From Copyright to Open Source

- 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

Toward Open Source

- http://tinyurl.com/yqfco (Groklaw)
- Copyright law, guarantees protections:
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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

Fair use, face-to-face education

- 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?
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?

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

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

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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