Harvard Law School

CopyrightX

Turin Satellite Program

Syllabus

Week 1

[Lecture 1: The Foundations of Copyright Law](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Originality

* [17 U.S.C, 102(a)](http://www.law.cornell.edu/uscode/text/17/102)
* [Bleistein v. Donaldson Lithographing Co., 188 U.S. 239 (1903)](http://cyber.law.harvard.edu/people/tfisher/IP/1903_Bleistein.pdf)
* [Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1991)](http://cyber.law.harvard.edu/people/tfisher/IP/1991_Feist.pdf)
* [Mannion v. Coors Brewing Co., 377 F.Supp. 2d 444 (S.D.N.Y. 2005)](http://cyber.law.harvard.edu/people/tfisher/IP/2005_Mannion.pdf) (**optional**)

**Turin Satellite Additional Readings**

* [Andreas Rahmatian, Originality in UK Copyright Law The Old ‘‘Skill and Labour’’ Doctrine Under Pressure, 44 IIC (2013) 4–34](http://link.springer.com/article/10.1007%2Fs40319-012-0003-4)
* [Football Dataco Ltd and others v. Yahoo! UK Ltd and others, 1 March 2012 (Case C-604-10)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62010CJ0604:EN:HTML)
* Infopaq International v. Danske Dagblades Forening, July 16 2009 ([Case C-5-08](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008CJ0005:EN:HTML))

Discussion: The Idea/Expression Distinction

* [17 U.S.C 102(b)](http://www.law.cornell.edu/uscode/text/17/102)
* [Baker v. Selden, 101 U.S. 99 (1879)](http://cyber.law.harvard.edu/people/tfisher/IP/1879_Baker.pdf)
* [Nichols v. Universal Pictures Corp., 45 F.2d 119 (2d Cir. 1930)](http://cyber.law.harvard.edu/people/tfisher/IP/1930_Nichols.pdf)
* [Alexander v. Haley, 460 F.Supp. 40 (S.D.N.Y. 1978)](http://cyber.law.harvard.edu/people/tfisher/IP/1978_Alexander.pdf) (**optional**)

Week 2

[Lecture 2: Fairness and Personality Theories](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Labor v. Personhood

* [Justin Hughes, “The Philosophy of Intellectual Property,” 77 Georgetown L.J. 287 (1988)](http://www.justinhughes.net/docs/a-ip01.pdf)

Discussion:  Nonfiction

* [A.A. Hoehling v. Universal City Studios, Inc., 618 F.2d 972 (2d Cir. 1980)](http://cyber.law.harvard.edu/people/tfisher/IP/1980_Hoehling.pdf)

Event (February 5, 7:30 p.m.): Creativity in Music

* Guest: [Joshua Redman](http://www.joshuaredman.com/)

Week 3

[Lecture 3: The Subject Matter of Copyright](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion (February 10): Useful Articles

* [Pivot Point, Int’l v. Charlene Products, 372 F.3d 913 (7th Cir. 2004)](http://cyber.law.harvard.edu/people/tfisher/IP/2004_Pivot.pdf)
* [Intervest Construction v. Canterbury Estate Homes, 554 F.3d 914 (CA11 2008)](http://cyber.law.harvard.edu/people/tfisher/IP/2008_Intervest.pdf) (**optional**)

Discussion (February 11): Software

* [Computer Associates International, Inc. v. Altai, Inc., 982 F.2d 693 (2d Cir. 1992)](http://cyber.law.harvard.edu/people/tfisher/IP/1992_Computer.pdf)
* [Lotus Development Corporation v. Borland International, Inc., 49 F.3d 807 (1st Cir. 1995)](http://cyber.law.harvard.edu/people/tfisher/IP/1995_Lotus.pdf)

Week 4

[Lecture 4: Welfare Theory](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Applications of Welfare Theory

* [F.M. Scherer, “The Innovation Lottery,” in Rochelle Dreyfuss et al., eds., Expanding the Boundaries of Intellectual Property (Oxford Univ. Press 2001), pp. 3-21](http://isites.harvard.edu/fs/docs/icb.topic1132231.files/Scherer_Innovation_Lottery.pdf)

