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COPYRIGHT IN THE DIGITAL AGE

An Interactive Qualifying Project Report
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ABSTRACT

With the advancement of technology in today's world, copyright infringement is aided by the ability to transfer all sorts of digital media. Illegal use of copyrighted works occurs often, with many violators not even aware of what they are doing. This report explains how copyright has developed through the ages and how future legislation can be addressed for society to be better informed about copyright while maintaining the educational integrity of technology and keeping the copyright holders appeased.

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INTRODUCTION

It is the intention of Copyright law as expressed in the U.S. constitution to "promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries" (Article 1, Section 8). Copyright is an issue which has complicated and confused the intellects and artists who it intends to protect as well as the public. People around the world are exploiting resources of endless knowledge due to their lack of understanding copyright law. Members of the public are often unaware when they are in copyright violation or for that matter that the violations even exist. Without the safeguards of copyrights, the inventors and investors, the musicians and writers alike, have virtually no incentives to develop, if they stand to gain not even the notoriety of their creation. Title 17 of the U.S. Code which specifically governs copyrights, establishes the following criteria for determining what can be copyrighted: *Copyright protection subsists...in original works of authorship fixed in any tangible medium of expression...from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.* Copyright law has helped to ensure an economic fairness to those producing literary, musical, artistic, photographic, and cinematographic works. Stated more simply, copyright protects not the ideas of its copyright holder but the original expressions of these ideas, and limits the use of the works by the public. Today's most important copyright issues are in direct correlation with the new technologies of the age.

"In the new information age, the old notions of copyright are not adequate for controlling the exchange of information, and effectively thwart the potential of information technology" (Halbert *Intellectual Property in the Information Age,* 1999).

New legislation is produced regularly to deal with the ever changing concerns of copyright although copyright infringements are happening more frequently than ever before. The high Courts of the United States have seen more than a fair share of copyright issues in the court room. The increase in illegally distributed material can be linked to the availability of vast amounts of media on the Internet and widespread illegal distribution of productions by people circumventing piracy controls made possible by burners and encryption programs available in local electronics stores. How can this pressing issue be handled in a digital age to ensure the rights of artists, writers, and all those who hold copyrights? "The U.S. Department of Commerce estimates the value of the pirated share of the world market for prerecorded music at 1.2 billion dollars annually. The International Intellectual Property Alliance estimates U.S. losses in the recorded music industry as a consequence of piracy at $600 million. Estimates of losses to U.S. book publishers due to piracy reached $700 million a year" (Benko, *Protecting Intellectual Property Rights*, 1987). That was 15 years ago and the financial losses to the industry have grown significantly over the past decade.

The Internet has been one of the biggest problems. How copyright will be protected in an environment that facilitates the unregulated distribution and sharing of information is yet to be seen. For now, some Internet sites post copyright notes at the bottom of their copyrighted works and offer rewards to turn in violators. The current methods are not adequate and legislation must be passed soon to manage copyright issues. The technology of the day is threatening copyrighted works and the public needs to become aware of what their fair use is. The discussion which follows intends to

educate the public of our current copyright policies and issues. A fair balance between use of copyrighted works and the ownership of rights must be attained.

BACKGROUND RESEARCH

The origins of copyright laws date back to the late fifteenth century when the printing press was first introduced in England. With the growing number of printing presses being produced and put into use, the necessity of copyrighting laws became evident. In the beginning authorities sought to control the publication of books by granting publishers a near monopoly on publishing rights in England, creating a type of censorship on what could and could not be published for distribution.

The first official law passed was the Licensing Act of 1662, which supported the general monopoly of publishing rights to publishers by establishing a register of licensed books to be administered by the Stationers' Company, a group of printers with the authority to censor publications. This law only remained in place for a short period until the government lost interest in attempting to control copyright leading up to 1710 when the Parliament enacted the Statue of Anne to address the concerns of English booksellers and printers. This was the first time a fixed term of protection was established, fourteen years which could be renewed if the author was still alive, in order to help address the growing concerns of authors' ownership over one's work. This act was put in place to help break up the monopoly of literature and create a so-called "public domain for literature" by limiting the publisher to a position where he no longer had the ability to change or distort an author's work once it had been purchased. What the law didn't cover though, was the aspect that for an author to receive compensation for his work he had to first initially find a publisher to assign his idea to. The laws put in place in the sixteen

hundreds have been drastically changed through out the years to better fit the needs of current artists, the industry surrounding them, and the public.

The first copyrighting laws to be set in place by the US government date back to 1787 in the U. S. Constitution. According to Article I, Section 8, Clause 8 of the U.S. Constitution, "the Congress shall have power . . . to promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries." This law was established to help protect artists, authors, and scientist's works from being exploited.

The first statute to implement this power was put in place relatively quickly: in 1790 the First Congress rearranged the initial copyright laws to promote and encourage creativity and learning. This amendment secured the rights of the author's work for a fourteen year period and also giving them the option to renew their rights to publish and print these documents for another fourteen years. By giving authors a monopoly of their work, the government hoped it would push artists to continually create and write new material. This law also established a public domain of artists work for the general public to view and benefit from.

The next revision to copyright laws came in 1831 when the initial fourteen year monopoly the artist enjoyed was pushed to twenty eight years to give artists the same rights that were being enjoyed in Europe at the time.

One of the first copyright disputes arose in 1834 between Richard Peters, the official reporter of the Supreme Court and Henry Wheaton, the previous reporter of the

Supreme Court. Peters had begun a report organizing recent and past documents which had been produced. Some of Wheaton's reports were used and he viewed this as a copyrighting infringement and sued. The decision of the case was monumental because of what it implied. Peters won the case by accusing Wheaton of not properly attaining official copyrights for his work. This case showed that copyright laws were not to be thought of as perpetual natural rights, which was the majority opinion going into this case, but exclusive rights to those who properly attain them. The courts and Congress could see early that copyright was going to be a difficult issue to analyze.

WORLD INTELLECTUAL PROPERTY ORGANIZATION

The World Intellectual Property Organization defines Intellectual property as "work produced by the mind", referring mostly to literary and artistic works while still including such things as symbols, names, images, and designs used in commerce.

W. I. P. O. divides intellectual property into two distinct categories, Industrial Property and Copyright. Industrial property includes everything from industrial design to trademark. Copyrighting, which is our focus, includes what we consider artistic and literary work. Included in this description of literary and artistic work is everything from poems to sculptures. The individuals who reserve the rights for copyrighting these works are the actual artist who created them, the producers who record, publish and distribute them, and the broadcasters that display them.

One of the defining quotes used by W. I. P. O. is by Albert Einstein, "Imagination is more important than knowledge". The important idea embedded in this quote is man's ability to see past the already established foundation of knowledge from which we have already created and acquired and to move beyond. More or less, this quote is saying we should be able to imagine a world outside the one in which we have already defined. W. I. P. O. believes this is the true form of economical, cultural, and scientific advancement, and to preserve this is to preserve our future.

W. I. P. O. roots these beliefs in the fact that some countries have been able to develop at a faster rate than others. W. I. P. O. believes a large part of this is knowledge and innovation. For a country to promote and encourage economic growth it must preserve the rights of the people in hopes to promote fields of research and development. In the realm of copyrighting, this argument is used to help allow artists to maintain a

market in their respected fields. With this market, artists have an arena to express themselves while still being able to potentially make a profit off of their ideas and to continuously push oneself to create new and innovative works of art if only simply because it is illegal to copy another's. The artists are provided a monetary incentive to create.

Copyrighting laws define the relationships the public has with an artist's work he/she has created or creates. A major concern for W. I. P. O. is to update and create a standard set of laws for international purposes that all nations would abide by. W. I. P. O. also works on protecting artists against current and upcoming piracy technologies that hackers and other individuals are using to steal and illegally distribute artists work. Other legislation is being discussed to help solve technological concerns

One of the more recent proposals that W. I. P. O. has created is the W.I.P.O Copyright Treaty of 1996 (WCT). The WCT pushed to protect two new forms of work an author or artist could potentially create computer programs and compilations of data or other materials (databases). The Treaty is directed to protect three particular rights of those two categories, the right of distribution, the right of rental, and the right of communication to the public. W. I. P. O. is dedicated to see the enforcement of infringements on these laws and to help maintain the original idea of the author. The Treaty was signed at the Geneva Convention by 50 states and the European community.

W. I. P. O. is an important organization that works independently to preserve the rights of the authors and artists creating original works. By doing so W. I. P. O. believes the larger affect on the community and its economy is much greater than the few

individuals affected by infringement violations. Although the WCT of 1996 is the most recent amendment made to current copyright laws by W. I. P. O., it is working on giving the authors and artists more rights to their work.

NATIONAL INFORMATION INFRASTRUCTURE

Many of the problems that currently exist among copyright laws are due to the fact that no one could anticipate the size and capabilities of the World Wide Web. The first copyright laws were set in 1909, such an early time that no one could possible imagine what could be accomplished with Internet and the WWW. For this reason, revisions and amendments were made to the NII Copyright Protection Act of 1995. The three major revisions of this act are:

(1) Transmission of Copies

(2) Copyright Protection Systems

(3) Copyright Management Information

In terms of distribution, "rental, lease or lending" were the original methods included in copyright law. The new act adds "transmission" as a form of distribution. The act also calls for a section entitled "Copyright Protection Systems", which makes it illegal for anyone, whether an individual or a company, to import, manufacture, or distribute any device, product or component that enhances a user's ability to violate copyrights technologically. Copyright Management Information for the NII Protection Act contains information regarding the author, copyright owner and other necessary information involving copyrights. The act makes it illegal to remove or alter any of this aforementioned material, as well as makes it illegal to provide false information concerning these topics. As for those individuals who frequently use the WWW, drastic changes in the Web cannot be easily noticed as a result of the NII Copyright Protection Act of 1995. It is because copyright laws are so hard to enforce that users are not

concerned with strict regulation involving this act. The main concern of users should be what "fair use" is and what exceeds the boundaries of current copyright laws. Users must not think that simply because enforcement of these laws is so difficult, that they can simply do as they wish without any regard for copyrights. It is the job of law makers to allow any laws passed to be open to amending due to technological changes that are inevitably going to take place within the future of the digital age. The revisions made to the NII Copyright Protection Act of 1995 are a step in that direction.

The NII is a government supported organization dedicated to meet the information needs of its citizens. Through its commitment to develop the level of interactivity, enhance communication, and allow easier access to the web it also feels a strong need to protect the rights of the people. By implementing the Copyright Protection Act of 1995 the NII believes it is making the web a safer way of communicating. The NII worked to produce three major revisions, Transmission of Copies, Copyright Protection Systems, and Copyright Management Information. The NII's exemplary work has made them an important asset in keeping the WWW a safe place.

DMCA

Infringement is defined as the unauthorized copying, distribution, or display of copyrighted material. Authorization must come from the copyright holders, and is neglected regularly across the Internet, in libraries, and at educational institutions due to the advances of technology.

A growing concern for the media industries is the copyright infringement taking place across the World Wide Web. Since these corporations hold the rights to a wide range of material being illegally distributed, they are searching for someone to hold responsible. It is a difficult matter to pick out those truly infringing copyright, so the copyright holders have blamed the ISP's, also referred to as OSP's or online service providers. Lawsuits are filed more frequently claiming monetary compensation from ISP's and the like for allowing material on their sites which is copyrighted and unauthorized.

The Digital Millennium Copyright Act (DMCA) was put into law in October of 1998 under the Clinton Administration, to handle these growing issues. It was created using the World Intellectual Property Organization's treaties of 1996 as an archetype. The Act included many provisions to deal with the concerns of intellectual property in an ever advancing digital world.

Some of the Acts most important provisions made it illegal to decode anti-piracy protection incorporated into software. This has been called anti-circumvention. It also made it illegal to manufacture or sell any code breaking technology to circumvent protection technology and copy the software. The DMCA also protects service providers

from copyright infringement for transmission of illegal material, but requires them to remove the illegal content from sites.

