

**COPYRIGHT**  
LAWS 7301-001

Spring 2020  
Mondays and Wednesdays, 2:30 – 3:50 pm  
Room: 205

Professor Kristelia García  
[kristelia.garcia@colorado.edu](mailto:kristelia.garcia@colorado.edu) | [@kristelia](#) | Office: 425  
Office hours Monday & Wednesday by appointment  
[Course Website](#)

**Overview**

This course will cover the system of legal protection for creative expression and content dissemination in the United States, with a particular emphasis on policy and policy implications. Topics covered may include: requirements for copyright protection, copyrightable subject matter (including compilations and derivative works), authorship and ownership, formalities and duration, useful articles, Section 106 rights (+ moral rights), copyright infringement and its elements, exceptions (especially fair use), the music industry, substantial similarity analysis, direct and secondary liability, and remedies.

**Prerequisite(s)**

None. If you have previously taken (or are simultaneously taking) Introduction to IP, we will inevitably cover some familiar cases, though likely in greater detail, and with an eye toward the statutory nuances and policy implications.

**Course Materials**

The readings for this course will come primarily from the casebook: Jeanne C. Fromer and Christopher Jon Sprigman, *Copyright Law: Cases and Materials*, VI.0. This text is available to read and/or download for free at <http://copyrightbook.org/>. The site also has a link to purchase a low-cost hardcopy version from Amazon for \$15.40.

Some readings will come from supplemental materials as linked in-line in the Topics & Readings section below.

In addition, you will need access to [the Copyright Act of 1976 \(as amended\)](#), the statute governing copyright law in the US. An easily searchable online version is also available [here](#).

Should you want a deeper dive of, or clarification on, any of the topics discussed in class, [Nimmer on Copyright](#) is a copyright treatise available on Lexis, and in hard copy in the library.

**Evaluation & Grading Policy**

Your grade in this course will be based on your performance on (a) a midterm paper based on discussion from the Content Conference taking place at the law school on Thursday, March 5, 2020 (25%); and (b) a final examination (75%), with a potential adjustment based on class attendance and participation. The final exam will be a 9-hour, take-home exam in accordance with law school policy. Please check the final exam schedule for updated date and time information.

**Class Attendance & Participation**

Please plan to attend, on time, and come prepared for, all class meetings. Attendance, preparation, participation, and professionalism all count toward the class participation grade. I generally teach using [the Socratic Method](#), in which I begin by questioning specific student(s), drawn randomly, after which I take volunteers. If you know you will be unprepared, please notify me in advance. I recognize that conflicts may occasionally arise, and you need not inform me in advance of an isolated absence. If a situation arises that will result in multiple absences or instances of unpreparedness, however, this should be brought to my attention. Otherwise, it may negatively affect your participation grade.

**Audio/Visuals**

This class will make extensive use of projected slides, audio and video clips. If you have difficulty perceiving any of the materials, please see me, and/or [Disability Services](#) for assistance. I'm happy to make whatever accommodation you need. All slides and other media will also be posted to the [course website](#).

**Laptop Policy**

Laptops are permitted in class for *note-taking purposes only*. Please make a good faith effort to adhere to this policy. Use of laptops or other electronic devices for any other purpose will be considered a violation of professional courtesy, will negatively affect your participation grade, and may result in loss of laptop privileges.

**Recording Policy**

I request that you do not record class without my prior permission. If you must miss class, I encourage you to ask a classmate for notes. Out of consideration for your classmates—who may or may not be comfortable having their questions and comments memorialized—requests for a recording due to a planned absence must be received one week in advance.

**Make-up Classes**

If we are unable to meet for a regularly-scheduled class session, you will be notified in advance, and a make-up will be scheduled.

## Topics & Readings

The following reading schedule is aspirational, and subject to change as we go along and find ourselves spending more or less time on certain topics. Any changes will be announced in class for the next class meeting. I will also try to send out an email about it, so please make sure I have your correct email address. All page numbers refer to the *Fromer & Sprigman* text. Supplemental materials are noted, and linked in-line below.