Discussion: Alternatives to Copyright

* [William Fisher, Promises to Keep: Technology, Law and the Future of Entertainment (2004), Chapter 6](http://cyber.law.harvard.edu/people/tfisher/PTKChapter6.pdf)

Week 5

[Lecture 5: Authorship](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Multiple Authors

* [17 USC 201](http://www.law.cornell.edu/uscode/text/17/201)
* [Lindsay v. The Wrecked and Abandoned Vessel R.M.S. Titanic, 52 U.S.P.Q.2d 1609 (S.D.N.Y. 1999)](http://cyber.law.harvard.edu/people/tfisher/IP/1999_Lindsay.pdf)
* [Aalmuhammed v. Lee, 202 F.3d 1227 (9th Cir. 1999)](http://cyber.law.harvard.edu/people/tfisher/IP/2000_Aalmuhammed.pdf) (**optional**)

**Turin Satellite Additional Readings**

* [Giancarlo F. Frosio, Rediscovering Cumulative Creativity from the Oral Formulaic Tradition to Digital Remix: Can I Get a Witness? 13(2) J. MARSHAL REV. INTELL. PROP. L. 341 (2014](http://repository.jmls.edu/cgi/viewcontent.cgi?article=1325&context=ripl))

Discussion: Works for Hire

* [Community for Creative Non-Violence v. Reid, 490 U.S. 730 (1989)](http://cyber.law.harvard.edu/people/tfisher/IP/1989_CCNV.pdf)
* [Avtec Systems, Inc. v. Peiffer, 21 F.3d 568 (4th Cir. 1994)](http://cyber.law.harvard.edu/people/tfisher/IP/1994_Avtec.pdf) (**optional**)

**Turin Satellite Additional Readings**

* [Martin Luksan v Petrus van der Let, 9 February 2012 (Case C-277/10)](http://curia.europa.eu/juris/document/document.jsf?text=&docid=119322&pageIndex=0&doclang=EN&mode=req&dir=&occ=first&part=1)

Week 6

[Lecture 6: The Mechanics of Copyright](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Copyright and Parentalism

* [Stewart v. Abend, 495 U.S. 207 (1990)](http://cyber.law.harvard.edu/people/tfisher/IP/1990_Stewart.pdf)
* [New York Times Company v. Tasini, 533 U.S. 483 (2001)](http://cyber.law.harvard.edu/people/tfisher/IP/2001_NYT.pdf) (**optional**)

Discussion: The Boundary between Copyright and the Public Domain

* [Eldred v. Ashcroft, 537 U.S.1 86 (2003)](http://cyber.law.harvard.edu/people/tfisher/IP/2003_Eldred.pdf)
* [Golan v. Holder, 2012 U.S. Lexis 907 (2012)](http://cyber.law.harvard.edu/people/tfisher/IP/2012_Golan.pdf) (**optional**)

**Turin Satellite Additional Readings**

* [Giancarlo F. Frosio, COMMUNIA and the European Public Domain Project: A Politics of the Public Domain, in The Digital Public Domain: Foundations for an Open Culture (Juan Carlos De Martin and Melanie Dulong de Rosnay eds., OpenBooks Publishers 2012)](http://www.openbookpublishers.com/product/93)
* [Giancarlo F. Frosio, Communia Final Report On The Digital Public Domain (report prepared for the European Commission on behalf of the COMMUNIA Network and the NEXA Center) (2012)](http://www.communia-project.eu/final-report) (skim through)

Week 7

[Lecture 7: The Rights to Reproduce and Modify](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: “Probative Similarity” and “Substantial Similarity”

