broadcasting Company, Inc., Fox Television Holdings, Inc. and Twentieth Century Fox Film Corporation. Date of service: 12/13/2012. [8438660] (RLS)
9	Dec. 14, 2012	Filed clerk order: The redacted opening brief submitted by appellants is filed. Within 7 days of the filing of this order, filer is ordered to file 7 copies of the brief in paper format, accompanied by certification, attached to the end of each copy of the brief, that the brief is identical to the version submitted electronically. Cover color: blue. The paper copies shall be printed from the PDF version of the brief created from the word processing application, not from PACER or Appellate ECF. [8439077] (JB)
10	Dec. 14, 2012	Filed Appellants' motion to file opening brief UNDER SEAL. Served on 12/13/2012. [8440503] (LA)
11	Dec. 14, 2012	Filed Appellants' motion to lodge DVD exhibit with excerpts of record. Served on 12/13/2012. [8440513] (LA)
12	Dec. 14, 2012	Received Appellants' notification of filing excerpts of record Vols. 5-9 under seal, with DC protective orders attached. [8440517] (LA)
13	Dec. 14, 2012	Received UNDER SEAL original and 7 copies of Appellants' opening brief (Informal: No) 64 pages. Excerpts of record in 9 volumes (Vols. 5-9 UNDER SEAL). Served on 12/13/2012. Minor deficiencies: motion to seal pending. [8440544] (LA)



No. 12-57048

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE
NINTH CIRCUIT**

**FOX BROADCASTING COMPANY, INC., TWENTIETH CENTURY FOX
FILM CORP., AND FOX TELEVISION HOLDINGS, INC.,**
Plaintiffs-Appellants,

v.

DISH NETWORK L.L.C. AND DISH NETWORK CORP.,
Defendants-Appellees.

On Appeal from the United States District Court
for the Central District of California
Case No. 12-cv-04529
District Judge Dolly M. Gee

BRIEF OF PLAINTIFFS-APPELLANTS

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General Info

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General Information

Case Name

Fox Broadcasting Company, Inc.,
et al v. Dish Network L.L.C., et al

Docket Number

12-57048

Court

United States Court of Appeals for
the Ninth Circuit

Nature of Suit

Property Rights: Copyright

Docket Proceedings

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1	Nov 09, 2012	DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL SEND MQ Yes The schedule is set as follows: Mediation Questionnaire due on 11/16/2012. Referred to MOATT pursuant to FRAP 3-5 - Preliminary Injunction Appeal [8396915] (JN)
2	Nov 09, 2012	Received Appellants' Representation Statement. Served on 11/09/2012. [8396942] (JN)
3	Nov 13, 2012	Filed clerk order (Deputy Clerk TP): The appeal filed November 9, 2012 is a preliminary injunction appeal. Accordingly, Ninth Circuit Rule 3-3 shall apply. The mediation questionnaire is due three days after the date of this order. If they have not already done so, within 7 calendar days after the filing date of this order, the parties shall make arrangements to obtain from the court reporter an official transcript of proceedings in the district court that will be included in the record on appeal. The briefing schedule shall proceed as follows: the opening brief and excerpts of record are due not later than December 7, 2012; the answering brief is due and the opening brief is due on December 14, 2012. The parties are encouraged to file their briefs electronically. Cir. R. 3-30. This appeal is being filed in the public docket. [8396942] (JN)
4	Nov 15, 2012	Filed (ECF) Twentieth Century Fox Film Corporation v. American Oversight, et al. ESTABLISHING PRELIMINARY INJUNCTION. [8396942] (JN)
5	Nov 14, 2012	Filed (ECF) Twentieth Century Fox Film Corporation v. American Oversight, et al. 11/14/2012. [8396942] (JN)
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13	Dec 14, 2012	Received UNDER SEAL original and 7 copies of Appellants' opening brief (Informal No) 64 pages. Excerpts of record in 9 volumes (Vols. 5-9 UNDER SEAL). Served on 12/13/2012. Major deficiencies: motion to seal pending. [8440544] (LA)
14	Dec 14, 2012	Received 5 copies of Appellants' DVD exhibit. (Motion to lodge DVD exhibit under seal pending.) [8440544] (LA)