Class	Topic/Major Cases	Pages
1	Introduction	1-16
2	Fixation; Originality I <ul style="list-style-type: none"> <li>▪ <i>Cartoon Network LP v. CSC Holdings, Inc.</i></li> <li>▪ <i>Burrow-Giles Lithographic Co. v. Napoleon Sarony</i></li> <li>▪ <i>Bleistein v. Donaldson Lithographing Company</i></li> </ul>	17-19, 22-32
3	Originality II <ul style="list-style-type: none"> <li>▪ <i>Feist Publications v. Rural Telephone Service</i></li> <li>▪ <a href="#">Prunte v. Universal Music Group, Inc.</a></li> <li>▪ <a href="#">Mannion v. Coors Brewing Co.</a></li> </ul>	33-36 & supplemental readings
4	Derivative Works and Compilations <ul style="list-style-type: none"> <li>▪ <i>L. Batlin &amp; Son, Inc. v. Jeffrey Snyder</i></li> <li>▪ <a href="#">Warner Bros. Entertainment v. RDR Books</a></li> <li>▪ <i>Feist Publications, Inc. v. Rural Telephone Service Co.</i></li> </ul>	45-49, 54-59 & supplemental readings
5	Idea-Expression Distinction <ul style="list-style-type: none"> <li>▪ <i>W.C.M. Baker v. Charles Selden</i></li> <li>▪ <i>Lars Erickson v. Michael John Blake</i></li> <li>▪ <i>A.A. Hoehling v. Universal City Studios, Inc.</i></li> </ul>	60-75
6	Useful Articles and Software <ul style="list-style-type: none"> <li>▪ <i>Mazer v. Stein</i></li> <li>▪ <i>Star Athletica, LLC v. Varsity Brands, Inc.</i></li> <li>▪ <i>Oracle v. Google</i></li> </ul>	79-100, 133-144
7	Authorship and Ownership I <ul style="list-style-type: none"> <li>▪ <i>Alexander Lindsay v. The Wrecked and Abandoned Vessel R.M.S. Titanic</i></li> <li>▪ <i>Cindy Lee Garcia v. Google, Inc.</i></li> <li>▪ <i>Karen Erickson v. Trinity Theatre, Inc.</i></li> </ul>	135-154

8	<p>Authorship and Ownership II</p> <ul style="list-style-type: none"> <li>▪ <i>Jefri Aalmuhammed v. Spike Lee</i></li> <li>▪ <i>Community for Creative Non-Violence v. James Earl Reid</i></li> <li>▪ <i>Avtec Systems, Inc. v. Jeffrey G. Peiffer</i></li> </ul>	155-168
9	<p>Copyright Formalities and Duration</p> <ul style="list-style-type: none"> <li>▪ <i>Eric Eldred v. John D. Ashcroft</i></li> <li>▪ <i>Lawrence Golan v. Eric H. Holder, Jr.</i></li> </ul>	171-173, 178-209
10	<p>The Reproduction Right</p> <ul style="list-style-type: none"> <li>▪ <i>Three Boys Music Corporation v. Michael Bolton</i></li> <li>▪ <i>Ronald H. Selle v. Barry Gibb</i></li> <li>▪ <i>Anne Nichols v. Universal Pictures Corporation</i></li> </ul>	221-228, 237-240
11	<p>Moral Rights</p> <ul style="list-style-type: none"> <li>▪ <i>Terry Gilliam v. American Broadcasting Companies, Inc.</i></li> <li>▪ <i>Dastar Corp. v. Twentieth Century Fox Corp.</i></li> <li>▪ <i>Jonathan Cohen v. G&amp;M Realty L.P.</i></li> </ul>	308-332
12	<p>The Distribution Right</p> <ul style="list-style-type: none"> <li>▪ <i>Capital Records, LLC v. ReDigi, Inc.</i></li> <li>▪ <i>Supap Kirtsaeng v. John Wiley &amp; Sons, Inc.</i></li> <li>▪ <i>Capitol Records, Inc. v. Thomas</i></li> </ul>	333, 336-352, 604-608
13	<p>The Rights of Public Performance and Display</p> <ul style="list-style-type: none"> <li>▪ <i>Columbia Pictures Industries, Inc. v. Redd Horne, Inc.</i></li> <li>▪ <i>Cartoon Network LP v. CSC Holdings, Inc.</i></li> <li>▪ <i>American Broadcasting Companies, Inc. v. Aereo, Inc.</i></li> <li>▪ <i>Perfect 10, Inc. v. Amazon.com, Inc.</i></li> </ul>	352-374
14	<p>The Music Industry</p> <ul style="list-style-type: none"> <li>▪ <a href="#">Newton v. Diamond</a></li> <li>▪ <a href="#">Bridgeport Music, Inc. v. Dimension Films</a></li> <li>▪ <i>VMG Salsoul, LLC v. Madonna Louise Ciccone</i></li> </ul>	378-402 & supplemental readings

