

# Copyright Law

Fall 2019

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Class Hours: Mon/Wed 4:00-5:25, Holland 285A

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## **Course Description**

This course will give students in-depth knowledge of the rules governing copyright protection, with a focus on the evolving nature of copyright law as a function of technological change and globalization. We will cover theories of copyright protection; the ownership and co-ownership of copyrights; the registration of copyright interests; musicians' royalty rights; the exclusive rights to copy, distribute, perform, and display works; the legal status of adaptations, translations, new editions, and other transformations of copyrighted works; the enforcement of copyrights, including against digital libraries and websites such as YouTube; and U.S. implementation of copyright treaties.

## **Learning Aims & Outcomes**

- Be able to counsel clients on the substantive law of copyright, including eligible subject matter; the scope of exclusive rights; primary and secondary liability for infringement; and copyright limitations and exceptions.
- Be able to plead both a prima facie claim of copyright infringement and affirmative defenses to an infringement claim.
- Be able to articulate opposing positions on key issues in current copyright policy debates.

## **Required Texts**

- Cohen et al., *Copyright in a Global Information Economy*, 4th ed. (Aspen 2015), along with the following materials posted by the casebook authors:
  - 2018 supplement - <http://coolcopyright.com/supplemental-material>
  - 2019 revision of Chapter 7 - [http://coolcopyright.com/application/files/5015/4596/1075/Ch\\_7\\_Revised\\_2019.pdf](http://coolcopyright.com/application/files/5015/4596/1075/Ch_7_Revised_2019.pdf)
- A digital or paper copy of the U.S. Copyright Act. A digital copy is available at [www.copyright.gov/title17/](http://www.copyright.gov/title17/) or through Westlaw or Lexis; paperback copies are widely available for order online. Bring this to every class meeting.

## **Workload**

The ABA requires that you spend an average of at least six hours per week studying for this three-credit course. This is in addition to the three hours per week that we spend in class. The course reading assignments reflect this required workload.

### **Attendance, Punctuality, and Technology**

Class attendance is mandatory, and there are no “excused” absences. Absent extraordinary circumstances, students deemed absent for more than 20% of the scheduled classes cannot sit for the final examination.

Attendance is measured solely by the sign-in sheet. It is each student’s responsibility to locate and sign the sheet at the beginning of class. By signing your initials you affirm that you are physically present in class during that class period. It is a serious violation of the Honor Code to falsely indicate that you were present in class, or to assist a classmate in such misrepresentation.

Punctuality is part of the professionalism expected of you as future lawyers. Please arrive at school early enough to be in your seat ready to begin class at the scheduled time. Any student arriving more than 15 minutes late for class is not permitted to sign the attendance sheet.

Laptops are permitted for note-taking. Cellphones, smartwatches, and any similar items must be silenced and put away for the duration of class.

### **Accommodations**

Students requesting accommodation for disabilities must first register with the Disability Resource Center (<http://www.dso.ufl.edu/drc/>). Once registered, students will receive an accommodation letter which must be presented to the Assistant Dean for Student Affairs (Dean Mitchell) when requesting accommodation. Students with disabilities should follow this procedure as early as possible in the semester.

### **Course Evaluation**

Students are expected to provide professional and respectful feedback on the quality of instruction in this course by completing course evaluations online via GatorEvals. Guidance on how to give appropriate feedback is available at <https://gatorevals.aa.ufl.edu/students/>. Students will be notified when the evaluation period opens and can complete evaluations through the email they receive from GatorEvals in their Canvas course menu under GatorEvals or via <https://ufl.bluera.com/ufl/>. Summaries of course evaluation results are available to students at <https://gatorevals.aa.ufl.edu/public-results/>.

### **Student Evaluation**

There will be one mandatory take-home midterm examination, on a date TBA. The midterm will be graded on a pass/fail basis and discussed afterwards in class.

The final examination will be a three-hour open book and open note examination. The grade you receive will be your final grade for the course (unless your grade is lowered for inadequate preparation or participation).

Your ability to understand and contribute to classroom discussion—and thus to learn the required material—will depend on carefully reviewing and considering the assigned readings prior to each class. I may lower your grade by one half-step (e.g., from A- to B+) based on inadequate class preparation or participation.

This class adheres to the law school's mean and mandatory grade distributions. Those distributions and a chart of letter grades and grade point equivalents are set out at <http://www.law.ufl.edu/student-affairs/current-students/academic-policies#9>.