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- Find enacted laws & regulations
- Proposed legislation & rulemaking

U.S. Patent & Trademark Office: <http://www.uspto.gov/>

- Search for patents or trademarks
- Rulemaking
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SPECIAL PROJECTS

- One-Year Update
- Two-Year Plan

Register of Copyrights
Names Chief of
Operations

COPYRIGHT MATTERS

Peter Jaszi:
Best Practices in Fair Use
February 5th at 10:30AM

David Nimmer:
50th Anniversary of
Nimmer on Copyright
March 6th at 3:00PM

POLICY ACTIVITIES

Orphan Works
- Submit Comments

Small Copyright Claims

Section 108 Reform
- Symposium, February 8,
2013

Resale Royalty

RULEMAKINGS

Section 1201
- Librarian's Final Rule
- Register's
Recommendation

About

- Copyright Basics (en Español)
- Frequently Asked Questions (FAQ)
- Current Fees
- Taking the Mystery Out of Copyright
(for students and teachers)

Search Copyright Records

- Registrations and Documents
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- Notices of Restored Copyrights
- Online Service Providers

Publications

- Circulars and Brochures
- Forms
- Factsheets
- Reports and Studies

How to Register a Work

- eCO Login



Electronic
Copyright Office

How to Record a Document

- Record a Document

Licensing

- Compulsory License

Related Links

- Copyright Royalty Board
- Patents and Trademarks
- U.S. Customs & Border Protection
- Intellectual Property Enforcement
- More...

Law and Regulations

- Copyright Law
- Regulations
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- Online Piracy
- Administration & Budget

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- Budget Justification
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The United States Patent and Trademark Office
an agency of the Department of Commerce

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Roundtable on Ownership Information on Friday

Join us on Friday, January 11 for a morning roundtable examining how the USPTO collects and disseminates information about the real-parties-in interest for patent applications and issued patents. Watch a webcast or attend in person at our Virginia headquarters.



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Prioritized patent examination



Patent Trial and Appeal Board

Formerly, the CBAM



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USPTO NEWS

- [USPTO Opens Patent and Trademark Resource Center on Long Island](#)
- [Nominations Sought for National Medal of Technology and Innovation](#)
- [USPTO and EPO Announce Launch of Cooperative Patent Classification System](#)
- [USPTO Announces New Patent Prosecution Highway Partnership \(PPH\) With Taiwan Intellectual Property Office](#)

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- [WIPO Advances Toward Treaty to Facilitate Access to Published Works by Persons with Print Disabilities](#), Morocco Offers to Host Diplomatic Conference  [Video](#)
- [Global IP Filings Continue to Grow, China Tops Global Patent Filings](#)  [Video](#)
- [Mexico Joins the International Trademark System](#)
- [WIPO Re-Search Marks One Year Anniversary with Significant Growth and Promise](#)

Forthcoming Events

- [Economics of IP: Trademark Cluttering](#) - January 29
- [Intergovernmental Committee on IP and Genetic Resources, Traditional Knowledge and Folklore](#) - February 4 to 8
- [Standing Committee on the Law of Patents](#) - February 25 to 28
- [Worldwide Symposium on Geographical Indications](#) - March 27 to 29
- [\[See all upcoming WIPO events\]](#)

World Intellectual Property Indicators



[WIPO report](#) shows healthy growth in 2011 IP filings despite economic climate. [\(Press release\)](#)

IP Distance Learning



Registration is open for the WIPO Academy's 2013 advanced [distance learning courses](#).

IP Country Profiles



Find the latest WIPO [information by country](#) on IP laws; filing statistics; activities and more.



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The links below provide detailed information on all 24 treaties administered by WIPO including the [WIPO Convention](#).