15	<p>Substantial Similarity Analysis: The Special Case of Copying in Music</p> <ul style="list-style-type: none"> <li>▪ <a href="#">Williams v. Gaye</a></li> <li>▪ <a href="#">Skidmore v. Zeppelin</a></li> <li>▪ <a href="#">Gray v. Perry</a></li> </ul>	Supplemental readings
16	<p>No class March 9<sup>th</sup>; instead, you are asked to attend:</p> <p><b>**Annual Content Conference on Thursday, March 5<sup>th</sup>**</b></p> <p>Midterm Papers due March 12<sup>th</sup>.</p>	
17	<p>Copyright Infringement and Infringement Analysis</p> <ul style="list-style-type: none"> <li>▪ <i>Arnstein v. Porter</i></li> <li>▪ <a href="#">Jones v. Blige</a></li> <li>▪ <a href="#">Bright Tunes Music Corp. V. Harrisongs Music, Ltd.</a></li> <li>▪ <a href="#">Gottlieb Development, LLC v. Paramount Pictures Corp</a></li> </ul>	240-244 & supplemental readings
18	<a href="#">Music and Race</a>	Supplemental readings
19	<p>Fair Use I</p> <ul style="list-style-type: none"> <li>▪ <i>Harper &amp; Row, Publishers, Inc. v. Nation Enterprises</i></li> <li>▪ <i>Luther R. Campbell v. Acuff-Rose Music, Inc.</i></li> <li>▪ <i>Sony Corporation of America v. Universal City Studios, Inc.</i></li> </ul>	403-422, 442-452
20	<p>Fair Use II</p> <ul style="list-style-type: none"> <li>▪ <a href="#">Cariou v. Prince</a></li> <li>▪ <a href="#">Graham v. Prince</a></li> <li>▪ <a href="#">Blanch v. Koons</a></li> </ul>	Supplemental readings
21	<p>Fair Use III</p> <ul style="list-style-type: none"> <li>▪ <i>Oracle America, Inc. v. Google, LLC</i></li> <li>▪ <i>Perfect 10, Inc. v. Amazon.com, Inc.</i></li> <li>▪ <i>The Authors Guild v. Google, Inc.</i></li> </ul>	483-505

22	<b>Direct and Secondary Liability</b> <ul style="list-style-type: none"> <li>▪ <i>Fonovisa, Inc. v. Cherry Auction, Inc.</i></li> <li>▪ <i>Perfect 10, Inc. v. Amazon.com, Inc.</i></li> <li>▪ <i>Perfect 10, Inc. v. Visa International Service, Association</i></li> </ul>	513-528
23	<b>Liability of Online Service Providers and Section 512 Safe Harbor</b> <ul style="list-style-type: none"> <li>▪ <i>Viacom International, Inc. v. YouTube, Inc.</i></li> <li>▪ <i>Marvix Photographs, LLC v. LiveJournal, Inc.</i></li> <li>▪ <i>Stephanie Lenz v. Universal Music Corp.</i></li> </ul>	528-553
24	<b>Liability of Device Manufacturers</b> <ul style="list-style-type: none"> <li>▪ <i>Sony Corporation of America v. Universal City Studios, Inc.</i></li> <li>▪ <i>A&amp;M Records, Inc. v. Napster, Inc.</i></li> <li>▪ <i>Metro-Goldwyn-Mayer Studios, Inc. v. Grokster, Ltd.</i></li> </ul>	554-575
25	<b>Remedies</b> <ul style="list-style-type: none"> <li>▪ <i>Christopher Phelps &amp; Associates, LLC v. R. Wayne Galloway</i></li> <li>▪ <i>Frederick E. Bouchat v. Baltimore Ravens Football Club</i></li> <li>▪ <i>Capitol Records, Inc. v. Jammie Thomas-Rasset</i></li> </ul>	586-599, 604-608
26	<b>Guest Lecture</b> <ul style="list-style-type: none"> <li>▪ Shirin Chahal (Colorado Law '11) from the Law Offices of Daniel T. Goodwin will discuss porn copyright troll defense work, statutory damages, and reputational risk assessment</li> </ul>	Supplemental readings, if any, to be distributed
27	<b>In-Class Final Exam Review</b>	