For Professor Ramsey
Intellectual Property Seminar
Spring 2013

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

LRC Reference Desk:
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lrcrefer@sandiego.edu
Contact Us

Judith Lihosit, Head of Reference Services
University of San Diego Legal Research Center
Tel: (619) 260-4752
jlihosit@sandiego.edu

Reference Desk: (619) 260-4612 or
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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
Getting Started

LRC website (go here to see our hours, access the catalog, renew items, ILL materials, find research guides, etc):
http://www.sandiego.edu/law/lrc/

• LRC & Main Library online catalog:
http://sally.sandiego.edu/
Legal Research Center

Pardee Legal Research Center
Phone: (619) 260-4542
Fax: (619) 260-4616
Email: lrcrefer@sandiego.edu
Office hours

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www.sandiego.edu/law/lrc
Searching the catalogs

**USD’s online catalog (SALLY):** find items located in the LRC and also in the Copley Library collection.

- 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
Searching the catalogs

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 Circuit 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)

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

LRC Reading Room KF 2979 H357
Practice-Oriented Treatises

Linley on Entertainment, Publishing & the Arts
LRC Reading Room KF 2991.5 L74 and online via Westlaw (type in Linley 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”)

University of San Diego
Pardee Legal Research Center
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](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]
Secondary Sources

All Intellectual Property Secondary Sources
- Annotated Patent Digest (Matthews)
- Intellectual Property Law Daily
- McCarthy on Trademarks & Unfair Competition
- Moy's Walker on Patents
- Patry on Copyright
Intellectual Property Secondary Sources

American Law Reports
- American Law Reports - Intellectual Property

Texts & Treatises
- All Intellectual Property Texts & Treatises
  - Annotated Patent Digest (Matthews)
  - McCarthy on Trademarks & Unfair Competition
  - Moy's Walker on Patents
  - Patent Law Fundamentals
  - Patry on Copyright

Law Reviews & Journals
- All Intellectual Property Law Reviews & Journals
  - AIPLA Quarterly Journal
  - IDEA: The Intellectual Property Law Review
  - Journal of Intellectual Property Law

Forms
- Patent Law Practice Forms
- Patent Official Forms
- Trademark Law Practice Forms
- U.S. Copyright Office Forms

Newsletters
- All Intellectual Property Legal Newspapers & Newsletters
  - Intellectual Property Counselor
  - Intellectual Property Law Daily
  - Westlaw Journal Intellectual Property

IP Filing Rules
- All IP Filing Rules
  - Patent District Court Filing Rules
  - Trademark State Court Filing Rules
  - TTAB Filing Rules
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 Inc., 503 F. Supp. 1137 (S.D.N.Y. 1980), aff'd, 572 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 857 (2d Cir. 1987). For, when the only equitable factor of whether 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 photocopies under 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 requires practices which may not qualify as a fair reproduction.

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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 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" 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. 227, 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 2003 AALL  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 a non-commercial purpose; second, the library must have a reasonable belief that the copy will not be used for purposes other than those for which it was made; and third, the library must make the copy available to others who have a reasonable belief that the copies will be made available for purposes other than those for which they were created.

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 who 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 copying and library exemptions. 10 I think the economic pressures on libraries to come up with ...

Cyberlaw § 2.04

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 Pictures Ind., Inc., 503 F. Supp. 1137 (S.D.N.Y. 1980), aff'd, 672 F.2d 1055 (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. 1987). This equitable factor of whether defendant violated terms of access ...

View Table of Contents

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

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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. of Rep. Billey) (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 the ..."

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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 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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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 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 rationale of the decision is applicable against teachers and schools as against ...

View Table of Contents

3-12 Nimmer on Copyright § 12.04

Nimmer on Copyright, CHAPTER 12 Infringement Actions—Procedural Aspects

§ 8.03(e) supra.) This presents the anomalous circumstance whereby the person performing the infringing act is exempted from liability, while the
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Please re-type email address:

What law school do you work for or attend?
Select one

Which of the following best describes your current role?
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Read the terms and conditions here.

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Type the two words:

Submit
Intellectual Property

RESOURCES

PRACTICE PAGES
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.