**Academic Honesty**

Academic honesty and integrity are fundamental values of the University community. Students should be sure that they understand the UF Student Honor Code at <http://www.dso.ufl.edu/students.php>.

## Course Outline

- All readings are from the casebook (“CB”), its 2018 supplement (“Supp.”), and the Copyright Act (“Act”) unless otherwise indicated.
- To ensure you don’t waste time on obsolete sections of the casebook, check what the 2018 supplement contains before you begin reading.
- You will be expected to cite case names and code sections in the final exam, so please take notes accordingly.
- The entire course’s readings are set out below, with assignments for the first three classes. I will assign the remainder of readings class-by-class as the semester proceeds.

<u>CLASS</u>	<u>TOPIC</u>	<u>READING</u>
<b>Introduction</b>		
M 8/26	Copyright in Context	Course syllabus CB 3-46 (skim 35-46)
<b>The Subject Matter of Copyright</b>		
W 8/28	Fixation; Originality	Act §§ 101 (“fixed” only) & 102(a) CB 49-89 & Supp. (skim <i>Cartoon Network, Mannion</i> , and Note on pp. 70-71)
W 9/4	The Idea/Expression Distinction and the Useful Article Doctrine	Act § 102(a)-(b) CB 90-109 Act §§ 101 (“pictorial, graphic and sculptural works,” “useful article”) & 113(a)-(c) CB 177-92
	Derivative Works & Compilations	Act §§ 101 (“derivative work,” “compilation”) & 103 CB 109-36 & Supp.
	Authorship	Act §§ 101 (“joint work,” “work made for hire”) & 201(a)-(b) CB 137-75 & Supp.
<b>The Statutory Rights of Copyright Owners</b>		
	The Reproduction Right	Act §§ 101 (“copies,” “phonorecords”), 106, 117, 405(b) CB 247-77
	The Reproduction Right, continued	CB 277-304
	The Right to Prepare Derivative Works; Copyright in Characters	CB 308-43 & Supp.
	The Distribution Right	Act §§ 106, 109(a)-(b)(2) & (d), 108, 501(a), 602 CB 345-77 & Supp.
	The Public Performance and Public Display Rights	Act §§ 101 (“display,” “perform,” “publicly,” “transmit,” “digital transmission”), 106, 110 CB 377-408 & Supp.
	Copyright and the Music Industry	Act §§ 101 (“phonorecords,” “sound recordings”), 106, 114(a)-(c), 115(a)-(b) CB revised 2019 Chapter 7
	Copyright and Computer Software	Act § 101 (“computer program,” “literary work”) CB 206-43, 304-08 & Supp.

<u>CLASS</u>	<u>TOPIC</u>	<u>READING</u>
	Moral Rights and Performers' Rights	Act §§ 101 ("work of visual art"), 106A CB 449-80 & Supp.
<b>Indirect Infringement and Lawful Use</b>		
	Types of Infringement; Indirect Liability	Act § 106 CB 483-509
	OSP Liability	Act § 512 CB 509-38 & Supp.
	Inducement; Fair Use and "Productive Consumption"	CB 538-62 & Supp. Act § 107 CB 623-31
	Fair Use and Cultural Interchange	Act § 107 CB 563-601 & Supp.
	Fair Use in Technology and in Institutional Settings	CB 602-23 & Supp. CB 631-47 & Supp.
<b>Practical Considerations in Licensing and Enforcing Copyrights</b>		
	Formalities; Duration	Act §§ 302, 303, 304(a)-(b) CB 651-86
	Renewals and Terminations of Transfers	Act §§ 203, 304(c)-(d) CB 686-703
	Licenses and Transfers; Modes of Transfer, new Uses, Breach and Subject Matter Jurisdiction	Act §§ 101 ("collective work," "transfer of copyright ownership"), 201(c)-(d), 202, 204, 501(b) CB 705-31 CB 761-67
	Litigation: Standing to Sue; Proper Timing; Jury Trial; Choice of Law	Act §§ 106, 410, 411 CB 767-802 & Supp.
	Litigation: Remedies	Act §§ 502-505 CB 802-48 & Supp.
<b>Basic Principles Reconsidered</b>		
	Breach vs. Infringement; Boundaries of Licensing	CB 731-59
	Technological Protections	Act §§ 1201(a)-(j), 1202(a)-(c) CB 861-85 & Supp. CB 899-907
	Preemption Overview; Express Preemption; Misappropriation; Contracts	Act § 301(a)-(e) CB 911-31 & Supp. CB 941-57