IP Protection

- [Beijing Treaty on Audiovisual Performances](#)
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- [Brussels Convention](#)
- [Madrid Agreement \(Indications of Source\)](#)
- [Nairobi Treaty](#)
- [Paris Convention](#)
- [Patent Law Treaty](#)
- [Phonograms Convention](#)
- [Rome Convention](#)
- [Singapore Treaty on the Law of Trademarks](#)
- [Trademark Law Treaty](#)
- [Washington Treaty](#)
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Global Protection System

- [Budapest Treaty](#)
- [Hague Agreement](#)
- [Lisbon Agreement](#)
- [Madrid Agreement \(Marks\)](#)
- [Madrid Protocol](#)
- [PCT](#)

Classification

- [Locarno Agreement](#)
- [Nice Agreement](#)
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Recent Notifications

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| » Patent Cooperation Treaty | Amendments to the Regulations (No 202) | D |
| » UPOV Convention | Accession by the Republic of Serbia to the 1991 Act (No 115) | D |
| » Hague Agreement | London Act of the Hague Agreement Concerning the International Deposit of Industrial Designs
Acceptance of termination by the Kingdom of Morocco (No 115) | D |
| » Nice Agreement | Application of the Nice Agreement to Hong Kong, China (No 131) | N |
| » Phonograms Convention | Accession by the Republic of Tajikistan (No 87) | N |



Berne Convention for the Protection of Literary and Artistic Works

TREATY

- [Full text of the Berne Convention \[PDF\]](#)
- [Summary](#)
- *Additional information:* [WIPO Handbook on Intellectual Property \[PDF\]](#)

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Design registration

Appellations of origin

Protection of flags, state

emblems (Article 6ter)

Arbitration and Mediation

Center

Domain name dispute

resolution

International classifications

IP Services

International Patent Protection – Patent Cooperation Treaty (PCT) System

The [PCT System](#) allows inventors and applicants to seek patent protection in a large number of countries by filing a single international application with a single patent office. Filing and processing patent applications through the PCT:

- brings the world within reach;
- postpones the major costs associated with international patent protection;
- provides valuable information about potential patentability of the invention;
- is safe and easy with WIPO's electronic filing software.

International Trademark Registration (Madrid System)

The [Madrid System](#) offers trademark owners the possibility to protect a trademark in multiple countries by filing a single application with a national or regional trademark office. International trademark registration through the Madrid system:

- does away with the need to file multiple applications at different offices;
- covers over 80 countries from around the world;
- facilitates management of the mark, as changes or renewals can be recorded through a single procedural step.

International Design Registration (Hague System)

The [Hague System](#) allows applicants to register an industrial design in multiple countries with a minimum of formalities and expense. Choosing the Hague system to protect industrial designs internationally:

- does away with the need to file multiple registrations at different offices;
- lets applicants register up to 100 industrial designs with a single form;
- facilitates management of registered designs, as changes or renewals can be recorded through a single procedural step.

International Registration of Appellations of Origin (Lisbon System)

The [Lisbon System](#) facilitates the international protection of appellations of origin through one single registration procedure. The Lisbon system:

- does away with the need to file multiple registrations at different offices;
- covers over two dozen countries in Africa, Asia, Europe, and Latin America.

Alternative Dispute Resolution

The [WIPO Arbitration and Mediation Center](#) is the leading resource in the resolution of IP disputes outside the courts. It offers specialized procedures including arbitration, mediation and expert determination for the resolution of international commercial disputes between private parties. The Center's procedures are designed as efficient and inexpensive alternatives to court proceedings and may take place in any country, in accordance with the applicable law.