How educational institutions can handle copyrighted material are one of the many issues which Congress will be addressing in the future. The Act limited the liability of institutions which provide copyrighted infringing material on websites as well as use of infringed material by professors of these institutions. Another important provision concerned the illegal sharing and transfer of music over the Internet. Servers providing the capability to download the copyrighted material may be required to pay licensing fees to the record companies.

The most interesting part of the Act, allows for the Register of Copyrights to make congressional recommendations every three years on how to deal with the growing concern of fair use. The recommendations intend to allow the needs of users to take full advantage of technology and the ability to educate while still keeping the copyright holders happy. The Act checks this action nicely by stating *"nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use..."* (U.S. Code: Title 17, 1201).

The Digital Millennium Copyright Act has steadily been making changes and additions. Most recently the DMCA has allowed for the copying of computer programs and video games which use obsolete formats. One of the most widely debated provisions of the Act, making it illegal to decode copyright protection on DVD's and CD's has been unyielding.

A major provision of the DMCA limits the responsibility of Internet and Online Service Providers, when they aid in the access and distribution of copyrighted material placed by others. The Online Copyright Infringement Liability Limitation or the "safe harbor" provision as it has been labeled protects libraries and educational institutions from secondary liability for providing the online services. Many major sites such as eBay have been in the media light facing charges of infringement.

Hendricken v. eBay

In 2002 eBay faced a lawsuit when Robert Hendricken claimed the online site liable for copyright infringement for allowing the auction of pirated copies of DVD's and Video. Hendricken was a filmmaker with Tobann International Pictures who held the rights for a documentary about Charles Manson. A statement by U.S. District Judge Robert Kelleher describes his view on the case; "whether eBay can be held secondarily liable for providing the type of selling platform/forum and services that it provided, however limited or automated in nature, to sellers of counterfeit copies of the film *Manson*." The Court found eBay to not be liable under the "safe harbor" provisions of the DMCA. Judge Kelleher cited a Senate Report which stated, "that the DMCA is designed to facilitate the robust development and worldwide expansion of electronic commerce, communications, research, development and education [and] protects qualifying Internet service providers from liability for all monetary relief for direct, vicarious and contributory infringement… preserving strong incentives for service providers and copyright owners to cooperate to detect and deal with copyright infringements that take

place in the digital networked environment."

(http://eric_goldman.tripod.com/caselaw/hendricksonvebay.htm, September 4, 2001)

The court defined eBay as an ISP finding them not liable for infringement, but not all providers of Internet services and the access to it are protected by the provisions of the DMCA. They must follow certain rules and meet particular guidelines to qualify for safe harbor. Lutzker & Lutzker LLP, a Washington DC law firm summarizes the guidelines of the Online Copyright Infringement Liability Limitation Provision of the Digital Millennium Copyright Act in this congressional brief; (OSP and ISP are synonymous).

"The statute defines a "service provider" as an entity that transmits routes and connects users to online communications or provides online or network services, such as storing digital material, caching or providing location tools (directories, hyperlinks, etc). When dealing with copyrighted material available through its network, an OSP must be *passive.* It cannot place material online, modify content, store it longer than necessary or know that it infringes someone else's copyright. Its systems must operate automatically and it cannot chose recipients of transmissions. Finally, it must not directly profit from an infringement.

The statute requires that in order for an OSP to qualify, it must implement several novel requirements immediately. Institutions would be well advised to turn these matters over to an established committee that manages copyright policies, or to create a new group for that purpose. In light of the fact that the statute calls for taking prompt action and making informed decisions, such a body could find itself involved in important policy questions. Among the things an institution needs to do right away to qualify for the limitation are the following:

- *Designate an agent* to receive statutory notices from copyright owners about infringements and to send statutory notices to affected subscribers.
- *Advise the Copyright Office* of the agent's name and address and post that information on the OSP's website.
- *Develop and post a policy* for termination of repeat offenders and provide network users with information about copyright laws.
- *Comply with "take down" and "put back" notice requirements.*
- Ensure that the system *accommodates industry-standard technical measures* used by owners to protect their works from unlawful access and copyright infringement."

To qualify fully for the limitation with regard to all covered OSP activities, a set of conditions for each specific function must be met. If an institution performs all the OSP functions, as most do, then all requirements must be met. The following summary breaks down the requirements into three pertinent categories.

- *Material.*
    - The material must be made available online by someone other than the OSP.
    - The OSP cannot modify the material.

- No copy of the material during intermediate storage shall be maintained longer than "reasonably necessary."
- The OSP does not have "actual knowledge" that the material or the activity is infringing; more specifically,
  - it is not aware of facts or circumstances from which infringing activity is apparent; or
  - upon receiving such awareness, the OSP acts expeditiously to remove or disable access to the site.

- *Parties to the Transmissions.*
  - The transmissions must be initiated by or at the direction of another person and sent to another.
  - No copy of the material during intermediate storage shall be made accessible to another person.
  - The OSP must not select recipients.
  - The OSP does not receive a financial benefit directly attributable to the infringing activity, in a case in which the OSP has the right and ability to control the activity.
- *Procedures.*
  - The transmission, routing, provision of connections or storage must be carried out through an automatic, technical process.
  - The OSP must follow rules relating to refreshing, reloading or other updating of the material.
  - The OSP cannot interfere with technology associated with the material, such as access requirements or preconditions for use, such as passcodes or fees.
  - The OSP must comply with
    - "notice and takedown" procedures, *i.e.,* upon "proper notification," expeditiously remove or disable access to the offending material, and
    - "counter notice and put back" procedures, i.e., upon "proper *counter* notice," promptly notify copyright owner of dispute and replace material within two weeks, unless the matter is referred to court.

The DMCA also places obligations upon the copyright holders in order to make sure they help protect their material.

- When refreshing, reloading or updating material, the owner must adhere to generally accepted industry standard data communications protocols.
- As to the OSP's obligation not to interfere with technology controlling access to the material (e.g. passcodes and fees), the owner's technology must
  - not *significantly* interfere with the OSP's system or network performance with intermediate storage of material,
  - be consistent with generally accepted industry communications protocols, and
  - not extract information from the OSP's system or network about the person initiating the transmission that it could not have acquired through direct access to that person.
- Comply with notification requirements in connection with "notice and take down" procedures.

"Notice and take down" is an essential part of the protections sought by the content community and forms a new regulatory regime for both OSPs and copyright owners. If a content owner reasonably believes that a site misuses copyrighted matter and it notifies the OSP according to statutory procedures, or if the OSP independently becomes aware of the facts and circumstances of infringement, then the OSP must expeditiously remove the material or disable public access to the site, or face loss of the limitation.

Among the elements of the notice and takedown process are the following:

- The OSP must have a designated agent to receive notices and it must use a public portion of its website for receipt of notices.
- The OSP must notify the U.S. Copyright Office of the agent's identity and the Copyright Office will also maintain electronic and hard copy registries of website agents.
- Proper written notification from a copyright owner to an OSP must include
  - the name, address and electronic signature of the complaining party,
  - sufficient information to identify the copyrighted work or works,
  - the infringing matter and its Internet location,

    - a statement by the owner that it has a good faith belief that there is no legal basis for the use of the materials complained of, and
    - a statement of the accuracy of the notice and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner.
- Any misrepresentation of material facts will subject the offending party to claims for damages and attorneys fees.

If the OSP complies in good faith with the statutory requirements, the new law immunizes it from liability to subscribers and third parties; however, this immunity is conditioned upon affording the affected subscriber notice of the action. If a subscriber files a proper "counter notice," attesting to its lawful use of the material, then the OSP must "promptly" notify the copyright owner and within 14 business days restore the material, unless the matter has been referred to a court. The counter notice must contain these elements:

- The subscriber's name, address, phone number and physical or electronic signature.
- Identification of the material and its location before removal.
- A statement under penalty of perjury that the material was removed by mistake or misidentification.
- Subscriber consent to local federal court jurisdiction, or if overseas, to an appropriate judicial body.

The OSP regime also makes one special exception to the general rule that an institution is responsible for the acts of its employees. In recognition of the principles of academic freedom and scholarly research and the practice of administrators of higher educational institutions of not interfering with classroom work, the statute provides that faculty and graduate students employed to teach or research shall not be considered "the institution" for OSP purposes. Thus, if, for example, a member of the faculty posts infringing content, selects recipient of infringing matter or knows of an infringement, the institution would not automatically lose its right to the limitation.

The exception has three important qualifications:

- The faculty or graduate student's activities do not involve online access (including e-mail) to materials that were "required or recommended" within the preceding three years for a course taught by the employee at the institution.
- The institution has not received more than *two* notices of actionable infringement by the faculty or graduate student.
- The institution provides all users of its system or network informational materials on compliance with U.S. copyright laws.

If properly followed, the higher educational institution is not tainted by the actions of its teaching and research employees. As an institution, it would qualify for protection against money damage claims and could not be required to block access or terminate a subscriber. It could still be subject to other injunctive remedies, such as those involving preserving evidence.

In addition to all these rules, the OSP must

- Develop and post a policy for termination of repeat offenders;
- Accommodate and not interfere with "standard" technical measures used by copyright owners to identify and protect their works, such as digital watermarking and access codes.

The Act makes clear that the OSP is *not required* to monitor its services for potential infringements. It does not have to seek out information about copyright misuse; however, it cannot ignore obvious facts."

(http://www.arl.org/info/frn/copy/primer.html, 1999)

THE SONNY BONO COPYRIGHT TERM EXTENSION ACT

This law extends U.S. copyright terms from life of the author plus 50 years, to life of the author plus 70 years. For "works made for hire," the term is extended from 75 to 95 years. This law should end the discrimination against U.S. works abroad, where countries applied a copyright to U.S. works which resulted in American creators receiving less protection than their foreign counterparts.

Called the "Copyright Theft Act" or "Mickey Mouse Copyright Act", the Sonny Bono Copyright Term Extension Act, (Public Law 105-298), extended all copyright terms by twenty years. It was lobbied for by The Walt Disney Company and other entertainment companies and passed on October 27, 1998, along with the 8-bit XOR Encryption Is Hereby Unbreakable Act. It set a precedent that effectively put everything created on or after 1923 under perpetual copyright in the United States.

Eldred v. Ashcroft

The Act was tested in 2001 when two men claimed Congress had violated the Constitution when they allowed for copyright owners to renew rights to their works for the newly extended terms.

Eric Eldred, an online bookseller, with support from Lawrence Lessig a well backed Stanford Professor, charged repeated extensions as unconstitutional. Opposition to the term extensions is born out of the restrictions that are put on display and

distribution of copyrighted works. The large corporations such as Walt Disney need the ability to renew rights to their creations like Mickey Mouse. The Motion Picture Association of America and Recording Industry Association of America lobby extensively to gain congressional and legislative support to protect their copyrights and interests.

Eldred wanted to prevent term extensions in order to freely use other peoples' intellectual property, works he did not create. The courts held that the extensions were not unconstitutional since copyright laws are not restrictions on freedom of speech as Eldred and Lessig argued. The extensions protect the form of expression, and not the ideas expressed. It was Eldred's intention to put all works in the public domain and cheat copyright holders out of their rightful ownership. While it is important to maintain free access to information the government must respect the rights of creators.

CONTU: National Commission on New Technological Uses of Copyright Works

The National Commission on New Technological Uses of Copyrighted Works was created by Congress to revise the copyright laws of the United States. Early in the congressional hearings on copyright law revision it became apparent that the problems raised by the use of the new technologies of photocopying and computers on the authorship, distribution, and use of copyrighted works were not dealt with by the then pending revision bill. CONTU was created to provide the President and Congress with recommendations concerning changes in copyright law or procedure needed to both assure public access to copyrighted works used in conjunction with computer and machine duplication systems and to respect the rights of owners of copyrights in such works, while considering the concerns of the general public and the consumer. This delicate balance is a constant issue for copyright in a digital world.

