

# Copyright Law: Cases and Materials

## Revisions from v2.0 to v3.0

Following is a list of *substantial* revisions between v2.0 (2020) and v3.0 (2021).

### Chapter I: Introduction

- Added note on copyright and questions of distributive justice
- Added CASE Act to list of major legislation amending Copyright Act

### Chapter II: The Subject Matter of Copyright Protection

- Added note on the compilation holding in *ATC Distribution Grp., Inc. v. Whatever It Takes Transmissions & Parts, Inc.*
- Replaced *Erickson v. Blake* in idea/expression section with opinion in *ATC Distribution Grp., Inc. v. Whatever It Takes Transmissions & Parts, Inc.*
- Re-edited *Baker v. Selden* to include additional material underlying the merger doctrine
- Added note on legislative update to 17 U.S.C. § 105
- Added note on copyright estoppel aka “asserted truths” doctrine
- Replaced *Shine v. Childs* in architecture section with opinion in *Zalewski v. Cicero Builder Dev., Inc.*
- Condensed the Federal Circuit’s copyrightability opinion in *Oracle v. Google* into a note

### Chapter III: Authorship and Ownership

- No major changes

### Chapter IV: Copyright Formalities and Duration

- No major changes

### Chapter V: Copyright’s Exclusive Rights

- Re-edited *Nichols v. Universal Pictures Corporation* case to add material on Hand’s skepticism of the role of expert witnesses
- Added note re pre-1976 understanding of content of musical composition versus 1976 Act understanding
- Moved section on distribution right up so that it comes before derivative work right section; re-edited *Mirage* and *Lee v. A.R.T.* cases in derivative work section to include discussion of first sale issue
- In character protection section, condensed *Towle* into a short discussion and replaced with opinion in *Daniels v. Walt Disney Co.*
- In moral rights section, added note on the *Kelley v. Chicago* holding that there is no VARA protection without underlying © protection

- Added a note to the music section about the racial impact of copyright's mechanical reproduction rules, citing scholarship

#### Chapter VI: Fair Use

- Re-ordered cases to follow a largely chronological progression
- Replaced Federal Circuit's *Oracle v. Google* fair use decision with Supreme Court's opinion in *Google v. Oracle*
- Added *Warhol* (Second Circuit) fair use opinion
- For a case on journalism and news, replaced *Nunez* decision (First Circuit) with *Monge v. Maya Magazines, Inc.* (Ninth Circuit)
- Condensed *Blanch* (Second Circuit), *Sega* (Ninth Circuit), and *Texaco* (Second Circuit) opinions into notes

#### Chapter VII: Direct and Secondary Liability

- Re-edited *Netcom* decision to include additional discussion of direct infringement theory
- Re-edited *Viacom* decision to include additional discussion of facts relevant to direct infringement claim

#### Chapter VIII: Copyright Litigation and Remedies

- Added note re question whether *Petrella* disturbs discovery rule for statute of limitations
- Added discussion of CASE Act
- Added *Davis v. Gap* (Second Circuit) opinion on actual damages
- Added note on whether disgorgement (an equitable remedy) is outside Seventh Amendment jury guarantee
- Reversed ordering of *Bouchat* and *Frank Music* cases
- Condensed *Thomas* and moved to summary material in statutory damages section.

#### Chapter IX: Technological Protections for Copyrighted Works

- Added additional discussion of 17 U.S.C. § 1202 and recent cases featuring § 1202 claims
- Re-edited *Reimerdes* decision to include additional material on relationship between § 1201 and fair use; included note on Second Circuit decision on appeal in *Corley*

#### Chapter X: Copyright's Relationship to Contract and Other State Laws

- Re-edited *Rey* decision to add material explaining background of parties' various agreements
- Replaced *INS v. AP* (Supreme Court) with *Maloney v. T3 Media* (Ninth Circuit) on copyright preemption and the right of publicity