Domain Name Dispute Resolution

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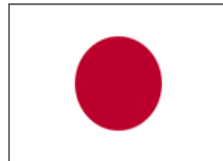
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Japan



Contact Information

- WIPO office
- National IP offices

Legal Information

- Joined WIPO in [1975](#)
- National IP laws and regulations (WIPO Lex)
- Membership of [WIPO treaties](#) and [Treaties notifications](#)
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Statistics

- IP statistical profile: (patents, utility models, trademarks, industrial designs)
- Number of domain name disputes:
[Complainant](#) | [Respondent](#)

Cooperation

- Technical assistance activities
- [WIPO meetings](#)

Use of WIPO Services

Technology

- [PCT System procedures](#)

International Applications (PATENTSCOPE)

- Patents (PCT):
[Office of origin](#) | [Designated office](#)

Brands

- [Madrid System procedures](#)

International Applications (Global Brand Database)

- Trademarks (Madrid System):
[Office of origin](#) | [Designated office](#)
- Emblems (Article 6ter): [Office of origin](#)

IP in Action

- [Case studies](#) (IP Advantage): national IP success stories.
- [Outreach campaigns](#): initiatives aimed at increasing public awareness on IP issues.
- [Outreach research](#): awareness, attitudes and behavior of different audiences towards IP.
- [Photos](#) (Flickr): A snapshot of WIPO-related activities.
- [Videos](#) (YouTube): Profiles of local creators and innovators, and their use of the IP system.

Recent Events

- [WIPO ASEAN Sub-regional Workshop on Establishment of an Information Technology Infrastructure for Effective Utilization of Patent Examination Results of Other Intellectual Property](#)
September 7, 2012)

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Relevant links		

Laws

Constitution / Basic Law (Date of current version)

- [The Constitution of Japan](#) (1946)

Main IP Laws: enacted by the Legislature (Date of current version)

- [Unfair Competition Prevention Act \(Act No. 47 of 1993\)](#) (2011)
- [Copyright Act \(Act No. 48 of May 6, 1970, as last amended by Act No. 65 of December 3, 2010\)](#) (2010)
- [Law on Exceptional Provisions for the Registration of Program Works \(Act No. 65 of May 23, 1986, as last amended by Law No. 53 of June 19, 2009\)](#) (2009)
- [Law on Management Business of Copyright and Neighboring Rights \(Law No. 131 of November 29, 2000, as last amended by Law No. 28 of May 2, 2007\)](#) (2007)
- [Law Concerning the Special Provisions to the Procedures Relating to an Industrial Property Right \(Act No. 30 of June 13, 1990, as last amended by Act No. 10 of May 2, 2007\)](#) (2007)
- [Designs Act \(Act No. 125 of April 13, 1959, as last amended by Act No. 16 of April 18, 2008\)](#) (2008)
- [Patent Act \(Act No. 121 of April 13, 1959, as last amended by Act No. 16 of April 18, 2008\)](#) (2008)
- [Trademark Act \(Act No. 127 of April 13, 1959, as last amended by Act No. 16 of April 18, 2008\)](#) (2008)
- [Utility Model Act \(Act No. 123 of April 13, 1959, as last amended by Act No. 16 of April 18, 2008\)](#) (2008)
- [Patent Attorney Act \(Act No. 49 of April 26, 2000, as last amended by Act No. 91 of June 20, 2007\)](#) (2007)
- [Plant Variety Protection and Seed Act \(Act No. 83 of May 29, 1998, as last amended by Act No. 49 of May 18, 2007\)](#) (2007)
- [Law on Protection of Cultural Properties \(Act No. 214 of May 30, 1950, as last amended by Act No. 7, March 30, 2007\)](#) (2007)
- [Law on the Circuit Layout of a Semiconductor Integrated Circuits \(Act No. 43 of May 31, 1985, as last amended by Act No. 50 of June 2, 2006\)](#) (2006)
- [Intellectual Property Basic Act \(Act No. 122 of December 4, 2002, as last amended by Act No.119 of July 16, 2003\)](#) (2003)
- [Law on the International Applications under the Patent Cooperation Treaty \(Act No. 30 of April 26, 1978, as last amended by Act No. 47 of May 23, 2003\)](#) (2003)
- [Law concerning the Exceptional Provisions to the Copyright Act, required as a consequence of the Enforcement of the Universal Copyright Convention \(Act No. 56 of May 8, 2000\)](#) (2000)
- [Copyright Amendment Act 1998](#) (1998)
- [Enforcement Law of the Patent Act \(Act No. 122 of April 13, 1959, as last amended by Act No. 116 of December 14, 1994\)](#) (1994)
- [Enforcement Law of the Utility Model Act \(Act No. 124 of April 13, 1959, as last amended by Act No. 26 of April 23, 1993\)](#) (1993)
- [Law concerning Exceptional Provisions for Copyrights owned by the Allied powers and the Allied Nationals \(Act No. 302 of August 8, 1952, as last amended by Act No. 10 of May 2, 2007\)](#) (2007)
- [Enforcement Law of the Design Act \(Act No. 126 of April 13, 1959\)](#) (1959)
- [Enforcement Law of the Trademark Act \(Act No. 128 of April 13, 1959\)](#) (1959)