- Patent Law
- Trademark Law
- Copyright Law
- Trade Secret Law
- International IP Law
- Technology & Internet Law
- Privacy & Information Law

INTELLECTUAL PROPERTY LAW SEARCH

Select Sources
Source Directory

When no sources are selected, all sources will be included in your search.
Keywords:
"fair use" and libraries

Search Operators:

Legal Search Operators:

AND Inclusion
OR Alternative
NOT Exclusion
N/x Proximity
S/ Proximity in a Sentence
P/ Proximity in a Paragraph
NP/x Ordered Proximity

Include: All of the following • Any of the following

Fair use under Policy 4ciii. 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

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 04:10 AM
Date Filed: Nov 14, 2012
Federal Nature of Suit: Property Rights - Copyrights [3820]
Parties: Alfredo Miele, Jr., Andre Roy, Andrea Fischer Newman, Andrew G. Richner, Angela Lougein, 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, Bernis Reiss, Brent Smith, Bruce Cole, Bruce D. Vamer, Charlote Zellit, 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 Crans, David G. Wolfe, in his official capacity as the Regents of the University of Wisconsin System, Denise Ilitch, Derica W. Rice, in his official capacity as the Trustees of Indiana University, Eddie Island, Edmund Manyunde, Erik Grundstrom, Fay Weldon, Fred Ruiz, George Kaffer, George M. Marcus, Georgina Kleiag, Hadi Makarechian, Hathitrust, Halga Renning, Jack R. Salamanca, James Shapiro, Jeffrey Baiter, 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. Dolch, Leslie Tang Schilling, Mark J. Bradley, MaryEllen Kiley Bishop, Michael J. Maglo

The court did not even discuss the fair use factors set out in the Copyright Act before reaching this conclusion. **Fair use** requires a case-by-case analysis of those factors all of which weigh against finding **fair use** here. Finally, Fox submitted substantial evidence that its "hars"

- **Last Updated**: Jan. 07, 2013 at 09:48 AM
- **Date Filed**: Nov. 09, 2012
- **Federal Nature of Suit**: Property 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 Suit**: Property Rights - Copyrights [3820]

United States Court of Appeals for the Ninth Circuit
Docket for Case #: 12-57048


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

Party: District: 0973
NOA Date: 11/09/2012

Parties and Attorneys

Plaintiff - Appellant, FOX BROADCASTING COMPANY, INC.