* [17 U.S.C. 106](http://www.law.cornell.edu/uscode/17/106.html)
* [Three Boys Music Corp. v. Michael Bolton, 212 F.3d 477 (9th Cir. 2000)](http://cyber.law.harvard.edu/people/tfisher/IP/2000_Three.pdf)
* [Steinberg v. Columbia Pictures Industries, Inc., 663 F.Supp. 706 (S.D.N.Y. 1987)](http://cyber.law.harvard.edu/people/tfisher/IP/1987_Steinberg.pdf) (optional)
* [Computer Associates International, Inc. v. Altai, Inc., 982 F.2d 693 (2d Cir. 1992)](http://cyber.law.harvard.edu/people/tfisher/IP/1992_Computer.pdf) (reprise)
* [Boisson v. Banian, Ltd., 273 F.3d 262 (2d Cir. 2001)](http://cyber.law.harvard.edu/people/tfisher/IP/2001_Boisson.pdf) (**optional**)
* [Swirsky v. Carey, 376 F.3d 841 (9th Cir. 2004)](http://cyber.law.harvard.edu/people/tfisher/IP/2004_Swirsky.pdf)
* [Mannion v. Coors Brewing Co., 377 F.Supp. 2d 444 (S.D.N.Y. 2005)](http://cyber.law.harvard.edu/people/tfisher/IP/2005_Mannion.pdf) (reprise) (optional)

**Turin Satellite Additional Readings**

* [Infopaq International v. Danske Dagblades Forening (C-5-08)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008CJ0005:EN:HTML) (reprise)

Discussion: Derivative Works

* [Castle Rock Entertainment, Inc. v. Carol Publishing Group, Inc., 150 F.3d 132 (2d Cir. 1998)](http://cyber.law.harvard.edu/people/tfisher/IP/1998_Castle.pdf) [Parts I & II]
* [Lee v. A.R.T. Company, 125 F.3d 580 (7th Cir. 1997)](http://cyber.law.harvard.edu/people/tfisher/IP/1997_Lee.pdf)
* [Micro Star v. FormGen Inc., 154 F.3d 1107 (9th Cir. 1998)](http://cyber.law.harvard.edu/people/tfisher/IP/1998_Micro.pdf) (**optional**)

Event: Negotiating Copyright Treaties

* Speaker: [Justin Hughes](http://justinhughes.net/) (principal negotiator on behalf of the United States of the 2013 [Marrakesh Treaty  to Facilitate Access for the Visually Impaired](http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=245323))

Week 8

[Lecture 8: The Rights to Distribute, Perform, and Display](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Distribution and First Sale

* [Hotaling v. Church of Jesus Christ of Latter-Day Saints, 118 F.3d 199 (4th Cir. 1997)](http://cyber.law.harvard.edu/people/tfisher/IP/1997_Hotaling.pdf) (**optional**)
* [Vernor v. Autodesk, 2010 U.S.App. Lexis 18957 (Sept. 10, 2010)](http://cyber.law.harvard.edu/people/tfisher/IP/2010_Vernor.pdf)
* [Kirtsaeng v. John Wiley & Sons (U.S. Supreme Court, March 19, 2013)](http://cyber.law.harvard.edu/people/tfisher/IP/2013_Kirtsaeng_Abridged.pdf)

**Turin Satellite Additional Readings**

* Sociedad General de Autores y Editores de España (SGAE) v Rafael Hoteles SA, 7 December 2006 ([c-306/05](http://curia.europa.eu/juris/document/document.jsf?text=&docid=66355&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=638126)) (communication to the public)
* Phonographic Performance (Ireland) Limited v Ireland, Attorney General, 15 March 2012 ([C-162/10](http://curia.europa.eu/juris/document/document.jsf?docid=120461&doclang=EN)) (communication to the public)
* Società Consortile Fonografici (SCF) v Marco Del Corso, 15 March 2012 ([C-135/10](http://curia.europa.eu/juris/document/document.jsf?text=&docid=120443&pageIndex=0&doclang=IT&mode=lst&dir=&occ=first&part=1&cid=638545)) (communication to the public)
* ITV Broadcasting et al v TV Catchup, 7 March 2013 ([C-607/11](http://curia.europa.eu/juris/document/document.jsf?docid=134604&doclang=EN)) (live streaming)
* Nils Svensson et al v Retriever Sverige AB, 13 February 2014 ([C-466/12](http://curia.europa.eu/juris/document/document.jsf?text=&docid=147847&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=322255)) (linking)
* UsedSoft GmbH v Oracle International Corp., 3 July 2012 [(C-128/11)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008CJ0005:EN:HTML) (digital distribution, exhaustion)

