

From Copyright to Open Source



Toward Open Source

- <http://tinyurl.com/yqfcq> (Groklaw)
- Copyright law, guarantees protections
 - Exclusive right to copy
 - Exclusive right to create derivative works
 - Exclusive right to distribute work
 - Exclusive right to perform or display work
- Fair use exceptions, First Amendment tension, facts and ideas vs their expression

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11.2

Fair use, criticism, parody

- <http://www.vimeo.com/752979>
 - Al Yankovic's Parody 'White and Nerdy'
- <http://www.youtube.com/watch?v=P8-UiXotuX>
 - Chamillionaire and Krayzie Bone 'Dirty'
- Four factors in determining fair use:
 - Purpose and character, e.g., non-commercial/ed
 - Nature and creativity of original work
 - Amount, substantiality: how much of work
 - Effect on market or value

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11.3

Fair use, face-to-face education

- <http://www.bitlaw.com/source/17usc/110.html>
- Consider fivethirtyeight.com and Nate Silver
 - Comedy Central website, navigate to clip
 - Snapz Pro, tape and create Quicktime
 - Is this like using DVR/Tivo for time-shifting?
 - Sony v Universal, 1976, 1979, 1984
- Legal to show clip? Repercussions?
 - What if I upload it?

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Copyright, fair use, and DMCA

- <http://tinyurl.com/yu6f2u> WSJ on NFL and Seltzer
- **Digital Millennium Copyright Act**
 - Prohibits circumventing digital protection (except for non-infringing uses)
 - Safe harbor for ISPs and other online providers
- **Google's take-down policy, Youtube's policy**
 - Google for 'DMCA Youtube' what do hits say?
 - Can I take down a video I don't like?
 - Is Youtube liable legally?

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DMCA, Prince, Radiohead

- <http://tinyurl.com/4ak6ef>
- **Section 1101, Copyright**
 - Bootlegging provision
 - Transmission required?
- **Prince covers Radiohead's "Creep"**
 - Takedown notice to Youtube
 - Prince History?
 - If it was a cover, ok, but a derivative work?
 - Prince changed lyrics



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Baseball statistics and copyright

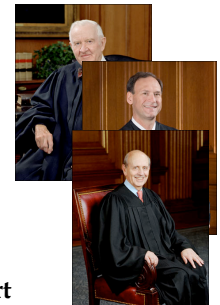
- **C.B.C. Distribution v Major League Baseball**
 - Fantasy baseball names/stats, expires in 2004
 - MLB wants to sell rights to new company
 - Contract with C.B.C. "no use on expiration"
- **Eight Circuit court upholds First Amendment claim**
 - Rights trump contract and copyright claims
 - Facts aren't subject to copyright
 - Harvard Law Review, March 2008
- <http://www.harvardlawreview.org/issues/121/march08/march08.shtml>

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Supreme court considers case

- <http://tinyurl.com/2p32bk>
- **Judges in Fantasy League recused**
 - Alito, Stephens, Breyer: NO
 - Scalia and Ginsburg still in
 - April 1, 2008
- **In June the court refuses case**
 - Essentially upholds lower court
 - Widely viewed as a First Amendment case



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11.8