Attorneys and Firms
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Los Angeles, CA 90071-2054
Personal: 213-239-5136
[COI: ID: NTS Retained]
<table>
<thead>
<tr>
<th>Req #</th>
<th>Filed</th>
<th>Docket Text</th>
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<tbody>
<tr>
<td>1</td>
<td>Nov. 09, 2012</td>
<td>DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. SEND MQ: Yes. The schedule is set as follows: Mediation Questionnaire due on 11/14/2012. Referred to MOATT pursuant to FRAP 3-3 - Preliminary Injunction Appeal. [8396915] (JN)</td>
</tr>
<tr>
<td>2</td>
<td>Nov. 09, 2012</td>
<td>Received Appellants' Representation Statement. Served on 11/09/2012. [8396942] (IN)</td>
</tr>
<tr>
<td>3</td>
<td>Nov. 13, 2012</td>
<td>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 include the record on appeal. The briefing schedule shall proceed as follows: the opening brief and excerpts of record are due on or before 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(a). 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 [8397650] (WL)</td>
</tr>
<tr>
<td>4</td>
<td>Nov. 13, 2012</td>
<td>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)</td>
</tr>
<tr>
<td>5</td>
<td>Nov. 14, 2012</td>
<td>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 [8401159] (DS)</td>
</tr>
<tr>
<td>6</td>
<td>Nov. 15, 2012</td>
<td>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 due on December 13, 2012; the answering brief is due January 17, 2013; and the optional reply brief is due January 31, 2013. [8401337] (WL)</td>
</tr>
<tr>
<td>7</td>
<td>Nov. 15, 2012</td>
<td>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, at (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)</td>
</tr>
<tr>
<td>9</td>
<td>Dec. 14, 2012</td>
<td>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] (JF)</td>
</tr>
<tr>
<td>10</td>
<td>Dec. 14, 2012</td>
<td>Filed Appellants' motion to file opening brief UNDER SEAL. Served on 12/13/2012. [8440503] (LA)</td>
</tr>
<tr>
<td>12</td>
<td>Dec. 14, 2012</td>
<td>Received Appellants' notification of filing excerpts of record Vols. 3-9 under seal, with DC protective orders attached. [8440517] (FA)</td>
</tr>
<tr>
<td>13</td>
<td>Dec. 14, 2012</td>
<td>Received UNDER SEAL original and 7 copies of Appellants' opening brief (Informal: No) 64 pages. Excerpts of record in 9 volumes (Vols. 3-9 UNDER SEAL). Served on 12/13/2012. [8440519] (FA)</td>
</tr>
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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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<td>5</td>
<td>Nov. 14, 2012</td>
<td>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 [8400548] (DS)</td>
</tr>
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<td>Nov. 15, 2012</td>
<td>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. [8401337] (WL)</td>
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<td>7</td>
<td>Nov. 15, 2012</td>
<td>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. Ash, 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. [8403753] (WL)</td>
</tr>
<tr>
<td>9</td>
<td>Dec. 14, 2012</td>
<td>Filed clerk order. The redacted opening brief submitted by appellants is filed. Within 7 days of the filing of this order, party is ordered to file 7 copies of the brief in paper form, 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] (JN)</td>
</tr>
<tr>
<td>12</td>
<td>Dec. 14, 2012</td>
<td>Received Appellants' notification of filing excerpts of record Vols. 3-9 under seal, with protective orders attached. [8440517] (FA)</td>
</tr>
<tr>
<td>13</td>
<td>Dec. 14, 2012</td>
<td>Received UNDER SEAL original and 7 copies of Appellants' opening brief (Informal: No) 64 pages. Excerpts of record in 9 volumes (Vols. 3-9 UNDER SEAL). Served on 12/13/2012 [8440518] (FA)</td>
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<td>Nov. 09, 2012</td>
<td>DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL SEND MO. Yet. The schedule is set as follows: Mediation Questionnaire due on 11/16/2012. Referred to MOATT pursuant to FRAP 3-3 - Preliminary Injunction Appeal. [83996915] (JN)</td>
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<td>2</td>
<td>Nov. 09, 2012</td>
<td>Received Appellants' Representation Statement. Served on 11/09/2012. [8399942] (JN)</td>
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<td>3</td>
<td>Nov. 13, 2012</td>
<td>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. In the event that 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 not later than December 18, 2012, and the opening brief in reply is due not later than January 15, 2013. Each of the parties is hereby directed to file, in addition to its own opening brief, a cover sheet which lists all exhibits and other documents that are part of its briefing. The cover sheet must be submitted electronically and must contain an itemized list of all documents to be included in the filing with the clerk. The cover sheet must also contain the parties' contact information, including an email address for the counsel of record. The Clerk is authorized to make the cover sheet available to the public. An additional fee will be added to your Bloomberg account to retrieve this document electronically. The document is not available electronically. You will be prompted to approve or reject the cost of dispatching a courier. For a detailed schedule of fees associated with docketing, please refer to the pricing sheet.</td>
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<td>4</td>
<td>Nov. 13, 2012</td>
<td>Filed (ECF) Twentieth Century Fox Film Corp. v. Dish Network Corp. [E2012CV0106] PRELIMINARY INJUNCTION</td>
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<tr>
<td>5</td>
<td>Nov. 14, 2012</td>
<td>Filed (ECF) Twentieth Century Fox Film Corp. v. Dish Network Corp. [E2012CV0106] PRELIMINARY INJUNCTION</td>
</tr>
<tr>
<td>6</td>
<td>Nov. 14, 2012</td>
<td>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. In the event that 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 not later than December 18, 2012, and the opening brief in reply is due not later than January 15, 2013. Each of the parties is hereby directed to file, in addition to its own opening brief, a cover sheet which lists all exhibits and other documents that are part of its briefing. The cover sheet must be submitted electronically and must contain an itemized list of all documents to be included in the filing with the clerk. The cover sheet must also contain the parties' contact information, including an email address for the counsel of record. The Clerk is authorized to make the cover sheet available to the public. An additional fee will be added to your Bloomberg account to retrieve this document electronically. The document is not available electronically. You will be prompted to approve or reject the cost of dispatching a courier. For a detailed schedule of fees associated with docketing, please refer to the pricing sheet.</td>
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<td>Dec. 13, 2012</td>
<td>Filed (ECF) Twentieth Century Fox Film Corp. v. Dish Network Corp. [E2012CV0106] PRELIMINARY INJUNCTION</td>
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<td>Dec. 14, 2012</td>
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<td>10</td>
<td>Dec. 14, 2012</td>
<td>Filed Appellants' motion to the opening brief UNDER SEAL. Served on 12/13/2012. [8440528] (LA)</td>
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<td>Dec. 14, 2012</td>
<td>Received Appellants' certification of filing excerpts of record Vol. 3-9 under seal, with DOC protective order attached [8440517] (LA)</td>
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<tr>
<td>13</td>
<td>Dec. 14, 2012</td>
<td>Received UNDER SEAL original and 6 copies of Appellants' opening brief (Informal No) 64 pages. Excerpts of record in volumes (Vols. 3-9 UNDER SEAL). Served on 12/13/2012 and with supporting documentation. Notice: motion to seal pending [8440543] (LA)</td>
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<td>14</td>
<td>Dec. 16, 2012</td>
<td>Received 5 copies of Supplemental R/W filed. Notice to lodge DVD exhibit with excerpts of record Vol. 3-9 UNDER SEAL. Served on 12/13/2012. [8440516] (LA)</td>
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Docketing information and court filings