This report presents recommendations, based on the three years of data collection, hearings, analysis, and deliberation called for in the Commission's enabling legislation. The purpose of the CONTU guidelines were to inform both librarians and copyright holders of the amount of photocopying that is permitted for use in interlibrary loan arrangements, set forth by the copyright law. Congress has given serious consideration to modifying the language involving "systematic reproductions" by libraries. The Senate passed a bill that permitted the photocopying of various texts, under interlibrary arrangements. The lack of elaboration and clarity to this bill has given rise to numerous problems; the main problem being that libraries were photocopying and acquiring such large quantities of work. Most people would find no problem with the fact that libraries,

whose purpose is to be a haven for information and books, are photocopying such vast amounts of material. However libraries were doing this to such an extent, that they were preventing themselves from having to either subscribe to or purchase these various copyrighted works. In 1976 it was agreed upon by the House and Senate along with the Register of Copyrights that necessary guidelines needed to be set to clear up any discrepancies relating to the "systematic reproductions" by libraries. According to the Library of Congress, the following provisions were made to Section 108(g)(2) of the Copyright Act:

> *(g) The rights of reproduction and distribution under this section extend to the isolated and unrelated reproduction or distribution of a single copy or phonorecord of the same material on separate occasions, but do not extend to cases where the library or archives, or its employee...*
>
> *(2) engages in the systematic reproduction or distribution of single or multiple copies or phonorecords of material described in subsection (d): Provided, that nothing in this clause prevents a library or archives from participating in interlibrary arrangements that do not have, as their purpose of effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work.*
>
> *Before enactment of the new copyright law, the principal library, publisher, and author organizations agreed to the following detailed guidelines defining what "aggregate quantities" would constitute the "systematic reproduction" that would exceed the statutory limitations on a library's photocopying activities.* (Fuld et. al, Washington, D.C., 1979, 54-55).

The goal of the committee was to set clear photocopying-interlibrary arrangements, as well as set guidelines for the Proviso of Subsection 108(g)(2). The

committee decided to prohibit systematic photocopying of copyrighted materials, but allow for interlibrary arrangements "that do not have, as their purpose or effect, that the library or archives receiving such copies or phonorecords for distribution does so in such aggregate quantities as to substitute for a subscription to or purchase of such work." The committee then set out to reach an agreement on what defines or falls under the category of "such aggregate quantities". The committee came up with the following:

1. *As used in the proviso of subsection 108(g)(2), the words "...such aggregate quantities as to substitute for a subscription to or purchase of such work" shall mean:*
    - *(a) with respect to any given periodical(as opposed to any given issue of a periodical), filled requests of a library or archives(a "requesting entity") within any calendar year for a total of six or more copies of an article or articles published in such periodical within five years prior to the date of the request. These guidelines specifically shall not apply, directly or indirectly, to any request of a requesting entity for a copy or copies of an article or articles published in any issue of a periodical, the publication date of which is more that five years prior to the date when the request is made. These guidelines do not define the meaning, with respect to such a request, of "...such aggregate quantities as to substitute for a subscription to [such periodical]."*
    - *(b) With respect to any other material described in subsection 108(d), including fiction and poetry), filled requests of a requesting entity within any calendar year for a total of six or more copies or phonrecords of or from any given work (including a collective work) during the entire period when such material shall be protected by copyright.*
2. *In the event that a requesting entity:*

(a) *shall have in force or shall have entered an order for a subscription of a periodical, or*

(b) *has within its collection, or shall have entered an order for, a copy of phonorecord of any other copyrighted work, materials from either category of which it desires to obtain by copyfrom another library or archives (the "supplying entity"), because the material to be copied is not reasonably available for use by the requesting entity itself, then the fulfillment of such request shall be treated as though the requesting entity made such copy from its own collection. A library or archives may request a copy or phonorecord from a supplying entity only under those circumstances where the requesting entity would have been able, under the provisos of section 108, to supply such copy from materials in its own collection.*

3. *No request for a copy or phonorecord of any materials to which these guidelines apply may be fulfilled by the supplying entity unless such request is accompanied by a representation by the requesting entity that the request was made in conformity with these guidelines.*

4. *The requesting entities shall maintain records of all requests made by it for copies or phonorecords of any materials to which these guidelines apply and shall maintain records of the fulfillment of such requests, which records shall be retained until the end of the third complete calendar year after the end of the calendar year in which the respective request shall have been made.*

5. *As part of the review provided for in subsection 108(i), these guidelines shall be reviewed not later than five years from the effective date of this bill.* (Fuld et. al, Library of Congress, Washington, D.C., 1979).

Since the instatement of the aforementioned provisions, both libraries and publisher organizations have made great strides to conform to the CONTU guidelines. As for periodical articles that are more than five years old, the guidelines leave their

status open to future determination. Also, any Institutions that are set up for the sole purpose of supplying photocopies of copyrighted material are not covered by these guidelines.

The steps CONTU has taken, while they are mainly recommendations, are necessary for a balance between copyright holders and libraries. It is essential for academic learning as well as one's intellectual or even recreational prowess, that libraries be a beacon of up-to-date, accurate, and even cutting edge breakthroughs and technologies. If these forms of information are censored or protected in ways that libraries cannot gain access, then we the people in today's society, are at a grave disadvantage when trying to better ourselves with knowledge of any kind. We as a society need to decide what is more important, money to made off the rights of published work, or knowing that if for any reason we need crucial information for learning, resources will always be right at our fingertips.

If this is the direction in which users want to proceed, then a clear and concise set of rules on fair use must be drawn up and negotiated on by those both copyright and Industry owners as well as the users themselves. There has to be a compromise between the users and owners of copyrighted material so that the most amount of information can be available, while at the same time not drastically affecting those who stand to make a profit on any such protected works.

Sony Corporation of America v. Universal City Studios Inc.

The "Betamax case," was a decision by the Supreme Court of the United States which ruled that the making of individual copies of complete television shows for purposes of time-shifting does not constitute copyright infringement, but is fair use. The Court also ruled that the manufacturers of home video recording devices, such as Betamax or other VCR's, cannot be liable for infringement even though others may use these reproduction devices unlawfully.

In the 1970's, Sony developed Betamax, a video tape recording format, now today's typical VHS. Universal Studios and the Walt Disney Company were among the film industry members who were wary of this development and decided to file suit against Sony and its distributors. They alleged that Sony was manufacturing a device that could potentially be used for copyright infringement; they were thus liable for any infringement that was committed by its purchasers. Two years later, the District Court ruled for Sony, on the basis that noncommercial home use recording was considered fair use. The Court of Appeals later held Sony liable for contributory infringement. The Courts 5-4 ruling to reverse the Ninth Circuit in favor of Sony hinged on the possibility that the technology in question had significant non-infringing uses, and that the plaintiffs were unable to prove otherwise.

On the question of whether Sony could be described as "contributing" to copyright infringement, the Court stated:

> [There must be] a balance between a copyright holder's legitimate demand for effective - not merely symbolic - protection of the statutory monopoly, and the rights of others freely to engage

> in substantially unrelated areas of commerce. Accordingly, the sale of copying equipment, like the sale of other articles of commerce, does not constitute contributory infringement if the product is widely used for legitimate, unobjectionable purposes. Indeed, it need merely be capable of substantial non-infringing uses....
>
> The question is thus whether the Betamax is capable of commercially significant non-infringing uses ... one potential use of the Betamax plainly satisfies this standard, however it is understood: private, noncommercial time-shifting in the home. It does so both **(A)** because respondents have no right to prevent other copyright holders from authorizing it for their programs, and **(B)** because the District Court's factual findings reveal that even the unauthorized home time-shifting of respondents' programs is legitimate fair use....
>
> If there are millions of owners of VTR's who make copies of televised sports events, religious broadcasts, and educational programs ... and if the proprietors of those programs welcome the practice, the business of supplying the equipment that makes such copying feasible should not be stifled simply because the equipment is used by some individuals to make unauthorized reproductions of respondents' works....
>
> When one considers the nature of a televised copyrighted audiovisual work ... and that time-shifting merely enables a viewer to see such a work which he had been invited to witness in its entirety free of charge, the fact ... that the entire work is reproduced ... does not have its ordinary effect of militating against a finding of fair use. (http://www.eff.org/IP/P2P/MGM_v_Grokster/).

Combined with noncommercial, nonprofit nature of time-shifting, the Court concluded that it was a fair use. The legal consequence of the Court's decision was its establishment of a general test for determining whether a device with copying or recording capabilities ran afoul of copyright law. This case set the precedence for how digital media devices would be looked at by the courts and was a hard hit for the MPAA. Later cases such as Grokster, which we mention later, were a victory for the MPAA and RIAA.

ANTI-CIRCUMVENTION AND ANTI-TRAFFICKING

Advancements in technologies have tested the quality of the DMCA. In today's world various electronics aid in the infringement of copyrighted materials. Consumers widely believe that it is their fair use to do what they may with these technologies. Meanwhile, the Corporations owning the copyrighted materials are holding the makers of CD/DVD burners, VCR's, photocopiers, and ISP's responsible for the infringement involving their devices.

A major provision of the DMCA sec. 1201(a)(1)(A) of the Copyright Act of 1998 states, "No person shall circumvent a technological measure that effectively controls access to a work protected under this title." Then, sec. 1201(a)(2)(A) provides that "No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that --- (A) is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under this title;" The underlying purpose of these provisions is to give the copyright holders a cause of action against those who circumvent technological protections of copyrighted works, and those who traffic in devices that circumvent, in order to give copyright holders further means to protect their works from being infringed.

The Court of Appeals stated in 2004, *Chamberlain v. Skylink* "The essence of the DMCA's anti-circumvention provisions is that [it] establishes causes of action for liability. They do not establish a new property right. The DMCA's text indicates that circumvention is not infringement, 'Nothing in this section shall affect rights, remedies,

limitations, or defenses to copyright infringement, including fair use, under this title.' and the statute's structure makes the point even clearer. This distinction between property and liability is critical. Whereas copyrights, like patents, are property, liability protection from unauthorized circumvention merely creates a new cause of action under which a defendant may be liable. The distinction between property and liability goes straight to the issue of authorization ..." (www.ipjustice.or/skylink/skylink_summary_judgement.pdf). Congress crafted the new anti-circumvention and anti-trafficking provisions to help bring copyright law into the information age. Advances in digital technology over the past few decades have stripped copyright owners of much of the technological and economic protection to which they had grown accustomed. Whereas large-scale copying and distribution of copyrighted material used to be difficult and expensive, it is now easy and inexpensive. Congress therefore crafted legislation restricting some, but not all, "technological measures designed either to access a work protected by copyright, sec. 1201(a), or to infringe a right of a copyright owner, sec 1201(b)." (http://www.law.cornell.edu/donors/solicit.php?http_referer=/uscode/html/uscode17/usc_sec_17_00001201----000-.html). Electronics Manufacturers are being sued regularly, with the plaintiffs arguing various types of infringement by their products.

Lexmark International v. Static Control Components

"We feel that the public interest has been served by a knowledgeable court to *not allow* a greedy OEM (Original Equipment Manufacturer) to use the law to perpetuate an electronic monopoly. Consumers and justice have been served." Ed Shwartz, the CEO of Static Control Systems claimed a victory for consumers when the courts ruled in Static Control Component's favor late in 2004, during *Lexmark v. Static Control Components* (http://www.prnewswire.com 02/21/2005).

In December of 2002, Lexmark International filed a complaint against SCC claiming that their Smartek chips infringed copyright by violating the "anti-circumvention" protections provided by the Digital Millennium Copyright Act. Lexmark printers were originally designed with technology capable of only handling Lexmark printer cartridges. The plan of the printer company was to sell discounted toner cartridges with this technology, so people who had bought the printers would then buy the toner cartridges. Since the Lexmark printers were only compatible with Lexmark cartridges consumers were naturally forced into purchasing the "discounted" Lexmark brand cartridges when in need of refills.

Static Control Components designed a Smartek chip which would make any brand of proper size aftermarket toner cartridge compatible with the Lexmark printers. The company sold their chips to many toner cartridge makers other than Lexmark in order to incorporate them. It was now possible for consumers to purchase printer toner cartridges from companies other than Lexmark.

Lexmark claimed that Static Control Components was in copyright infringement since two software programs built into the printer and the cartridge as well as a toner loading program were copyrighted. The Lexmark litigation claimed infringement according to 17 U.S.C. Sec. 101, 106, 1201, by violating the "anti-circumvention statute.