IP-related Laws: enacted by the Legislature (Date of current version)

- [Civil Provisional Remedies Act](#) (2011)
- [Code of Civil Procedure](#) (2011)
- [Customs Act \(Act No.61 of April 2, 1954, as last amended by Act No. 13 of March 31, 2010\)](#) (2010)

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Practice Pages feature directories of content and functionality for a specific legal topic. Available resources include court materials, legislative and regulatory materials, and secondary sources.

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LEGAL NEWS
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Wire: BN — 01/07/2013 13:07

Retractable Rejected by U.S. High Court on Becton Patent Appeal
Wire: BN — 01/07/2013 09:36

Kodak, Disney, DC Comics, Starfire: Intellectual Property (1)
Wire: BN — 01/07/2013 07:00

Eastman Kodak Sued in Bankruptcy Court Over Kyocera Patents (1)
Wire: BN — 01/04/2013 09:31

Google, Macy's, Groupon, Life Is Good: Intellectual Property (1)
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Macy's Trial Over Martha Stewart Rights Set for Next Month (3)
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ISPs to Supply Personal Data of Alleged Infringers to Copyright Holders, Rules Swedish Supreme Court

Jan 14, 2013



COPENHAGEN — Sweden's Supreme Court (Hogsta Domstolen) has upheld in two separate rulings demands for internet service providers to hand over personal data relating to customers suspected of distributing copyrighted material. A leading Swedish copyright holders' association said in a January 3 statement that the decisions demonstrate that the legal system is "catching up" with illegal file sharers.

CJEU Accepts Comparison of Signs Based on Informed User's Imperfect Recollection

Jan 14, 2013



The Court of Justice of the European Union has rejected appeals filed by the owner of a Community Trade Mark and OHIM, confirming the General Court's decision that a Registered Community Design depicting a similar sign was valid as it would have formed a different overall impression in the imperfect recollection retained in an informed user's memory (Joined Cases C-101/11 P and C-102/11 P, October 18, 2012).

Recent Impact of EU Competition Law on Patent Strategies for Life Sciences Companies

Jan 09, 2013



Effective patent strategies need to reflect the realities of operating globally, irrespective of whether the strategy is primarily commercial or litigation focused, or a blend of both. Operating in Europe requires a sophisticated appreciation of the nuances of European antitrust law (referred to in Europe as competition law) and how to deploy these to one's advantage or to a competitor's disadvantage.

Japan Proposes "Strong, Stable" Granting of Patents, Wider Trademark Protection

Jan 08, 2013

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 - Detroit Legal: SCOTUS considers copyright's first sale rule** [✉](#)
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 - EFF: First Sale Under Siege: If You Bought It, You Should Own It** [✉](#)
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 - Inside Counsel: Libraries win in Google Books infringement suit** [✉](#)
Wire: NS1 — Source: Web Content - US — 12/21/2012 21:55
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DECEMBER 23, 2012 | BY CORYNNE MCSHERRY



2012 in Reivew: First Sale Under Siege — If You Bought It, You Should Own It

As the year draws to a close, EFF is looking back at the major trends influencing digital rights in 2012 and discussing where we are in the fight for free expression, innovation, fair use, and privacy. Click [here](#) to read other blog posts in this series.