- Check Bloomberg first

- You can also go to PACER or to the court website (click on CM/ECF): [http://www.pacer.gov/](http://www.pacer.gov/) (contact reference desk for login information)
Finding Court Documents

**Westlaw**

- Court Docs: state and federal court filings (best for Cal.), appellate briefs

**LEXIS**

- Federal and State Patent Briefs and Motions, Combined
- Federal and State Patent Pleadings, Combined
- Federal and State Patent Briefs and Motions, Combined

**Findlaw Supreme Court Briefs**

Useful websites/ databases

- Search copyright records (1978-present)
- Find enacted laws & regulations
- Proposed legislation & rulemaking

- Search for patents or trademarks
- Rulemaking
- TTAB & PTAB manuals, decisions & federal cases of interest

World Intellectual Property Organization (WIPO meeting reports, treaties, patent statistics, etc.)  [http://www.wipo.int/portal/index.html.en](http://www.wipo.int/portal/index.html.en)
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.
New at WIPO
- WIPO Advances Toward Truth: Facilitating Access to Published Works for 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 Trade Mark System.
- WIPO Re:Search Marks One Year Anniversary with Significant Growth and Promise.

Forthcoming Events
- Economics of IP, Trademark Clustering - 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 26 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, filings statistics, activities and more.
WIPO-Administered Treaties

The links below provide detailed information on all 24 treaties administered by WIPO including the WIPO Convention.

- Berne Convention
- Brüssels 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
- WIPO CT
- WIPTT

Summary Table of Membership of the World Intellectual Property Organization (WIPO) and the Treaties Administered by WIPO, plus UPOV, WTO and UN

Recent Notifications

- Patent Cooperation Treaty
- UPOV Convention
- Hague Agreement
- Nice Agreement
- Phonograms Convention

- Amendments to the Regulations (No 202)
- Accession by the Republic of Serbia to the 1991 Act (No 115)
- London Act of the Hague Agreement Concerning the International Deposit of Industrial Designs
- Acceptance of termination by the Kingdom of Morocco (No 115)
- Application of the Nice Agreement to Hong Kong, China (No 131)
- Accession by the Republic of Tajikistan (No 87)
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]

MEMBERS

- Contracting Parties [PDF]
- Members of the Berne Union
  - Assembly
  - Executive Committee
- Notifications
- Statistics

E-BOOKSHOP

- Purchase hardcopy of the Convention

SITE

- Copyright and Related Rights
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 patents under the PCT:

- brings the word 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 on the Madrid system:

- does away with the need to file multiple applications at different offices;
- covers over 60 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 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 any language.

**Domain Name Dispute Resolution**
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
- Membership of WIPO bodies

Use of WIPO Services

Technology
- PCT System procedures
- International Applications (PATENT SCOPE)
  - 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
Japan (75 texts)

Laws (60 texts)

Implementing Rules/Regulations (15 texts)

Treaty Membership (65 texts)

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About WIPO Lex
Members' Profiles
Treaty Secretariat
WIPO-WTO Common Portal
Glossary
Contact us

E-NEWSLETTERS
Enter e-mail address below to subscribe to updates

Constitution / Basic Law (Date of current version)

- The Constitution of Japan (1946)