Discussion: Performances

* [Columbia Pictures Indus. v. Redd Horne, Inc., 749 F.2d 154 (3d Cir. 1984)](http://cyber.law.harvard.edu/people/tfisher/IP/1984_Columbia.pdf)
* [Cartoon Network LP v. CSC Holdings, Inc., 536 F.3d 121 (2d Cir. 2008)](http://cyber.law.harvard.edu/people/tfisher/IP/2008_Cartoon.pdf) [Part III] (**optional**)
* [Perfect 10 v. Amazon.com. 508 F.3d 1146 (9th Cir. 2007)](http://cyber.law.harvard.edu/people/tfisher/IP/2007_Perfect10.pdf) [Parts I, II, III.A., and III.B.]

Week 9

[Lecture 9: Fair Use and Misuse](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Fair Use, Part 1

* [17 U.S.C. 107](http://www.law.cornell.edu/uscode/17/107.html)
* [Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994)](http://cyber.law.harvard.edu/people/tfisher/IP/1994_Campbell.pdf)
* [Castle Rock Entertainment v. Carol Publishing Group, Inc., 150 F.3d 132 (2d Cir. 1998)](http://cyber.law.harvard.edu/people/tfisher/IP/1998_Castle.pdf) [Part III]
* [Sony Computer Entertainment, Inc. v. Connectix Corp., 203 F.3d 596 (9th Cir. 2000)](http://cyber.law.harvard.edu/people/tfisher/IP/2000_Sony.pdf) (**optional**)

Discussion: Fair Use, Part 2

* [Blanch v. Koons, 467 F.3d 244 (2d Cir. 2006)](http://cyber.law.harvard.edu/people/tfisher/IP/2006_Blanch.pdf)
* [Perfect 10 v. Amazon.com. 508 F.3d 1146 (CA9 2007)](http://cyber.law.harvard.edu/people/tfisher/IP/2007_Perfect10.pdf) [Part III.C.]
* [Gaylord v. United States, 595 F.3d 1364 (Fed. Cir. 2010](http://cyber.law.harvard.edu/people/tfisher/IP/2010_Gaylord.pdf)) (**optional**)
* [Cariou v. Prince, Docket No. 11-1197-cv (2nd Cir. April 14, 2013)](http://cyber.law.harvard.edu/people/tfisher/IP/2013_Cariou.pdf)
* [Author’s Guild v. Google, 05 Civ. 8136 (S.D.N.Y. November 14, 2013)](http://cyber.law.harvard.edu/people/tfisher/IP/2013_Google.pdf) (**optional**)

**Turin Satellite Additional Readings**

* Padawan v SGAE, October 21, 2010 ([C-467/08](http://curia.europa.eu/juris/document/document.jsf?text=&docid=83635&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=496261))
* Stichting de Thuiskopie v Opus, June 16, 2011 ([C-462/09](http://curia.europa.eu/juris/document/document.jsf?text=&docid=85089&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=496170)) (private copy)
* ACI Adam BV and Others v Stichting de Thuiskopie and Stichting Onderhandelingen Thuiskopie vergoeding, April 10, 2014 ([C-435/12](http://curia.europa.eu/juris/document/document.jsf?text=&docid=150786&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=495361))

Week 10

[Lecture 10: Cultural Theory](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion (April 7): Moral Rights in the United States

* [17 U.S.C. 106A](http://www.law.cornell.edu/uscode/17/106A.html)
* [Martin v. City of Indianapolis, 192 F.3d 608 (7th Cir. 1999)](http://cyber.law.harvard.edu/people/tfisher/IP/1999_Martin.pdf) (**optional**)
* [Dastar Corporation v. Twentieth Century Fox Film Corporation, 539 U.S. 23 (2003)](http://cyber.law.harvard.edu/people/tfisher/IP/2003_Dastar.pdf)

Discussion: Traditional Knowledge

* [Stephen Munzer and Kal Raustiala, “The Uneasy Case for Traditional Knowledge,” 27 Cardozo Arts & Entertainment Law Journal 37 (2009)](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1397367)