The "first sale" doctrine expresses one of the most important limitations on the reach of copyright law. The idea, set out in [Section 109 of the Copyright Act](#), is simple: once you've acquired a lawfully-made CD or book or DVD, you can lend, sell, or give it away without having to get permission from the copyright owner. In simpler terms, "you bought it, you own it" (and because first sale also applies to gifts, "they gave it to you, you own it" is also true).

Seems obvious, right? After all, without the "first sale" doctrine, libraries would be illegal, as would used bookstores, used record stores, etc.

But the copyright industries have never liked first sale, since it creates competition for their titles (you could borrow the book from a friend, pick it up at a library, or buy it from a used book seller on Amazon). It also reduces their ability to impose restrictions on how you use the work after it is sold.

Two legal cases now pending could determine the future of the doctrine. The first is [Kirtsaeng v. Wiley & Sons](#). In that case, a textbook publisher is trying to undercut first sale by claiming the law only covers goods made in the United States. That would mean anything that is made

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<http://www.eff.org/work>

ABA Intellectual Property page:

<http://www.abanet.org/intelprop/>

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<http://fairuse.stanford.edu/>

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Oregon State Bar Bulletin | May, 1995 | 55-MAY Or. St. B. Bull. 8

...For more comprehensive surveys of **fair use**, see William Patry, The **Fair Use** Privilege in Copyright Law (1985); William Patry & Shira Perlmutter, **Fair Use** Misconstrued: Profit, Presumptions, and Parody, 11 Cardozo Arts & Ent....

...The 2nd Circuit majority opinion recited the facts, summarized the history of **fair use** and then applied the four **fair use** factors, one by one, concluding: 1....

 2. A PATTERN-ORIENTED APPROACH TO FAIR USE

William and Mary Law Review | March, 2004 | 45 Wm. & Mary L. Rev. 1525

...Prompted by discomfort over judicial treatment of claims that file sharing of digital musical works constitutes **fair use**, and more generally by the uncertain relationship in **fair use** between the individual defendant and the social practice the defendant arguably represents, this Article has attempted to address the problem of file sharing by situating the **fair use** argument about that practice more broadly in the context of the uncertain relationship between the law of **fair use** and contemporary social science....

...Thus, if norm-based controls were regarded as implementing a **fair use** ceiling rather than a **fair use** floor, users of digital works would enjoy far less **fair use** than they have enjoyed in traditional media....

 3. UNBUNDLING FAIR USES

Fordham Law Review | April, 2009 | 77 Fordham L. Rev. 2537

...[FN565] While **fair use** certainly serves these purposes, each of these conceptions of **fair use** encompasses only some important aspects of **fair use**, especially those discussed in Parts I and II, not the whole of **fair use**....

... See, e.g., Marcus v. Rowley, 695 F.2d 1171 (9th Cir. 1983) (not **fair use** for teacher to copy cake decorating instructions from plaintiff's pamphlet for use by her students); Nat'l Ass'n of Bds. of Pharmacy v. Bd. of Regents of Univ. Sys. of Ga., 86 U.S.P.Q.2d (BNA) 1683, 1703-04 (M.D. Ga. 2008) (not **fair use** to reproduce test questions to sell to others); Bosch v. Ball-Kell, 80 U.S.P.Q.2d (BNA) 1713 (C.D. Ill. 2006) (not **fair use** for substitute teacher to reproduce and teach from a fired teacher's notes); Educ. Testing Serv. v. Simon, 95 F. Supp. 2d 1081 (C.D. Cal. 1999)....

 4. AMERICAN GEOPHYSICAL UNION V. TEXACO: IS THE SECOND CIRCUIT PLAYING FAIR WITH THE FAIR USE DOCTRINE?

Hastings Communications and Entertainment Law Journal (COMM/ENT) | Fall, 1995 | 18 Hastings Comm/Ent L.J. 181

...In applying the **fair use** doctrine to the Texaco case, the Second Circuit analyzed the four statutory factors in accordance with controlling **fair use** precedent....