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

- Copyright Act (Act No. 48 of May 6, 1970, as last amended by Act No. 65 of December 3, 2010) (2010)
- 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, 2018)
- 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. 103 of May 14, 2002)
- Designs Act (Act No. 126 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)
- Plant Variety Protection and Seed Act (Act No. 63 of May 29, 1990, as last amended by Act No. 49 of May 18, 2007) (2007)
- Law concerning the Exceptional Provisions to the Copyright Act, required as a consequence of the Enforcement of the Universal Copyright Convention (Act No. 58 of May 9, 2000) (2000)
- Copyright Amendment Act 1998 (1990)
- Law concerning Exceptional Provisions for Copyrights owned by the Allied powers and the Allied Nationals (Act No. 352 of August 3, 1952, as last amended by Act No. 103 of May 14, 2002)

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

- Civil Provisional Remedies Act (2011)
- Code of Civil Procedure (2011)
CURRENT AWARENESS SERVICES
Intellectual Property

RESOURCES

PRACTICE PAGES
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.

- Patent Law
- Trademark Law
- Copyright Law
- Trade Secret Law
- International IP Law
- Technology & Internet Law
- Privacy & Information Law

INTELLECTUAL PROPERTY LAW SEARCH

When no sources are selected, all sources will be included in your search.
BROWSE LAW REPORTS

- Antitrust & Trade Regulation
- Banking & Financial
- Bankruptcy
- Communications & Technology
- Corporate, M&A & Securities
- Courts & Litigation
- Criminal Law
- Employee Benefits
- Environment
- Government, Politics & Infrastructure
- HR & Payroll
- Health Care
- Intellectual Property
  - BioTech Watch
  - Life Sciences Law & Industry Report
  - Medical Devices Law & Industry Report
  - Patent, Trademark & Copyright Journal
  - Patent, Trademark & Copyright Law Daily
  - Pharmaceutical Law & Industry Report
  - World Intellectual Property Report

MANAGE EMAIL NOTIFICATIONS for BNA Law Reports

SEARCH BNA LAW REPORTS

- Keywords:
- Reporter: All Law Reports
- Dates: No Date Selected

FEATURED CONTENT

NEW!
SOCIAL MEDIA LAW & POLICY REPORT
THINK FORWARD >>
ISP's 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 9, 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 9, 2013
Keywords: libraries and "fair use"
EFF: First Sale Under Siege: If You Bought It, You Should Own It
Wire: BLG — Source: Blogs Web Content — 12/23/2012 10:36
2012 in Review: 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 low-pry e-books need to made in the United States. That would mean anything that is made outside the U.S. is a pirated import, and would make any purchases made in the United States illegal.

The second case is Berger v. Sony. In that case, a music publisher is trying to prevent the first sale and uses its "bandwidth limitation" as a reason to block the work from going online.
Researching Your Paper Topic/ Current Awareness

Electronic Frontier Foundation
http://www.eff.org/work

ABA Intellectual Property page:
http://www.abanet.org/intelprop/

Stanford’s Copyright & Fair Use page:
http://fairuse.stanford.edu/

Stanford’s Center for Internet & Policy
http://cyberlaw.stanford.edu/
**LEXIS:** [Intellectual Property Law Review Articles, Combined](https://lexisnexis.com) ; [US Law Reviews and Journals, Combined](https://lexisnexis.com)

**Westlaw:** [Intellectual Property - Law Reviews, Texts & Bar Journals ; Journals and Law Reviews](https://westlaw.com)  
**Current awareness:** [Daily Reports & Current Developments](https://westlaw.com)
## Law Reviews & Journals

### By State

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### By Topic

#### Environmental Law
- Admiralty & Maritime
- Antitrust
- Bankruptcy
- Commercial Law
- Construction Law
- Corporations
- Criminal Law
- Estate Planning
- Family Law
- Finance & Banking
- Government Contracts
- Health Law
- Immigration
- Insurance
- Intellectual Property
- Labor & Employment
- Products Liability
- Real Property
- Securities
- Tax
1. RISKY BUSINESS
Oregon State Bar Bulletin  May, 1965  56 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 Permutter, 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

...[FN56] 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. Rowling, 895 F.2d 1171 (9th Cir. 1983) (not fair use for teacher to copy cafe decorating instructions from plaintiff’s pamphlet for use by her students); Natl As’n of Eds. of Pharmacy v. Bd. of Regents of Univ. Sys. of Ga., 85 U.S.P.Q.2d (BNA) 1603, 1703-04 (M.D. Ga. 2008) (not fair use to reproduce test questions to sell to others); Bosch v. Bell-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 GEOGRAPHICAL UNION V. TEXACO: IS THE SECOND CIRCUIT PLAYING FAIR WITH THE FAIR USE DOCTRINE?