The 6th Circuit US Court of Appeals found that the Toner Loading Program was not a copyrightable work. The court stated;

> "Copyright is not available merely to any idea, procedure, process, system, method of operation, concept, principle, or discovery, but Lexmark's use falls exclusively on the idea side of the fence. Interoperable devices may use proprietary security systems to lock out unauthorized interoperability, but a technology developed *solely* for this functional purpose is not copyrightable. Furthermore, fair use doctrine preserves public access to the ideas and functional elements embedded in copyrighted computer software programs."

While the court ruled that the Toner Loading Program was not copyrightable, it agreed that a Printer Engine Program was a copyrighted work. However, the argument that Static Control Component's Smartek chip anti-circumvented access to the Printer Engine Program was dismissed on the basis that it was the "consumers' purchase of the printer that established such access, and the program in question was freely available to read electronically in memory." Judge Merritt in his concurring opinion spoke out strongly against the use of the DMCA as an industrial monopolist's tool. The company's hope to sell a discounted printer cartridge program by forcing customers into buying Lexmark printer cartridges whenever they ran out is a common business strategy of the corporations. More and more companies are using the DMCA to justify their greedy technological limitations.

FAIR USE

The Digital Millennium Copyright Act regulates "fair use," a heated issue in the debate on the role of copyright. There are people on both sides, with differing views of how *they* define fair use. Some claim fair use as the freedom to do what they like with copyrighted material. Others see it as a barrier intent on regulating and restricting the use of copyrighted material as supported by legislature such as the DMCA.

The DMCA has attempted to be clearer on how it defines fair use. Some of the major guidelines set forth by the DMCA make regulations regarding the use of educational photocopying and research, uses of music, videotapes, and software, off air recording of television broadcasts, use of electronic reserves, interlibrary loans, multimedia development, distance learning, and the use of digital images. Fair use also attempts to handle the growing concern of how people are handling information available all across the Internet.

Fair use is the legal doctrine that permits limited exceptions to the exclusive rights of copyright owners. It is constructed as a defense against allegations of infringement for actions taken without permission from a copyright owner when such actions, including reproduction, distribution, and public performance, serve the public good without materially harming the copyright owner. Fair use is essential for teaching and research, which build systematically on the work of others. However, because fair use is situational, its promotion and defense require a substantial commitment of institutional resources to raise understanding of the principles of fair use, to assess degrees of risk, and, if necessary, to defend against charges of infringement. Fair use is determined on a

case-by-case basis by balancing four factors against each other to estimate the relative social benefit of an unauthorized use against its cost to the copyright owner.

The four factors are; the nature of the work, the nature of the use, the proportion of the work that is used, and the effect of the use on the market for the work. (http://www.utsystem.edu/OGC/intellectualProperty/copypol2.htm#test, March 2005) It may seem obvious, for example, that copying portions of a scholarly article for research purposes is fair use, but controversy would arise over a portion of a feature film on a publicly accessible University site. In every case, the distinction between fair use and infringement is a judgment call that requires understanding of the principles underlying the law.

The argument for the copyright dissenters and opponents of the DMCA, like the Electronic Frontier Foundation, claim that the restrictions on fair use are over regulating how consumers may use their digital media devices and the alike. The statutes and provisions of the DMCA, such as anti-trafficking and anti-circumvention, are paving the way and making precedence for future barriers on how we can use the digital media which we own. Those opposed to the DMCA see fair use as a limitation while the backers of the DMCA label fair use as an exception to copyrighted material. It seems to be a more intentional check and balance, made for the convenience of interpreting issues on a case by case basis leaving plenty of room to tighten or loosen copyright law. With every developing copyright issue we wait to see what its next interpretation will be.

The fair use doctrine has been developed out of respect to the First Amendment. It is checked by the anti-circumvention and anti-trafficking clauses. These regulations

prohibit decryption of copyright protected materials as well as the interstate commerce associated with the distribution of illegally copied materials. The motion picture and recording industries as well as most other large corporations are ardent supporters of these laws.

With an endless supply of capital funding for their lobbying campaigns, corporations are able to push and pull legislation into their favor. The opponents of the DMCA who see fair use as their 1st Amendment right, do not have the political power that the corporations have. They are a much larger community; including anyone who has made an illegal copy of a DVD, or downloaded unlicensed music onto their mp3 player. This side is the public, and the lack of awareness of copyright and what is currently happening may be its downfall. The trend in legislation will soon result in regulations on how you can use TiVo and many more of your digital media devices.

The movement for more restrictions would like to take our fair use rights and sell them back each and every time we want access to copyrighted material. The failure of Disney and Universal Studios to win a settlement over Sony in the Betamax issue was a step forward for the consumers. New precedence may tilt the favor back in the producers and copyright holder's way by controlling technology. With the Supreme Court's holdings in the Grokster suit and new infringements such as inducement, vicarious, and contributory, the Corporations are kept happy, while it's a step back for consumers. The government along with corporate influence is creating new doctrines in order to safeguard media industry owned copyrighted materials, but are *they* infringing on our 1st Amendment rights?

Williams and Wilkins Co. v. U.S.

The Williams & Wilkins Co. v. U.S. was an important intellectual property case decided by the Supreme Court in 1975. The Court had to decide whether it was considered fair use for photocopying of articles for scientific research in libraries. The case represented a new problem for the courts, in how they were going to tackle the concern of intellectual property use and new technology. The Court decided that this type of copying was fair use and not prohibited by the author's copyrights only after an appeal.

In 1935, the National Association of Book Publishers met for a series of conferences concerned with library and educational interests, labeled the Joint Committee on Materials for Research. The book publishers argued that, whatever the state of the law, multiple copies of entire works ought not to be distributed without fair compensation to the copyright owner. The advancements of new technology were challenging the "Gentleman's Agreement" as they called it at the conference.

Copying and the libraries were interacting in three very pertinent manners:

> . First, there are photocopiers located in or near some libraries for the individual reader or researcher to use. Payment is made by inserting a coin, or by making charges to a contract account. In order to make copies the user usually borrows from the library the original published material. Thus this activity has not been of great concern to copyright proprietors. Second, libraries themselves may staff photocopying centers, where for a modest fee to cover costs copies are distributed to requesting readers in lieu of loans. Where hundreds of readers may seek copies, but the library purchases or subscribes to no more than one or two originals, copyright owners have expressed great concern. Finally, partly because of mounting costs and higher prices of copyrighted materials, libraries are increasingly dependent upon interlibrary loan systems, typically administered through delivery of inexpensively reproduced copies via the mails (Weinberg, page 2).

New technologies are making the transfer of copyrighted materials easier. It is the goal of many that a single central computer with library networking will be able to

deliver print-outs of articles or of whole books. The National Science Foundation has given a grant of $368,000 for the establishment of an academic science information center at Wellesley College, to serve all of the Northeastern states. Publisher's fear this center will arrange to have single copies of scientific journals serve the needs of all of New England. Consortium institutions all over have already began this trend by providing interlibrary loans to one another.

The Williams & Wilkins Co. is a major publisher of medical literature, most notably journals. In 1968 the company filed suit against the United States on the grounds that the National Library of Medicine and National Institutes of Health Library were in violation of copyright infringement. The violation involved the duplication of articles from journals published by the Company, for the purpose of interlibrary loans. Williams & Wilkins felt that photocopying of articles published in their journals entitled them to 2 cents per page of copyrighted material. The Court would not agree with this stance and declared the photocopying to be a fair use. Briefs were made by the American Library Association and the Medical Library Association in support of the National Library of Medicine. They stated the need for the photocopying to be of educational purposes which were necessary and they considered it their fair use.

The Courts looked at fair use in four regards; (1) the purpose and character of the use; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work. Library photocopying could not be judged by these standards. Copyright holders maintain that the individual "fair use" copying of their materials is occurring so often that it is a problem. Such a

problem that the Williams & Wilkins Publishing Company felt it was infringement. The Courts could not find a use that is fair in an individual case, to be held unfair simply because so many individuals made the use.

Williams & and Wilkins Co. v. U.S. became an important case, which helped to develop future copyright legislation. The Copyright Act of 1976 tried to deal with some of these issues, but as we see with today's legislation thirty years later, the trends of new technology are influencing what direction the copyright debate will go.

Basic Books, Inc. v. Kinko's Graphics Corporation

The law under review in this particular case, *Basic Books Inc. vs. Kinko's Graphics Corporation* is the Copyright act of 1976. The copyright act of 1976 was revised due to new developments in technology. The act states that copyright protection covers all original works that are fixed in a tangible medium of expression. What was actually affected in this law was the term "fixed" being modified. The previous term published, broadened the scope of federal statutory protection. The copyright holders reserve the right to reproduce, create derivative works, sell, perform, and display their works.

All major publishing companies located within New York City came together to press charges against Kinko's for supposed copyright infringement. Basic Books Inc. was condemning Kinko's based on the idea that they infringed on their copyright when copies from specific pages in books, owned by Basic Books Inc., were being created and

distributed for profit without proper permission and payments. Basic Books Inc. asked for statutory damages, injunction, declaratory judgment and attorney fees and cost.

Kinko's did not dispute the fact that they were making copies and distributing them in forms of packets to various college students. Kinko's defended them self by stating that the pages being copied where under the category of "fair use". Under the Copyright Act of 1976 fair use policies pertain to the use of copyrighted work for criticism, news reporting, teaching, scholarship, and or research purposes. When looking at what is fair use there are four categories that are considered: the purpose of the use, the nature of the copyrighted work, the amount of the original work used, and the effect this has on the market. Kinko's also stated that Basic Books Inc. had known about the creating and distributing of information packets for over 20 years and had done nothing to stop it and therefore had no right currently to do so. Along with this, Kinko's also claimed that with in two of the alleged infringements, Basic Books Inc. failed to record their copyrights and therefore had no jurisdiction.

There were 12 infringements under review in the case in which packets ranging from 12-100 pages were being questioned. Although it might have been the case that certain copyrights were failed to be recorded, the Court upheld the validity of all the copyrights in question. What made this case different from its predecessors is that the work was not distorted or changed in anyway and Kinko's, a large scale business, claimed educational reasons for the privilege to copy the materials in question. The backbone to this argument was the fact that they did not change the original compositions of any of the works they copied.

A major factor in deciding the outcome of this case was the purpose of the use.

Section 107 specifically provides that under this factor we consider "whether [the] use is of a commercial nature or is for nonprofit educational purposes." Kinko's does not dispute the fact that it sought to gain profit from its packets stating, "Tremendous sales and profit potential arise from this program." This is inherently where Kinko's loses the case. It was evident that for the most part the packets were being used for educational purposes but it also became evident that Kinko's was profiting from the distribution. Basic Books Inc. won the decision in this case due to those factors and was awarded up to $ 510,000.

The major significance of this case was that Kinko's attempt to claim fair use was based on the idea that they were creating copies of the packets for educational purposes. What didn't hold up though, was the fact that they were making profits from these packets. An important part in how copyrighting rules are configured is to not impair the current educational processes and the future of education. Although that being said, the backbone or the upholding factor of copyrighting is that it preserves a market for artist, authors, and etc. to be able to feel comfortable to create their own work. By creating this market it is assumed that it is also encouraging the innovative creative spark that goes in to a piece of work. It is apparent that not only Kinko's was profiting from their creation and distribution of their packets but, that they were also creating a new market for students who could receive a condensed version of a piece of work. This market infringed on the one already established and we see why the ruling was the way it was. While it is obvious that Kinko's was in direct violation of copyright law, the question of fair use arises involving the students. Most likely, the students had no idea of any infringement

taking place. However, trying to persecute students who are trying to better themselves academically seems asinine.

PEER-TO-PEER FILE SHARING

Peer to Peer sharing is a term used to describe direct file sharing from one computer interface to another. The potential dangers involved with peer to peer sharing are somewhat overlooked. What concerns the record labels and film studios producers is that when one shares a file with a friend he also allows anyone else on that network to potentially steal that same file being shared. Problems that occur from this arise because although one's intent may just simply be sharing a file with a friend who has a CD burner or a computer better equipped to run that file, he or she is also sharing that file potentially with millions of other people whom all have access to this network.

