Copyright, Commerce and Culture

Syllabus

Course Description
This course examines the U.S. system of copyright and intellectual property to explore its impact on the creation, distribution, and consumption of media and related cultural products both domestically and abroad. We will consider the theory, history, goals, and tensions surrounding intellectual property law as it has grown and changed in relation to innovations in media and communication technology. We will explore efforts by the contemporary culture industries to build and protect their intellectual property, including issues of online piracy, trademark protection disputes, domestic and global licensing agreements and industrial synergies. We will consider questions of ownership and appropriation, including parody and remix.

Learning Objectives
• Deepen your knowledge of the history and goals of copyright and intellectual property regulation in the U.S. and their impact on the creation, distribution, and consumption of media and cultural products at home and abroad.
• Develop a better understanding of the economic and cultural struggles surrounding intellectual property past and resent.
• Understand the specific challenges that technological change presents to copyright, and familiarize yourself with critical perspectives on the relationship of law and culture
• Demonstrate this knowledge by writing about copyright and related concepts in a way that builds on your own training, experience, and interest in media studies
• Raise your awareness of the rights and responsibilities of media consumers and makers

Evaluation
First (short) essay (20%)
Research essay proposal (10%)
Research essay draft (submitted for peer review)
Peer review of a colleague’s essay
Participation in class discussions, activities, and presentations (15%)
Final draft of research essay (20%)
Reading quizzes (15%)

Written Assignments
First essay, 3-4 pp. on an assigned prompt, due in class February 15
Research essay proposal, 2 pp. plus preliminary bibliography, due Saturday, March 3 via email.
Research essay draft, aim for 6-7 pp. plus bibliography, due Saturday, March 31 via email
Peer review of a colleague’s paper draft (approx. 400 words), hard copy due in-class April 5
Research essay: This 10-12 pp. essay will ask you to pursue an IP-related topic or case study of special interest to you. All research topics must be cleared with me, and all essays will be expected to have a thesis supported by argument and including evidence. This essay should make reference to at least two required readings from the course, as well as at least two or more independent sources. We’ll talk at length about finding a suitable topic. Due May 9th via email. No exceptions.

Presentations
During the semester, you will be asked to present at least once, and toward the end of the semester you’ll be asked to report on your research paper in progress.

Required Texts
There are no required books for this class, but you are expected to read the texts assigned and to bring a copy of these texts with you to class. A hard copy is strongly preferred. Some are posted under the “Resources” tab in NY Classes, and the rest are linked through the syllabus. Be sure you are logged in to the NYU Libraries (not just NYU Home) to use these links. Please report any difficulties, and I will try to troubleshoot. Occasional reading quizzes will assess your preparation for class discussion. Expect to be quizzed.

Requirements
Reading: To succeed in this course, you must complete all of the assigned reading, which is both challenging and substantial, and do it on time. You must bring the text to class. Note taking while you read is highly encouraged and various note-taking strategies will be discussed in class.

In-class assignments: Don’t be surprised by occasional (or, if people start to get behind on the reading, more-than-occasional) in-class writing or research charettes. We’ll be working across learning modalities in this class—meaning that class meetings are likely to include writing as well as reading. Come prepared: please make sure that you have a pen/pencil and paper (preferably in a notebook that pages can be removed from, if necessary). Note taking by hand is strongly encouraged for the sake of comprehension and retention. Laptops are permitted in class if and only if WiFi is turned off, except in cases where you are directed to enable the network for a specific purpose. Phones should be 100% out of sight, out of mind.

Attendance: Attendance is mandatory and will be taken at each class meeting. Plan to attend class. Any pattern of tardiness or unexcused absences will have a depressing effect on your grade. Any excused absences (for religious observance or when representing the University, as on a team) should be planned for in advance. If you are ill and can’t come to class, it is your responsibility to make up the work. Please refrain from walking in and out of the room while class is in progress.

Participation: You are expected to come to class prepared, and to actively participate in each class meeting. This includes: bringing assigned readings, paying attention, asking thoughtful questions, and contributing to class discussions. I expect everyone to speak in class. If you are shy about making your own intervention, ask a question or respond to another student.

Policies
Academic Honesty: Plagiarism or academic dishonesty of any kind will not be tolerated. For specific guidelines and policies, see Steinhardt’s Statement on Academic Integrity. Remember, it is
plagiarism to use someone else’s ideas without acknowledgement or someone else’s words without quotation. Any plagiary, no matter how accidental, will result in failure for the course.

Late and/or Make-up Work: I will accept late work, but it will be marked down and you may not receive timely feedback.

Office Hours: Office hours visits are encouraged. If you cannot make the scheduled time, please feel free to email me with two or three possible times to set up a meeting.

**Resources**

Moses Center: If you are student with a disability who is requesting accommodations, please contact New York University’s Moses Center for Students with Disabilities at 212-998-4980 or mosescsd@nyu.edu. You must be registered with CSD to receive accommodations. Information about the Moses Center can be found at [www.nyu.edu/csd](http://www.nyu.edu/csd). The Moses Center is located at 726 Broadway on the 2nd floor.

Wellness Exchange: The Wellness Exchange is your key to accessing the University's extensive health and mental health resources designed to address your needs. You can call a private hotline (212-443-9999), available 24 hours a day, seven days a week, which will put you in touch with a professional who can help to address day-to-day challenges as well as other health-related concerns.

S.P.A.C.E. (Sexual misconduct Prevention, Assistance, Counseling, & Education): The NYU Center for Sexual Misconduct Support Services can provide confidential assistance to complainants about sexual misconduct, relationship violence, and stalking. Support includes providing information about resources and options, accompanying a complainant to rape treatment centers, medical services and campus meetings or proceedings. Staff at The Center — which includes Crisis Response Counselors at the Wellness Exchange — are licensed health professionals who can act as your personal liaison throughout the process of accessing care and services following a sexual assault. When calling the Wellness Exchange hotline at (212) 443-9999 just ask for the CRC.