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


[View Table of Contents]

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 photocopies under 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 practices which may not qualify as a fair...

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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 student division of the 2011 AALL/LexisNexis Call for Papers competition. William M. Cross, 13439 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." U.S.C. § 108 (f)(4) (2006). See also Elizabeth M.N. Morris, Will Shrinkwrap Suffocate Fair Use? Z3 SANTA CLARA COMPUTER & HIGH TECH. L. J. 237, 241 (2006-2007). The library's "safety valve" might suggest that completely removing fair use would...

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GENERAL ARTICLE: Pursuing Fair Use, Law Libraries, and Electronic Reserves *(c) Steven J. Melomut, 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. Melomut, 19937 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; second, the library must have notice that the copy will be used for other than fair use purposes; and lastly, the library must post appropriate warnings. Unless exceptions apply to library reserve copying,

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General Article: The Impact of Recent Litigation on Interlibrary Loan and Document Delivery *(c) James S. Heller, 1996, James S. Heller, 9998 words

... of information. The IIA believes that libraries that provide document delivery services without paying royalties have an unfair advantage over commercial information brokers that pay their services lower. The IIA asserts that libraries that promote and offer fee-based services beyond their primary patron base are engaged in commercial copying and library exemption. I think the economic pressures on libraries to come up with...
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<th>Document Title</th>
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<td>1. 104 Law Libr. J. 195</td>
<td>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 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 &quot;balancing test&quot; between 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 &amp; HIGH TECH. L.J. 237, 241 (2006-2007). The nature of fair use as copyright's &quot;safety valve&quot; might suggest that completely removing fair use would ...</td>
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<td>2. 92 Law Libr. J. 157</td>
<td>GENERAL ARTICLE: Pursuing Fair Use, Librarians, and Electronic Reserves * (c) Steven J. Melamut, 2000. This is a revised version of the winning entry in the student division of the AALL/Matthew Bender Call for Papers competition., Steven J. Melamut, 19937 words. Libraries may make single copies of copyrighted works for users under sections 108(d) and (c), but there are restrictions that apply even to the making of these copies. First, the library cannot become the property of the user; second, the library must have notice that the copy will be used for other than fair use purposes; and lastly, the library must post appropriate notices. Unfortunately, none of the section 108 exceptions apply to library reserve copying,</td>
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<td>3. 88 Law Libr. J. 158</td>
<td>General Article: The Impact of Recent Litigation on Interlibrary Loan and Document Delivery * (c) James S. Heller, 1996., James S. Heller, 9098 words. Of information. The IIA believes that libraries that provide document delivery services without paying royalties have an unfair advantage over commercial information brokers who license 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 protection in fair use or the library exemption. I would think the economic pressures on libraries with ...</td>
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<td>4. 84 Law Libr. J. 315</td>
<td>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 were harmed by on-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 from a commercial establishment, and may have the effect of reducing business at video rental stores. Given the choice, ...</td>
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<td>5. 86 Law Libr. J. 399</td>
<td>GENERAL ARTICLE: LIBRARY OPEN-DISTRIBUTION SYSTEMS AND COPYRIGHT INFRINGEMENT IN CANADA AND THE UNITED STATES * Copyright Richard Pearse, 1994. I would like to thank Professor David Vaver for his insights, the lawyers and staff at Fraser &amp; Beatty for their assistance in preparing the text for publication, and my wife and family, Richard Pearse, 2009 words. The definition of &quot;fair use&quot; regarding copyrighted materials ... allowed libraries to make and deliver single photocopies of parts of books or journals for purposes of research and interlibrary loan of the work itself. 38 Laura C. Tepper, Copyright Law and Library Photocopying: An Historical Survey, 84 LAW L...</td>
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<td>6. 96 Law Libr. J. 425</td>
<td>GENERAL ARTICLES: Copyright in Library-Held Materials: A Decision Tree for Librarians * (C) Scott J. Burnham, 2004., Scott J. Burnham, 1247 words. Of licensing, the library would be able to use the material for other purposes, but they would have to sign an agreement that he would not use the material for other purposes. Even if it lost the § 108 defense, the library could still argue that its use was permissible as a § 107 &quot;fair use.&quot; ...</td>
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