Some of the more popular file sharing programs are Kazaa, Gnucleus, mopheus, etc. The infamous Napster was the original website to make peer to peer sharing popular in the nineties, and also one of the first to feel the wrath of record companies and movie studios coming down hard on this breach of copyrighting. The individuals being affected by authorities coming down on peer to peer sharing for the most part are kids and teenagers. Many people believe this is because there is an inherent attractiveness to beating the system and breaking the law to acquire what they want, especially when the music they are downloading is inspiring them to commit crimes. A quote from one of the more recent and better developed peer to peer sharing software, Gnutella's, posted on its history, "This is from the people that actually created Gnutella. This documentation was found in version 0.2 of Gnutella and is quite outdated. It is here for historic purposes...you don't have to tolerate ads or corporate dogma...Distributed nature of servant makes it pretty damned tough for college administrators to block access to the Gnutella service...Ability to change the port you listen on makes it even harder for those

college administrators to block access...Ability to define your own internal network with a single exit point to the rest of the Internet makes it almost ****ing impossible for college system administrations to block the free uninhibited transfer of information. I don't know how much this fits with various "business models" where companies want an image of getting paid by their users." (http://www.bricklin.com/p2p.htm, August 2000)

The current laws regarding peer to peer sharing state that one can possess, download, or simply have any type of property on one's computer that he or she does not own or legally purchase. Even more relevant to copyrighting, one is strictly prohibited from sharing these files. Breaking these copyrighting laws presently will earn an individual a civil penalty of up to $150,000 per violation. With that type of fine it means that every person illegally downloads a song you have on your computer will potentially cost you $150,000. Even if an individual purchases the music being shared on the computer he or she is still at fault.

Currently there are a few methods to help monitor and protect against excessive file sharing and downloading. One of the methods being utilized on the Bucknell campus is a term referred to as traffic shaping or packeteering. Packeteering is a way of limiting the amount of bandwidth an individual IP address can use for file sharing applications. By doing this Bucknell is prevented large scale copyright infringements and also allowing their computer network to work at a more proficient speed with fewer problems.

The future of peer to peer sharing at this point is uncertain. There are valuable resources and functions that can be accomplished by using peer to peer sharing as well serious potential for large scale copyright infringement. If peer to peer sharing is going to

exist in the future, it is becoming evident that a so-called Internet police must be established to help monitor the amount of bandwidth that can be used by an individual user. Companies which use peer to peer sharing for various amounts of communications and file sharing and need added capacity can obtain certain licenses to allow them a larger bandwidth for legitimate needs.

CONTRIBUTORY AND VICARIOUS INFRINGMENT

Contributory copyrighting places liability on users who contribute to infringement but are not the party who is in direct infringement. Most commonly the Internet sites set up by media sources such as Napster, Kazaa, and Lime wire fall under this category. Sharing audio and video files on sites similar to these, places users within the boundaries of Contributory Copyright Infringement and leaves them subject to persecution under this law. In many cases direct users are completely unaware that they are in violation of this form of copyrighting. Liability for these actions and those similar, is generally placed on a large number of users who are in fact in violation of contributory infringement, but not to the degree of those who provide the services through these various Internet sites. This is most clearly defined in the case of *Gershwin Publishing v. Columbia Artists Management*, where contributory copyrighting was defined as; "one who, with knowledge of the infringing activity induces, causes, or materially contributes to the infringing conduct of another, may be held liable as a 'contributory' infringer" (http://www.riaa.com/issues/copyright/laws.asp, 2003).

Vicarious copyright infringement can be somewhat harder to define as well as make users aware that they are in fact in violation of such a form of copyrighting. Professor Lee A. Hollaar, in reviewing the cases of *Sony* and *Grokster*, states that vicarious copyright infringement "results when there has been a direct infringement and the vicarious infringer is in position to control the infringing activity and directly benefits financially from the infringement" (http://www.riaa.com/issues/copyright/laws.asp, 2003). To more clearly define this, assume an owner of a mall has several vending carts throughout his mall. The owner is paid by the vendors to allow them to sell things from

their carts as well as receives money from consumers for fees that could include something as little as parking or garage fees. If any of these vendors are illegally selling pirated or copyrighted material such as compact discs or books, then the owner of the mall would be subject to persecution under vicarious copyrighting because he did not personally police and ensure that such software or material were not being sold out of his mall. Vicarious copyrighting is a little vaguer than contributory copyrighting, however it can be deemed more severe of a violation than the previously mentioned contributory copyright infringement.

INDUCEMENT

To be liable for inducement under copyright law, one must be aware of the copyright that is held and the direct infringement, as well as have intended for the infringement to take place. The inducement must also be tied to a direct infringement related to the inducement. The most important topic to focus on when the subject of inducement is brought up is how the copyrighted material is being promoted. One cannot encourage or try to elicit others to purchase or engage in file sharing or liable acts if the promoters themselves are aware that the material in use is in direct violation of copyright acts. (http://www.eff.org/IP/P2P/p2p_copyright_wp.php, 2006)

Metro-Goldwyn Mayer Studios Inc. v. Grokster Ltd.

MGM Studios filed suit against peer-to-peer file sharing companies Grokster and Streamcast in 2005. The United States Supreme Court unanimously held the Internet companies liable for inducing copyright infringement for acts taken in the course of marketing file sharing software. This case is frequently characterized as a reexamination of the issues in *Sony Corp v. Universal City Studios (1984).*

Grokster came before the Supreme Court having already won in two previous courts. The United States District Court for the Central District of California originally dismissed the case in 2003, citing the Betamax decision. Then a higher court, the Ninth Circuit Court of Appeals, upheld the lower court's decision after acknowledging that peer-to-peer software has legitimate and legal uses. The music industry claimed iPods to

have a legally legitimate commercial use while Grokster and other P2P file sharing companies were not.

The Court stated its decision, "We hold that one who distributes a device with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps taken to foster infringement, is liable for the resulting acts of infringement by third parties." (www.eff.org/IP/P2P/p2p_copyright_wp.php, 2006). The Court thus found Grokster liable for inducing copyright infringement.

In November of 2005 Grokster announced that it would no longer offer its peer-to-peer file sharing service. They posted on their website a statement which read, "The United States Supreme Court unanimously confirmed that using this service to trade copyrighted material is illegal. Copying copyrighted motion picture and music files using unauthorized peer-to-peer services is illegal and is prosecuted by copyright owners." (http://www.eff.org/IP/P2P/MGM_v_Grokster/, 2006). Grokster paid $50 million in settlement fees which went to the music and recording industries.

The DMCA was created to regulate the use of copyrighted works in a digital world. Among other provisions, it prohibits tampering with technological measures that protect digital materials, requires that digital identifiers attached to copyrighted digital works be left intact, and spells out limited conditions under which an online service provider and university may avoid some liability for infringement that takes place on its systems. These provisions of the DMCA demonstrate how the same digital technologies that open promising frontiers for academics and media are becoming issues with the copyright holders.

Widespread use of the Internet, copiers, VCR's and burners raises the stakes significantly. By enabling rapid and broad distribution, digital transmission increases the potential for copyright infringement to do real harm to the owners of a work. This is particularly true if the work is normally sold in the commercial marketplace. In the digital environment, there is still little agreement about what constitutes fair use, and some guidelines that have been proposed are narrowly restrictive. An alternative approach is to encourage individuals to make informed decisions about when specific uses of works owned by others require permission. This approach encourages active exploration and negotiation of the boundaries of fair use. It will be institutionally viable only if it is supported by a well-staffed infrastructure of education and support making sure users make good judgments.

ECONOMICS OF COPYRIGHTING

Copyright law is becoming a greater concern due to the potential direction of technology. With the ability to download software and music files online, one has the possibility for a smaller population of the public paying for copyrighted works, while the majority of the public realizes that it can obtain the same material for free. With this happening one allows the potential for copyright holders to have to compete with the freely distributed version of their own work. Eventually the money disappears and the market falls apart. The copyright holders who were initially viewed righteous for allowing free distribution of their work, are now out of business.

(Nagel, http://www.digitalmediadesigner.com/articles/viewarticle.jsp?id=11119, August 03, 2004)

What makes copyrighting laws most peculiar to other laws is that their presence is being seen throughout the modern world, yet the justification of these laws being established differs from place to place. The doctrine of Economic Rights and doctrine of Moral Rights become the leading factors in initially ascertaining these laws. The Economic Rights doctrine supports the idea that copyright is supporting the artist's creative output along with protecting the artist's labor put into what justly becomes his/her own property by creating a steady balance between the rights of the author with the market access. The Moral Rights doctrine maintains a more firm position on how much ownership the author is entitled, believing that the author should have full ownership and rights to his own creation in all situations. The difference in philosophies established by the two doctrines can be credited to the way in which the more

economically based United States of America differs from the more liberal Europe in part due to their moral justifications and society values.

The economic rights doctrine was founded on the premise that copyrighting is a means of creating and sustaining a duly competitive market. Market economics identifies property as a tool available for the general public. To be more specific, it recognizes property as a right which should not be denied to anyone. Yet the idea of copyright maintains the idea that without a law allowing, at least initially, one to be able to monopolize his/her own creation, there would be no motivation or financial incentive for one to move on with his/her work. This is where the two distinct philosophies come into play. One view is that one's work is his/her own based on the idea of the labor and potential marketability of one's work, and the other being that author's individuality put into one's work makes his/her ownership a natural right. So one begins to see that the difference in American views on copyrighting and European views on copyrighting are separated by America's interest in creating and maintaining a market while the European views some moral right that the authors and composers reserve.

The backbone of the American belief in the Economic doctrine is that copyrighting laws only remain intact for a limited amount of time (Sonny Bono Term Extension Act) and they only protect the copying, distributing, and selling aspect of one's creation. This way the author can enjoy a defined time period where one can financially benefit from his/her own creation without copyright laws denying people the free use of ideas or obstructing the market in anyway. This idea becomes the most important factor in the American view point on copyright. The foundation of the Moral Rights doctrine is based on the idea that the author inherently possesses his work due to

the creative ingenuity displayed in one's work. The rights of the authors in this case become an extension of himself allowing the ownership of one's work to become indisputable, natural rights. This belief supports the author's right to protect his/her work from any type of mutilation or distortion against his/hers original concept and gives the author sole rights to the title of the creator of one's work.

The Supreme Court case *Feist Publications v. Rural Telephone Service Co (1991)* set the bar for American copyrighting views. Feist Publications attempted to add phone numbers from Rural Telephone Services to a phone book designated for a larger combined region without permission. The case's major point that was stressed was, is one able to copyright the exact layout of a general data base? Ultimately the judges ruled in favor of Feist Publications stating that one could not copyright such a general subject such as phone number listings that had no creative ingenuity involved in constructing them. One of the judges, Justice O'Conner, writing for the seven-justice majority, declares that "there is nothing remotely creative about arranging names alphabetically in a white pages directory. It is an age-old practice, firmly rooted in tradition and so commonplace that it has come to be expected as a matter of course . . . It is not only unoriginal, it is practically inevitable … Because of the obviousness of the arrangement, the phonebook does not possess the minimal creative spark required by the Copyright Act and the Constitution and therefore cannot be held as a copyrightable work."(http://www.law.cornell.edu/copyright/cases/499_US_340.htm). This case shows how if something can be viewed simply as facts, copyrighting can be declared anti-competitive and therefore contradicts the purpose of copyrighting laws altogether. This case also goes against the initial belief of laboring being a basis for owns possession over his/her work.

Instead, creativity is a more prominent leading factor in the rights to the possession of a subject.

In respect to this case, *Feist Publications v. Rural Telephone Service Co (1991)*, we begin to see how the extent of one's ability to copyright one's work is directly related to one's ability to help or hurt the market. By allowing general data that is considered facts to be unable to be copyrighted, the individuality put into one's work is not jeopardized and the overall market benefits by being able to allow an individual to find the best way to display data. More or less, the author remains unharmed and the market benefits.