Writing Center: The Writing Center is a place where any NYU student can get help with his or her writing. The Writing Center is a part of NYU's Expository Writing Program in the College of Arts and Science. It is a place where one-on-one teaching and learning occur, as students work closely with EWP faculty at every stage of the writing process and on any piece of writing except for exams. To avail yourself of this resource you must plan ahead. To make an appointment, go to [https://nyu.mywconline.com/](https://nyu.mywconline.com/)

**Evaluation Rubric**

A = Excellent
This work is comprehensive and detailed, integrating themes and concepts from discussions, lectures and readings. Writing is clear, analytical and organized. Arguments offer specific examples and concisely evaluate evidence. Students who earn this grade are prepared for class, synthesize course materials and contribute insightfully.
B=Good
This work is complete and accurate, offering insights at general level of understanding. Writing is clear, uses examples properly and tends toward broad analysis. Classroom participation is consistent and thoughtful.

C=Average
This work is correct but is largely descriptive, lacking analysis. Writing is vague and at times tangential. Arguments are unorganized, without specific examples or analysis. Classroom participation is lacking or inarticulate.

D= Unsatisfactory
This work is incomplete, and evidences little understanding of the readings or discussions. Arguments demonstrate inattention to detail, misunderstand course material and overlook significant themes. Classroom participation is spotty, unprepared and off topic.

F=Failed
This grade indicates a failure to participate and/or incomplete assignments

A  = 94-100  C   = 74-76
A- = 90-93   C+ = 77-79
B+ = 87-89   C- = 70-73
B  = 84-86   D+ = 65-69
B- = 80-83   D   = 60-64

Course Schedule
(*subject to change; changes will be announced in class and/or via NYU Classes)

Week 1: An Introduction to Copyright/Copyright Today

Tuesday, January 23: An Introduction and Course Overview
  U.S. Constitution: “Congress shall have the 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” (Article I, Section 8).
Thursday, January 25: Copyright, Plagiarism, and Creative Reuse: An Introduction
  Creative re-use in the news: Shepard Fairey and Matt Furie

Week 2: Overview of Intellectual Property

Tuesday, January 30: Copyright and Intellectual Property: What Are They?
Menell, Lemley, and Merges, Intellectual Property in the New Technological Age: 2017, “New Features” and the Table of Contents (read these “Inside the Book” at Amazon.com)
Thursday, February 1: Copyright on Campus?
NYU Policies and Guidelines

Week 3: The Subjects (Persons) of Patent Law

Tuesday, February 6
Thursday, February 8
Harvard College v. Canada (a Canadian case, 2002)

Week 4: Copyright and Intellectual Property in the United States

Tuesday, February 13: From the Colonies to the Revolution
Balázs, Bodó “A Short History of Book Piracy”
Thursday, February 15: IN-CLASS VISIT TO FALES SPECIAL COLLECTIONS//First Essay due in class. Please bring a hard copy with you to Fales.

Week 5: The Subjects (Authors) of Copyright

Tuesday, February 20: Authors Part 1: Difficult Theory
Foucault, Michel. “What Is an Author?” (posted in NYU Classes. The text itself indicates where you can skip a few pages.)
A case about photographs (1884)
Thursday, February 22, Authors Part 2: On Collaboration and Author Function
A case about telephone books. (1991)

Week 6: How does Trademark Fit In?

Tuesday, February 27: READING/RESEARCH DAY, No Class
Thursday, March 1: Brands
A case about offensive marks (2017)
Saturday, March 3: Paper Proposal Due via email by 6 PM

Week 7: The Public Domain

Tuesday, March 6: The Public Domain
Thursday, March 8: The Public Domain in the Digital Age

SPRING BREAK

Week 8: How Does Publicity Fit In?

Tuesday, March 20
Jane Gaines, “Dead Ringer: Jacqueline Onassis and the Look Alike,” Contested Culture, 84-100
Thursday, March 22

Week 9: Fair Use

Tuesday, March 27: Principles of Fair Use
Thursday, March 29: Fair Use in Action
Saturday, March 31: Research Paper Draft Due via email by 6 PM

Week 10: Transnational Perspectives/Indigenous Cultures

Tuesday, April 3: Global Legal Structures and Infrastructures

Thursday, April 5: WIPO, *Protect and Promote Your Culture*, “Examples”
Peer review huddles in class. *Hand in your peer review (hard copy)*

### Week 11: Remixes in the Digital Millennium Copyright Act

Tuesday, April 10:

Thursday, April 12: *RIP!: A Remix Manifesto* (2008, Brett Gaylor)

### Week 12: IP in the Age of the Internet Part 1: Proprietary Software, EULAs, and DSM

Tuesday, April 17: Technology as Copyright (& Related Dystopian Futures)

Thursday, April 19: The DMCA and Its Discontents

### Week 13: IP in the Age of the Internet Part 2: Open Source and Open Access

Tuesday, April 24: FLOSS (a.k.a. Free/Libre and Open Source Software)

Thursday, April 26: Politics of Open Access
Craig, Carys, Joseph Turcotte, and Rosemary Coombe. “*What’s Feminist about Open Access?* A Relational Approach to Copyright in the Academy.” *feminists@law* 1.1 (2011).

### Week 14: Looking Forward?

Tuesday, May 1
Finals Week
Your research paper is due on Wednesday, May 9th by 6 PM. Email is fine, but be sure you receive an acknowledgement that it is received and your paper downloaded successfully. No late papers. No Incompletes.

Useful Bibliography (A Highly Selective List)