Week 11

[Lecture 11: Supplements to Copyright: Secondary Liability and Para-copyright](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Secondary Liability

* [Sony Corporation of America v. Universal City Studios, Inc., 464 U.S. 417 (1984)](http://cyber.law.harvard.edu/people/tfisher/IP/1984_Sony.pdf) (reprise)
* [Metro-Goldwyn-Mayer, Inc. v. Grokster, 545 U.S. 913 (2005)](http://cyber.law.harvard.edu/people/tfisher/IP/2005_MGM.pdf)
* [Perfect 10 v. Amazon.com. 508 F.3d 1146 (CA9 2007)](http://cyber.law.harvard.edu/people/tfisher/IP/2007_Perfect10.pdf) [Part IV]
* [Viacom v. YouTube, 676 F.3d 19 (CA2 2012)](http://cyber.law.harvard.edu/people/tfisher/IP/2012_Viacom.pdf)

**Turin Satellite Additional Readings**

* Productores de Música de España (Promusicae) v Telefónica de España SAU, July 16, 2009 [(Case C-275/06)](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62008CJ0005:EN:HTML) (ISPs’ Right of Information)
* Scarlet Extended v SABAM, November 24, 2011 [(Case C-70/10)](http://curia.europa.eu/juris/document/document.jsf?text=&docid=115202&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=510558)
* UPC Telekabel Wien GmbH v Constantin Film Verleih GmbH and Wega Filmproducktionsgesellschaft mbH, March 27, 2014 ([Case C-314/12](http://curia.europa.eu/juris/document/document.jsf?text=&docid=149924&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=494459))

Discussion: Technological Protection Measures

* [Universal City Studios, Inc. v. Corley, 273 F.3d 429 (2d Cir. 2001)](http://cyber.law.harvard.edu/people/tfisher/IP/2001_Corley.pdf)
* [Blizzard Entertainment, Inc. v. Jung, 422 F.3d 630 (8th Cir. 2005)](http://cyber.law.harvard.edu/people/tfisher/IP/2005_Blizzard.pdf) (**optional**)

**Turin Satellite Additional Readings**

* Nintendo Co. Ltd and Others v PC Box Srl and 9Net Srl, January 23, 2014 ([Case C-355/12](http://curia.europa.eu/juris/document/document.jsf?text=&docid=146686&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=494265))

Week 12

[Lecture 12: Remedies](http://blogs.law.harvard.edu/copyrightx/hls-syllabus/Lectures)

Discussion: Damages

* [17 U.S.C. 504](http://www.law.cornell.edu/uscode/17/504.html), [505](http://www.law.cornell.edu/uscode/17/505.html)
* [Frank Music Corp. v. Metro-Goldwyn-Mayer Inc., 886 F.2d 1545 (9th Cir. 1989)](http://cyber.law.harvard.edu/people/tfisher/IP/1989_Frank.pdf) (**optional**)
* [Sony BMG Music Entertainment v. Tenenbaum, 660 F.3d 487 (1st Cir. 2011)](http://cyber.law.harvard.edu/people/tfisher/IP/2011_Sony.pdf)
* [Fantasy, Inc. v. Fogerty, 94 F.3d 553 (9th Cir. 1996)](http://cyber.law.harvard.edu/people/tfisher/IP/1996_Fantasy.pdf) (**optional**)

Discussion: Injunctions and Crimes

* [17 U.S.C. 501](http://www.law.cornell.edu/uscode/17/501.html), [502](http://www.law.cornell.edu/uscode/17/502.html), [503](http://www.law.cornell.edu/uscode/17/503.html), [506](http://www.law.cornell.edu/uscode/17/506.html)
* [Salinger v. Colting, 607 F.3d 68 (2d Cir. 2010)](http://cyber.law.harvard.edu/people/tfisher/IP/2010_Salinger.pdf)
* [United States v. Moran, 757 F.Supp. 1046 (D.Neb. 1991)](http://cyber.law.harvard.edu/people/tfisher/IP/1991_Moran.pdf) (**optional**)

Event (April 23, 7:30 p.m.): Copyright Reform across Cultures

* Speakers TBD