(http://home.case.edu/~ijd3/authorship/economic.html, December 17, 2003)

RECOMMENDATIONS FOR COPYRIGHT IN A DIGITAL AGE

In respect to the issues we have presented and the current developments of the digital copyright world there are many steps the United States, libraries, and educational institutions can take to make a better copyright world. These steps, have the potential to make copyright more manageable to face the needs of education and users, as well as the copyright holders.

The US should begin a national campaign to provide copyright education and services. These services may be managed at the state or federal levels. Information on how to comply with copyright law when using works owned by others and how to exercise the rights of copyright owners in ways that promote the dissemination of knowledge should be made available to all members of the community. Such information should include case studies and model contracts showing how copyrights to third parties may be managed to protect the integrity of works and ensure that they are freely accessible for academic purposes and research.

Fair use could and should be better defined to maintain a balance between the copyright holders and the public. Fair use is essential for teaching and research, which build off the work of others. Because fair use is situational, its promotion and defense require a substantial amount of institutional resources to raise the public's understanding of the principles of fair use, to assess degrees of risk, and, if necessary, to defend against charges of infringement. Since fair use is determined on a case-by-case basis no clear definition has been presented. The Congress must make people more certain of what

infringement is, and more importantly what their fair use of material may be. Common violations should be specifically defined.

A consistent method of removing or blocking illegally copied material where it has been made available to the public should be developed by ISPs. A "copyright police force" would be very inefficient and not worth the expenditure. It would be ideal for the Copyright holders and ISP's to work conjunctively to identify illegal material and form a system of surveillance and removal.

Academic institutions should organize committees to implement a copyright education campaign which promotes fair use while educating students about copyright. Libraries should handle this task at the grade and high school levels, to inform youth of today's statutes and how to be responsible users of copyrighted materials when they reach higher education or the work force. At colleges and universities abroad a campaign ad tactic should be geared towards fair use and what is allowed as an academic institution. These types of institutions should promote fair use and user rights since it is the livelihood of research. Non-smoking, and drinking campaigns have seen success on campuses, and a "Copyright Campaign" would most likely yield similar results. It is imperative to educate students on copyright concerns in a digital world because it is a constantly evolving situation that needs the future minds to be prepared for these conflicts.

To handle the issues of p2p sharing, various ideas have been presented. An ideal situation would maintain the free sharing ability between users, while off setting

damaging costs by leaving arbitration between the companies. Charge peer to peer file sharing with a fee or noncommercial use levy.

"I estimate that an average levy of some 4 percent of annual retail revenues of P2P-related goods and services would be sufficient to compensate copyright holders for the lost revenues they suffer as a result of NUL-privelaged activity, at least for the next 5 years " (Netanel).

Peer to Peer sharing is becoming a prime example of how people are able to exploit the internet and violate copyright laws. Certain methods have been developed to help aid against this weakness. The term referred to as traffic shaping or packeteering is a way of limiting the amount of bandwidth an individual IP address that can be used for file sharing applications. This is a way of preventing a major downloading operation that really hurts the web. Large-scale businesses are using methods of monitoring their internet usage and to help protect against hackers, Managed Service Providers (MSP). MSPs can also be used to see what website individuals are using, what they are downloading, and from whom they are downloading.

If these recommendations are incorporated correctly copyright policy will be better understood by the public. The more educated users are with copyrighted material the better informed they will be to make wise decisions regarding what their fair use is. Monitoring of the use becomes difficult and costly. The best system to enforce the correct managing of copyrighted materials can only be undertaken by those whom provide these materials. If the ISPs and OSPs can monitor and control distribution better, consumers

and users would be less apt to infringe. The companies manufacturing digital technologies which are aiding in copying ability need to help foot the lost revenues taken from members of the RIAA and MPAA due to their creations. If a compromise similar to these recommendations is not met, the future of copyrights in the digital world looks to be dismal. Either the public will be hurt drastically with too many restrictions and education and research will decline, or the copyright holders will lose all rights and incentive to create will be lost depending on what legislation and cases are developing.

APPENDICES

A1

17 U.S.C. 1201.

Circumvention of Copyright Protection Systems

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§ 1201. Circumvention of Copyright Protection Systems

(a) Violations regarding circumvention of technological measures.--

(1)

(A) No person shall circumvent a technological measure that effectively controls access to a work protected under this title. The prohibition contained in the preceding sentence shall take effect at the end of the 2-year period beginning on the date of the enactment of this chapter [17 U.S.C.A. S 1201 et seq.].

(B) The prohibition contained in subparagraph (A) shall not apply to persons who are users of a copyrighted work which is in a particular class of works, if such persons are, or are likely to be in the succeeding 3-year period, adversely affected by virtue of such prohibition in their ability to make noninfringing uses of that particular class of works under this title, as determined under subparagraph (C).

(C) During the 2-year period described in subparagraph (A), and during each succeeding 3-year period, the Librarian of Congress, upon the recommendation of the Register of Copyrights, who shall consult with the Assistant Secretary for Communications and Information of the Department of Commerce and report and comment on his or her views in making such recommendation, shall make the determination in a rulemaking proceeding for purposes of subparagraph (B) of whether persons who are users of a copyrighted work are, or are likely to be in the succeeding 3-year period, adversely affected by the prohibition under subparagraph (A) in their ability to make noninfringing uses under this title of a particular class of copyrighted works. In conducting such rulemaking, the Librarian shall examine--

(i) the availability for use of copyrighted works;
(ii) the availability for use of works for nonprofit archival, preservation, and educational purposes;
(iii) the impact that the prohibition on the circumvention of technological measures applied to copyrighted works has on criticism, comment, news reporting, teaching, scholarship, or research;
(iv) the effect of circumvention of technological measures on the market for or value of copyrighted works; and
(v) such other factors as the Librarian considers appropriate.

(D) The Librarian shall publish any class of copyrighted works for which the Librarian has determined, pursuant to the rulemaking conducted under subparagraph (C), that noninfringing uses by persons who are users of a copyrighted work are, or are likely to be, adversely affected, and the prohibition contained in subparagraph (A) shall not apply to such users with respect to such class of works for the ensuing 3-year period.

(E) Neither the exception under subparagraph (B) from the applicability of the prohibition contained in subparagraph (A), nor any determination made in a rulemaking conducted under subparagraph (C), may be used as a defense in any action to enforce any provision of this title other than this paragraph.

(2) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that--

(A) is primarily designed or produced for the purpose of circumventing a technological measure that effectively controls access to a work protected under this title;

(B) has only limited commercially significant purpose or use other than to circumvent a technological measure that effectively controls access to a work protected under this title [17 U.S.C.A. S 1 et seq.]; or

(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing a technological measure that effectively controls access to a work protected under this title.

(3) As used in this subsection--

(A) to "circumvent a technological measure" means to descramble a scrambled work, to decrypt an encrypted work, or otherwise to avoid, bypass, remove, deactivate, or impair a technological measure, without the authority of the copyright owner; and

(B) a technological measure "effectively controls access to a work" if the measure, in the ordinary course of its operation, requires the application of information, or a process or a treatment, with the authority of the copyright owner, to gain access to the work.

(b) Additional violations.--

(1) No person shall manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, device, component, or part thereof, that--

(A) is primarily designed or produced for the purpose of circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title [17 U.S.C.A. S 1 et seq.] in a work or a portion thereof;

(B) has only limited commercially significant purpose or use other than to circumvent protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof; or

(C) is marketed by that person or another acting in concert with that person with that person's knowledge for use in circumventing protection afforded by a technological measure that effectively protects a right of a copyright owner under this title in a work or a portion thereof.

(2) As used in this subsection--

(A) to "circumvent protection afforded by a technological measure" means avoiding, bypassing, removing, deactivating, or otherwise impairing a technological measure; and

(B) a technological measure 'effectively protects a right of a copyright owner under this title' if the measure, in the ordinary course of its operation, prevents, restricts, or otherwise limits the exercise of a right of a copyright owner under this title.

(c) Other rights, etc., not affected.--

(1) Nothing in this section shall affect rights, remedies, limitations, or defenses to copyright infringement, including fair use, under this title [17 U.S.C.A. S 1 et seq.].

(2) Nothing in this section shall enlarge or diminish vicarious or contributory liability for copyright infringement in connection with any technology, product, service, device, component, or part thereof.

(3) Nothing in this section shall require that the design of, or design and selection of parts and components for, a consumer electronics, telecommunications, or computing product provide for a response to any particular technological measure, so long as such part or component, or the product in which such part or component is integrated, does not otherwise fall within the prohibitions of subsection (a)(2) or (b)(1).

(4) Nothing in this section shall enlarge or diminish any rights of free speech or the press for activities using consumer electronics, telecommunications, or computing products.

(d) Exemption for nonprofit libraries, archives, and educational institutions.--

(1) A nonprofit library, archives, or educational institution which gains access to a commercially exploited copyrighted work solely in order to make a good faith determination of whether to acquire a copy of that work for the sole purpose of engaging in conduct permitted under this title [17 U.S.C.A. S 1 et seq.] shall not be in violation of subsection (a)(1)(A). A copy of a work to which access has been gained under this paragraph--

(A) may not be retained longer than necessary to make such good faith determination; and
(B) may not be used for any other purpose.

(2) The exemption made available under paragraph (1) shall only apply with respect to a work when an identical copy of that work is not reasonably available in another form.

(3) A nonprofit library, archives, or educational institution that willfully for the purpose of commercial advantage or financial gain violates paragraph (1)--

(A) shall, for the first offense, be subject to the civil remedies under section 1203; and

(B) shall, for repeated or subsequent offenses, in addition to the civil remedies under section 1203, forfeit the exemption provided under paragraph (1).

(4) This subsection may not be used as a defense to a claim under subsection (a)(2) or (b), nor may this subsection permit a nonprofit library, archives, or educational institution to manufacture, import, offer to the public, provide, or otherwise traffic in any technology, product, service, component, or part thereof, which circumvents a technological measure.

(5) In order for a library or archives to qualify for the exemption under this subsection, the collections of that library or archives shall be--

(A) open to the public; or
(B) available not only to researchers affiliated with the library or archives or with the institution of which it is a part, but also to other persons doing research in a specialized field.

(e) Law enforcement, intelligence, and other government activities.--This section does not prohibit any lawfully authorized investigative, protective, information security, or intelligence activity of an officer, agent, or employee of the United States, a State, or a political subdivision of a State, or a person acting pursuant to a contract with the United States, a State, or a political subdivision of a State. For purposes of this subsection, the term "information security" means activities carried out in order to identify and address the vulnerabilities of a government computer, computer system, or computer network.

(f) Reverse engineering.--

(1) Notwithstanding the provisions of subsection (a)(1)(A), a person who has lawfully obtained the right to use a copy of a computer program may circumvent a technological measure that effectively controls access to a particular portion of that program for the sole purpose of identifying and analyzing those elements of the program that are necessary to achieve interoperability of an independently created computer program with other programs, and that have not previously been readily available to the person engaging in the circumvention, to the extent any such acts of identification and analysis do not constitute infringement under this title [17 U.S.C.A. S 1 et seq.].

(2) Notwithstanding the provisions of subsections (a)(2) and (b), a person may develop and employ technological means to circumvent a technological measure, or to circumvent protection afforded by a technological measure, in order to enable the identification and analysis under paragraph (1), or for the purpose of enabling interoperability of an independently created computer program with other programs, if such means are necessary to achieve such interoperability, to the extent that doing so does not constitute infringement under this title [17 U.S.C.A. S 1 et seq.].

(3) The information acquired through the acts permitted under paragraph (1), and the means permitted under paragraph (2), may be made available to others if the person referred to in paragraph (1) or (2), as the case may be, provides such information or means solely for the purpose of enabling interoperability of an independently created computer program with other programs, and to the extent that doing so does not constitute infringement under this title [17 U.S.C.A. S 1 et seq.] or violate applicable law other than this section.

(4) For purposes of this subsection, the term "interoperability" means the ability of computer programs to exchange information, and of such programs mutually to use the information which has been exchanged.