...Part I provides a brief overview of the Copyright Act with emphasis on the "**fair use**" and **library** exceptions to the Act's exclusive rights....

 5. FAIR USE OF UNPUBLISHED WORKS: BURDENS OF PROOF AND THE INTEGRITY OF COPYRIGHT

Arizona State Law Journal | Spring, 1999 | 31 Ariz. St. L.J. 1

...**Fair use** can be **fair use**....

...Some critics of **fair use** will immediately reject any such suggestion, asserting that **fair use** is solely a defense to be made by the defendant, and that the plaintiff should not be responsible for proving the absence of **fair use**....

 6. TRANSFORMING FAIR USE: THE PRODUCTIVE USE FACTOR IN FAIR USE DOCTRINE

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Document Title

4-13 Nimmer on Copyright § 13.05

Nimmer on Copyright, CHAPTER 13 Infringement Actions—Substantive Aspects (Continued: Sections 13.05–13.09)

... so that acquisition of a film print based upon a misrepresentation as to its intended use constitutes a ground for denying a fair use defense. 129 Roy Export Co. Establish Inc., 503 F. Supp. 1137 (S.D.N.Y. 1980), aff'd, 672 F.2d 1095 (2d Cir. 1982). Cf. Salinger v. Random House, Inc., 650 F. Supp. 413, 426 (S.D.N.Y. 1986), rev'd, 811 F.2d 913 (2d Cir. 1986) (equitable factor of whether defendant violated terms of access ...)

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5-21 Nimmer on Copyright § 21.01

Nimmer on Copyright, CHAPTER 21 Copyright Office Forms, Practices, and Related Materials

... relationship between this section and the provisions of section 108 relating to reproduction by libraries and archives. The doctrine of fair use applies to library photocopying in any way affects the right of fair use. No provision of section 108 is intended to take away any rights existing under the fair use doctrine. To the contrary, section 108 practices which may not qualify as a fair use.

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104 Law Libr. J. 195

Law Library Journal, GENERAL ARTICLE: Restoring the Public Library Ethos: Copyright, E-Licensing, and the Future of Librarianship * (c) William M. Cross, 2012. This is a revised version of the 2011 AALL/LexisNexis Call for Papers competition., William M. Cross, 13438 words

P42 As the copyright statute makes clear, contracts such as the licenses that libraries sign trump copyright exceptions, leaving libraries without the fair use "balancing test" of U.S.C. § 108 (f)(4) (2006). See also Elizabeth M.N. Morris, Will Shrinkwrap Suffocate Fair Use?, 23 SANTA CLARA COMPUTER & HIGH TECH. L.J. 237, 241 (2006-2007). The copyright's "safety valve" might suggest that completely removing fair use would ...

92 Law Libr. J. 157

GENERAL ARTICLE: Pursuing Fair Use, Law Libraries, and Electronic Reserves * (c) Steven J. Melamut, 2000. This is a revised version of the winning entry in the student division of the 2011 AALL/LexisNexis Call for Papers competition., Steven J. Melamut, 19037 words

Libraries may make single copies of copyrighted works for users under sections 108(d) and (e), but there are restrictions that apply even to the making of these copies. First, the library must have notice of the user; second, the library must have no notice that the copy will be used for other than fair use purposes; and lastly, the library must post appropriate warnings. Unfortunately, these exceptions apply to library reserve copying,

88 Law Libr. J. 158

General Article: The Impact of Recent Litigation on Interlibrary Loan and Document Delivery * James S. Heller, 1996., James S. Heller, 9898 words

... of information. The IIA believes that libraries that provide document delivery services without paying royalties have an unfair advantage over commercial information brokers. The IIA asserts that libraries that promote and offer fee-based services beyond their primary patron base are engaged in commercial copying and are not eligible for the library exemption. 10 I think the economic pressures on libraries to come up with ...