(g) Encryption research.--

(1) Definitions.--For purposes of this subsection--

(A) the term "encryption research" means activities necessary to identify and analyze flaws and vulnerabilities of encryption technologies applied to copyrighted works, if these activities are conducted to advance the state of knowledge in the field of encryption technology or to assist in the development of encryption products; and

(B) the term "encryption technology" means the scrambling and descrambling of information using mathematical formulas or algorithms.

(2) Permissible acts of encryption research.--Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure as applied to a copy, phonorecord, performance, or display of a published work in the course of an act of good faith encryption research if--

(A) the person lawfully obtained the encrypted copy, phonorecord, performance, or display of the published work;
(B) such act is necessary to conduct such encryption research;
(C) the person made a good faith effort to obtain authorization before the circumvention; and
(D) such act does not constitute infringement under this title or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

(3) Factors in determining exemption.--In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include--

(A) whether the information derived from the encryption research was disseminated, and if so, whether it was disseminated in a manner reasonably calculated to advance the state of knowledge or development of encryption technology, versus whether it was disseminated in a manner that facilitates infringement under this title or a violation of applicable law other than this section [17 U.S.C.A. S 1 et seq.], including a violation of privacy or breach of security;
(B) whether the person is engaged in a legitimate course of study, is employed, or is appropriately trained or experienced, in the field of encryption technology; and
(C) whether the person provides the copyright owner of the work to which the technological measure is applied with notice of the findings and documentation of the research, and the time when such notice is provided.

(4) Use of technological means for research activities.--Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to--

(A) develop and employ technological means to circumvent a technological measure for the sole purpose of that person performing the acts of good faith encryption research described in paragraph (2); and

(B) provide the technological means to another person with whom he or she is working collaboratively for the purpose of conducting the acts of good faith encryption research described in paragraph (2) or for the purpose of having that other person verify his or her acts of good faith encryption research described in paragraph (2).

(5) Report to Congress.--Not later than 1 year after the date of the enactment of this chapter [17 U.S.C. 1201 et seq.], the Register of Copyrights and the Assistant Secretary for Communications and Information of the Department of Commerce shall jointly report to the Congress on the effect this subsection has had on--

(A) encryption research and the development of encryption technology;
(B) the adequacy and effectiveness of technological measures designed to protect copyrighted works; and
(C) protection of copyright owners against the unauthorized access to their encrypted copyrighted works.

The report shall include legislative recommendations, if any.

(h) Exceptions regarding minors.--In applying subsection (a) to a component or part, the court may consider the necessity for its intended and actual incorporation in a technology, product, service, or device, which--

(1) does not itself violate the provisions of this title [17 U.S.C.A. S 1 et seq.]; and

(2) has the sole purpose to prevent the access of minors to material on the Internet.

(i) Protection of personally identifying information.--

(1) Circumvention permitted.--Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to circumvent a technological measure that effectively controls access to a work protected under this title, if--

(A) the technological measure, or the work it protects, contains the capability of collecting or disseminating personally identifying information reflecting the online activities of a natural person who seeks to gain access to the work protected;
(B) in the normal course of its operation, the technological measure, or the work it protects, collects or disseminates personally identifying information about the person who seeks to gain access to the work protected, without providing conspicuous notice of such collection or dissemination to such person, and without providing such person with the capability to prevent or restrict such collection or dissemination;
(C) the act of circumvention has the sole effect of identifying and disabling the capability described in subparagraph (A), and has no other effect on the ability of any person to gain access to any work; and
(D) the act of circumvention is carried out solely for the purpose of preventing the collection or dissemination of personally identifying information about a natural person who seeks to gain access to the work protected, and is not in violation of any other law.

(2) Inapplicability to certain technological measures.--This subsection does not apply to a technological measure, or a work it protects, that does not collect or disseminate personally identifying information and that is disclosed to a user as not having or using such capability.

(j) Security testing.--

(1) Definition.--For purposes of this subsection, the term "security testing" means accessing a computer, computer system, or computer network, solely for the purpose of

good faith testing, investigating, or correcting, a security flaw or vulnerability, with the authorization of the owner or operator of such computer, computer system, or computer network.

(2) Permissible acts of security testing.--Notwithstanding the provisions of subsection (a)(1)(A), it is not a violation of that subsection for a person to engage in an act of security testing, if such act does not constitute infringement under this title [17 U.S.C.A. S 1 et seq.] or a violation of applicable law other than this section, including section 1030 of title 18 and those provisions of title 18 amended by the Computer Fraud and Abuse Act of 1986.

(3) Factors in determining exemption.--In determining whether a person qualifies for the exemption under paragraph (2), the factors to be considered shall include--

(A) whether the information derived from the security testing was used solely to promote the security of the owner or operator of such computer, computer system or computer network, or shared directly with the developer of such computer, computer system, or computer network; and
(B) whether the information derived from the security testing was used or maintained in a manner that does not facilitate infringement under this title or a violation of applicable law other than this section, including a violation of privacy or breach of security.

(4) Use of technological means for security testing.--Notwithstanding the provisions of subsection (a)(2), it is not a violation of that subsection for a person to develop, produce, distribute or employ technological means for the sole purpose of performing the acts of security testing described in subsection (2), provided such technological means does not otherwise violate section (a)(2).

(k) Certain analog devices and certain technological measures.--

(1) Certain analog devices.--

(A) Effective 18 months after the date of the enactment of this chapter [17 U.S.C.A. S 1201 et seq.], no person shall manufacture, import, offer to the public, provide or otherwise traffic in any--

(i) VHS format analog video cassette recorder unless such recorder conforms to the automatic gain control copy control technology;
(ii) 8mm format analog video cassette camcorder unless such camcorder conforms to the automatic gain control technology;
(iii) Beta format analog video cassette recorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 1,000 Beta format analog video cassette recorders sold in the United States in any one calendar year after the date of the enactment of this chapter;
(iv) 8mm format analog video cassette recorder that is not an analog video cassette camcorder, unless such recorder conforms to the automatic gain control copy control technology, except that this requirement shall not apply until there are 20,000 such recorders sold in the United States in any one calendar year after the date of the enactment of this chapter; or
(v) analog video cassette recorder that records using an NTSC format video input and that is not otherwise covered under clauses (i) through (iv), unless such device conforms to the automatic gain control copy

control technology.

(B) Effective on the date of the enactment of this chapter [17 U.S.C.A. S 1201 et seq.], no person shall manufacture, import, offer to the public, provide or otherwise traffic in--

(i) any VHS format analog video cassette recorder or any 8mm format analog video cassette recorder if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the automatic gain control copy control technology no longer conforms to such technology; or
(ii) any VHS format analog video cassette recorder, or any 8mm format analog video cassette recorder that is not an 8mm analog video cassette camcorder, if the design of the model of such recorder has been modified after such date of enactment so that a model of recorder that previously conformed to the four-line colorstripe copy control technology no longer conforms to such technology.

Manufacturers that have not previously manufactured or sold a VHS format analog video cassette recorder, or an 8mm format analog cassette recorder, shall be required to conform to the four-line colorstripe copy control technology in the initial model of any such recorder manufactured after the date of the enactment of this chapter [17 U.S.C.A. S 1201 et seq.], and thereafter to continue conforming to the four-line colorstripe copy control technology. For purposes of this subparagraph, an analog video cassette recorder 'conforms to' the four-line colorstripe copy control technology if it records a signal that, when played back by the playback function of that recorder in the normal viewing mode, exhibits, on a reference display device, a display containing distracting visible lines through portions of the viewable picture.

(2) Certain encoding restrictions.--No person shall apply the automatic gain control copy control technology or colorstripe copy control technology to prevent or limit consumer copying except such copying--

(A) of a single transmission, or specified group of transmissions, of live events or of audiovisual works for which a member of the public has exercised choice in selecting the transmissions, including the content of the transmissions or the time of receipt of such transmissions, or both, and as to which such member is charged a separate fee for each such transmission or specified group of transmissions;

(B) from a copy of a transmission of a live event or an audiovisual work if such transmission is provided by a channel or service where payment is made by a member of the public for such channel or service in the form of a subscription fee that entitles the member of the public to receive all of the programming contained in such channel or service;

(C) from a physical medium containing one or more prerecorded audiovisual works; or

(D) from a copy of a transmission described in subparagraph (A) or from a copy made from a physical medium described in subparagraph (C).

In the event that a transmission meets both the conditions set forth in subparagraph (A) and those set forth in subparagraph (B), the transmission shall be treated as a transmission described in subparagraph (A)

(3) Inapplicability.--This subsection shall not--

(A) require any analog video cassette camcorder to conform to the automatic gain control copy control technology with respect to any video signal received through a camera lens;

(B) apply to the manufacture, importation, offer for sale, provision of, or other trafficking in, any professional analog video cassette recorder; or

(C) apply to the offer for sale or provision of, or other trafficking in, any previously owned analog video cassette recorder, if such recorder was legally manufactured and sold when new and not subsequently modified in violation of paragraph (1)(B).

(4) Definitions.--For purposes of this subsection:

(A) An "analog video cassette recorder" means a device that records, or a device that includes a function that records, on electromagnetic tape in an analog format the electronic impulses produced by the video and audio portions of a television program, motion picture, or other form of audiovisual work.

(B) An "analog video cassette camcorder" means an analog video cassette recorder that contains a recording function that operates through a camera lens and through a video input that may be connected with a television or other video playback device.

(C) An analog video cassette recorder 'conforms' to the automatic gain control copy control technology if it--

(i) detects one or more of the elements of such technology and does not record the motion picture or transmission protected by such technology; or
(ii) records a signal that, when played back, exhibits a meaningfully distorted or degraded display.

(D) The term "professional analog video cassette recorder" means an analog video cassette recorder that is designed, manufactured, marketed, and intended for use by a person who regularly employs such a device for a lawful business or industrial use, including making, performing, displaying, distributing, or transmitting copies of motion pictures on a commercial scale.

(E) The terms "VHS format', "8mm format', "Beta format', "automatic gain control copy control technology', "colorstripe copy control technology', "four-line version of the colorstripe copy control technology', and "NTSC" have the meanings that are commonly understood in the consumer electronics and motion picture industries as of the date of the enactment of this chapter.

(5) Violations.--Any violation of paragraph (1) of this subsection shall be treated as a violation of subsection (b)(1) of this section. Any violation of paragraph (2) of this

subsection shall be deemed an "act of circumvention" for the purposes of section 1203(c)(3)(A) of this chapter [17 U.S.C.A. S 1201 et seq.].

§ 101. Definitions

Except as otherwise provided in this title, as used in this title, the following terms and their variant forms mean the following:

An "anonymous work" is a work on the copies or phonorecords of which no natural person is identified as author.

An "architectural work" is the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.

"Audiovisual works" are works that consist of a series of related images which are intrinsically intended to be shown by the use of machines or devices such as projectors, viewers, or electronic equipment, together with accompanying sounds, if any, regardless of the nature of the material objects, such as films or tapes, in which the works are embodied.

The "Berne Convention" is the Convention for the Protection of Literary and Artistic Works, signed at Berne, Switzerland, on September 9, 1886, and all acts, protocols, and revisions thereto.

The "best edition" of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.

A person's "children" are that person's immediate offspring, whether legitimate or not, and any children legally adopted by that person.

A "collective work" is a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.

A "compilation" is a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship. The term "compilation" includes collective works.

A "computer program" is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

"Copies" are material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "copies" includes the material object, other than a phonorecord, in which the work is first fixed.

"Copyright owner", with respect to any one of the exclusive rights comprised in a copyright, refers to the owner of that particular right.

A work is "created" when it is fixed in a copy or phonorecord for the first time; where a work is prepared over a period of time, the portion of it that has been fixed at any particular time constitutes the work as of that time, and where the work has been prepared in different versions, each version constitutes a separate work.

A "derivative work" is a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other modifications, which, as a whole, represent an original work of authorship, is a "derivative work".

A "device", "machine", or "process" is one now known or later developed.

A "digital transmission" is a transmission in whole or in part in a digital or other non-analog format.