Cyberlaw § 2.04

Cyberlaw: Intellectual Property in the Digital Millennium Chapter 2: Legal Reinforcement of Technological Measures for Protecting Copyrighted Works: The Anti-Circumvention

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1. 104 Law Libr. J. 195 Law Library Journal, GENERAL ARTICLE: Restoring the Public Library Ethos: Copyright, E-Licensing, and the Future of Librarianship * (c) William M. Cross, 2012. This is a revised ve winning entry in the student division of the 2011 AALL/LexisNexis Call for Papers competition., William M. Cross , 13438 words P42 As the copyright statute makes clear, contracts such as the licenses that libraries sign trump copyright exceptions, leaving libraries without the fair use "balancing test" betv users. 72 17 U.S.C. § 108 (f)(4) (2006). See also Elizabeth M.N. Morris, Will Shrinkwrap Suffocate Fair Use?, 23 SANTA CLARA COMPUTER & HIGH TECH. L.J. 237, 241 (2006-200 nature of fair use as copyright's "safety valve" might suggest that completely removing fair use would ...

2. 92 Law Libr. J. 157 GENERAL ARTICLE: Pursuing Fair Use, Law Libraries, and Electronic Reserves * (c) Steven J. Melamut, 2000. This is a revised version of the winning entry in the student division of AALL/Matthew Bender Call for Papers competition., Steven J. Melamut , 19037 words Libraries may make single copies of copyrighted works for users under sections 108(d) and (e), but there are restrictions that apply even to the making of these copies. First, the become the property of the user; second, the library must have no notice that the copy will be used for other than fair use purposes; and lastly, the library must post appropriate Unfortunately, none of the section 108 exceptions apply to library reserve copying,

3. 88 Law Libr. J. 158 General Article: The Impact of Recent Litigation on Interlibrary Loan and Document Delivery * James S. Heller, 1996., James S. Heller , 9898 words ... of information. The IIA believes that libraries that provide document delivery services without paying royalties have an unfair advantage over commercial information brokers w libraries can price their services lower. The IIA asserts that libraries that promote and offer fee-based services beyond their primary patron base are engaged in commercial copy protected by fair use or the library exemption. 10 I think the economic pressures on libraries to come up with ...

4. 84 Law Libr. J. 315 COPYRIGHT: THE PUBLIC PERFORMANCE RIGHT IN LIBRARIES: IS THERE ANYTHING FAIR ABOUT IT? * (c) James S. Heller, 1992., James S. Heller , 10557 words In the end, the fair use analysis would likely focus on the critical fourth factor -- the extent to which copyright owners are harmed by on-site viewing of videocassettes in libraries copyright owners would assert, may occur in several ways, the most obvious of which is the video rental marketplace. Watching a video in a library is most akin to renting a video commercial establishment, and may have the effect of reducing business at video rental stores. Given the choice, ...

5. 86 Law Libr. J. 399 GENERAL ARTICLE: LIBRARY OPEN-DISTRIBUTION SYSTEMS AND COPYRIGHT INFRINGEMENT IN CANADA AND THE UNITED STATES * Copyright Richard Pearse, 1994. I would like Professor David Vaver for his insights, the lawyers and staff at Fraser & Beatty for their assistance in preparing this paper for publication, and my wife and family., Richard Pearse , [T]he definition of "fair use" regarding copyrighted materials . . . allowed libraries to make and deliver single photocopies of parts of books or journals for purposes of research an interlibrary loan of the work itself. 30 Laurie C. Tepper, Copyright Law and Library Photocopying: An Historical Survey, 84 LAW LIBR. J. 341 , 346-47 (1992).

6. 96 Law Libr. J. 425 GENERAL ARTICLES: Copyright in Library-Held Materials: A Decision Tree for Librarians * (C) Scott J. Burnham, 2004., Scott J. Burnham , 12501 words ... legend. If the library knew that Burns intended to use the work for other than research, then the library might lose the § 108 defense. It could probably cover itself, however, b to sign an agreement that he would not use the material for other purposes. Even if it lost the § 108 defenses, the library could still argue that its use was permissible as a § 107 f

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