To "display" a work means to show a copy of it, either directly or by means of a film, slide, television image, or any other device or process or, in the case of a motion picture or other audiovisual work, to show individual images nonsequentially.

An "establishment" is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

A "food service or drinking establishment" is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

The term "financial gain" includes receipt, or expectation of receipt, of anything of value, including the receipt of other copyrighted works.

A work is "fixed" in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is "fixed" for purposes of this title if a fixation of the work is being made simultaneously with its transmission.

The "Geneva Phonograms Convention" is the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms, concluded at Geneva, Switzerland, on October 29, 1971.

The "gross square feet of space" of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.

The terms "including" and "such as" are illustrative and not limitative.

An "international agreement" is —

(1) the Universal Copyright Convention;

(2) the Geneva Phonograms Convention;

(3) the Berne Convention;

(4) the WTO Agreement;

(5) the WIPO Copyright Treaty;

(6) the WIPO Performances and Phonograms Treaty; and

(7) any other copyright treaty to which the United States is a party.

A "joint work" is a work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.

"Literary works" are works, other than audiovisual works, expressed in words, numbers, or other verbal or numerical symbols or indicia, regardless of the nature of the material objects, such as books, periodicals, manuscripts, phonorecords, film, tapes, disks, or cards, in which they are embodied.

"Motion pictures" are audiovisual works consisting of a series of related images which, when shown in succession, impart an impression of motion, together with accompanying sounds, if any.

To "perform" a work means to recite, render, play, dance, or act it, either directly or by means of any device or process or, in the case of a motion picture or other audiovisual work, to show its images in any sequence or to make the sounds accompanying it audible.

A "performing rights society" is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.

"Phonorecords" are material objects in which sounds, other than those accompanying a motion picture or other audiovisual work, are fixed by any method now known or later developed, and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. The term "phonorecords" includes the material object in which the sounds are first fixed.

"Pictorial, graphic, and sculptural works" include two-dimensional and three-dimensional works of fine, graphic, and applied art, photographs, prints and art reproductions, maps, globes, charts, diagrams, models, and technical drawings, including architectural plans. Such works shall include works of artistic craftsmanship insofar as their form but not their mechanical or utilitarian aspects are concerned; the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.

For purposes of section 513, a "proprietor" is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment or a food service or drinking establishment, except that no owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.

A "pseudonymous work" is a work on the copies or phonorecords of which the author is identified under a fictitious name.

"Publication" is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a

group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.

To perform or display a work "publicly" means —

(1) to perform or display it at a place open to the public or at any place where a substantial number of persons outside of a normal circle of a family and its social acquaintances is gathered; or

(2) to transmit or otherwise communicate a performance or display of the work to a place specified by clause (1) or to the public, by means of any device or process, whether the members of the public capable of receiving the performance or display receive it in the same place or in separate places and at the same time or at different times.

"Registration", for purposes of sections 205(c)(2), 405, 406,410(d), 411,412, and 506(e), means a registration of a claim in the original or the renewed and extended term of copyright.

"Sound recordings" are works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work, regardless of the nature of the material objects, such as disks, tapes, or other phonorecords, in which they are embodied.

"State" includes the District of Columbia and the Commonwealth of Puerto Rico, and any territories to which this title is made applicable by an Act of Congress.

A "transfer of copyright ownership" is an assignment, mortgage, exclusive license, or any other conveyance, alienation, or hypothecation of a copyright or of any of the exclusive rights comprised in a copyright, whether or not it is limited in time or place of effect, but not including a nonexclusive license.

A "transmission program" is a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.

To "transmit" a performance or display is to communicate it by any device or process whereby images or sounds are received beyond the place from which they are sent.

A "treaty party" is a country or intergovernmental organization other than the United States that is a party to an international agreement.

The "United States", when used in a geographical sense, comprises the several States, the District of Columbia and the Commonwealth of Puerto Rico, and the organized territories under the jurisdiction of the United States Government.

For purposes of section 411, a work is a "United States work" only if —

(1) in the case of a published work, the work is first published —

(A) in the United States;

(B) simultaneously in the United States and another treaty party or parties, whose law grants a term of copyright protection that is the same as or longer than the term provided in the United States;

(C) simultaneously in the United States and a foreign nation that is not a treaty party; or

(D) in a foreign nation that is not a treaty party, and all of the authors of the work are nationals, domiciliaries, or habitual residents of, or in the case of an audiovisual work legal entities with headquarters in, the United States;

(2) in the case of an unpublished work, all the authors of the work are nationals, domiciliaries, or habitual residents of the United States, or, in the case of an unpublished audiovisual work, all the authors are legal entities with headquarters in the United States; or

(3) in the case of a pictorial, graphic, or sculptural work incorporated in a building or structure, the building or structure is located in the United States.

A "useful article" is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a "useful article".

The author's "widow" or "widower" is the author's surviving spouse under the law of the author's domicile at the time of his or her death, whether or not the spouse has later remarried.

The "WIPO Copyright Treaty" is the WIPO Copyright Treaty concluded at Geneva, Switzerland, on December 20, 1996.

The "WIPO Performances and Phonograms Treaty" is the WIPO Performances and Phonograms Treaty concluded at Geneva, Switzerland, on December 20, 1996.

A "work of visual art" is —

(1) a painting, drawing, print or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author, or, in the case of a sculpture, in multiple cast, carved, or fabricated sculptures of 200 or fewer that are consecutively numbered by the author and bear the signature or other identifying mark of the author; or

(2) a still photographic image produced for exhibition purposes only, existing in a single copy that is signed by the author, or in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author.

A work of visual art does not include —

(A)(i) any poster, map, globe, chart, technical drawing, diagram, model, applied art, motion picture or other audiovisual work, book, magazine, newspaper, periodical, data base, electronic information service, electronic publication, or similar publication;

(ii) any merchandising item or advertising, promotional, descriptive, covering, or packaging material or container;

(iii) any portion or part of any item described in clause (i) or (ii);

(B) any work made for hire; or

(C) any work not subject to copyright protection under this title.

A "work of the United States Government" is a work prepared by an officer or employee of the United States Government as part of that person's official duties.

A "work made for hire" is —

(1) a work prepared by an employee within the scope of his or her employment; or

(2) a work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire. For the purpose of the foregoing sentence, a "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes, and an "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

In determining whether any work is eligible to be considered a work made for hire under paragraph (2), neither the amendment contained in section 1011(d) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, nor the deletion of the words added by that amendment —

(A) shall be considered or otherwise given any legal significance, or

(B) shall be interpreted to indicate congressional approval or disapproval of, or acquiescence in, any judicial determination,

by the courts or the Copyright Office. Paragraph (2) shall be interpreted as if both section 2(a)(1) of the Work Made For Hire and Copyright Corrections Act of 2000 and section 1011(d) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, were never enacted, and without regard to any inaction or awareness by the Congress at any time of any judicial determinations.

The terms "WTO Agreement" and "WTO member country" have the meanings given those terms in paragraphs (9) and (10), respectively, of section 2 of the Uruguay Round Agreements Act.

(Provided from http://www.copyright.gov/title17/)

§ 107. Limitations on exclusive rights: Fair use

Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include —

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;

(2) the nature of the copyrighted work;

(3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and

(4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

ONLINE RESOURCES

1)
http://www.copyright.gov/:
Defines what copyright laws are, gives a general overview of different aspects surrounding them, describes the process one takes to copyright something.

2)
http://www.templetons.com/brad/copymyths.html:
Discusses 10 myths surrounding copyright laws, or more specifically why something is not copyrighted.

3)
http://www.benedict.com/:
Website includes video and audio clips of arguments regarding copyright laws. Also allows you to copyright a website.

4)
http://www.law.cornell.edu/wex/index.php/Copyright:\
Website gives a general overview of the history of copyright laws and how they came to be.

5)
http://www4.law.cornell.edu/uscode/html/uscode17/usc_sup_01_17.html:
Talks about all laws surrounding copyrights and what they are meant for.

6)
http://www.piercelaw.edu/tfield/copynet.htm:
Discusses limits and what is and is not fair regarding copyrights. More specifically it discusses Internet copyrighting.

7)
http://www.bitlaw.com/copyright/:
Discusses fair use policies regarding copyright laws, and also works unprotected by copyrights.

8)
http://copyrightlaws.com/index2.html:
An informative Web site devoted to Canadian, U.S. and international copyright law, digital licensing, e-commerce, digital property and Web related legal issues.

9)
http://www.rbs2.com/copyr.htm:
This website shares some information on several topics of interest: plagiarism of text, infringement of copyright when using photocopy machines, duplication of web pages and text on the Internet.

10)
http://www-sul.stanford.edu/cpyright.html:
This website addresses issues concerning the use of copyrighted material in an academic setting. Guidelines for protecting works created by faculty and students are available from the library. A separate Web site about copyright and fair use provides extensive additional information, including surveys of primary materials, links to other Internet sites, and an overview of copyright law. Specific advice may be provided by the campus Office of Technology Licensing or the Stanford Legal Office.

11)
http://www.wired.com/news/culture/0,1284,48625,00.html:
Article discussing why copyright laws hurt culture an artistic progress.

12)
http://www.edu-cyberpg.com/Music/musiclaw.html:
This website looks specifically into the copyright laws that surround the music industry, the musicians involved, and the actual distribution of music.

13)
http://www.utsystem.edu/ogc/Intellectualproperty/cprtindx.htm:
Website gives a basic crash course in copyright laws.

14)
http://www.earlyamerica.com/earlyamerica/firsts/copyright/:
This website discusses the origin of copyright laws, what the first copyright laws were, and how these laws came to be.

15)
http://www.copyright.com/:
Website offering licensing systems that facilitate compliance with the copyright law and promote the constitutional purposes of copyright.

16)
http://www.starvingartistslaw.com/copyright/copyright.htm:
Discusses how artists, specifically unknown artists, benefit and rely on certain copyright laws to survive.

17)
http://www.copyright.iupui.edu/teach_summary.htm:
This website discusses the significance of the new copyright law for distance education, specifically the meaning and importance of the TEACH Act.

18)
http://www.fno.org/jun96/legal.html:
This article is entitled to alert you to legal issues which might arise out of Web publishing - issues which perfectly well intended staff members might not anticipate. The warnings and suggestions offered may save your school from stumbling into trouble.

19)
http://www.wired.com/news/business/0,1367,68901,00.html:
This website contains an article discussing a lawsuit presented against google.com regarding copyright laws that were violated.

20)
http://www.bitlaw.com/source/cases/copyright/index.html:
Website contains hypertext versions of the most important recent copyright cases. This document contains a brief summary of the recent cases, and links to those cases that have been added to BitLaw. Many of the Internet cases on Bitlaw are decided under Copyright law, but those cases are found in their own index.

21)
http://www.eff.org/IP/DMCA/:
This website gives a description of some of the very real problems that have already appeared because of the Digital Millennium Copyright Act.

22)
http://www.law.cornell.edu/supct/cases/copyrt.htm:
Website contains selected copyright law decisions of the U. S. Supreme Court an the significance surrounding them.

23)
http://www.arl.org/info/frn/copy/ctcases.html:
Website discusses the following legal cases that are of importance to ARL because of their relevance to the research library community. ARL has submitted amicus briefs in many of these cases to help the Courts understand the research library community perspective.

24)
http://fairuse.stanford.edu/primary_materials/cases/index.html:
Website contains a list of copyright law cases surrounding the fair use policy.

25)
http://www.copyright.gov/docs/mgm/index.html:
This website discusses the relevance surrounding the MGM Studios v. Grokster law case.

26)
http://www.starvingartistslaw.com/copyright/copyrighting.htm:
Database providing current copyright topics and developments.

27)
http://www.eff.org/IP/fairuse/:
Site for the Electronic Frontier Foundation. Organization supporting and lobbying for more fair use. Not a supporter of the DMCA. *The Battle for your Digital Media Devices.*

28)
http://www.riaa.com/issues/copyright/laws.asp:
The RIAA provides timely and accurate information on the issues affecting the recording industry and the creative artists they represent that are of interest to the public and the media.

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