

Class 3: Originality

Admin

- Next Time: 102-28; section 102(b)
- More on Graded Exercise
- Seating Chart
- News - DJ Drama Arrested 🌐

Last Time

- The Constitution and Fixation
  - Writings
  - Bootlegging and section 1101

- Statute
  - Three possible violations ("Or'd")
    - Fixes or reproduces
    - Transmits
    - Sells
  - Also a criminal violation.
- Constitutional?
- Girl scouts all over again?
- Or sound policy?

Originality

- Problems - Some examples / Problems

- 1 "A long time ago in a galaxy far, far away . . ." - Short words or phrases.
- Haiku
  - Fixed and Tangible
  - Too Short -- Not Original
  - No IP for You!



More smileys



2

Logos



3

Photo of my children

4

Audio Recordings

- Wilhelm Scream 🌐  
<http://www.birds.cornell.edu/ivory/multimedia/sounds/listening/900a>
- [http://www.news.cornell.edu/stories/April05/Woodpecker\\_sound\\_tech.html](http://www.news.cornell.edu/stories/April05/Woodpecker_sound_tech.html) 🌐

Class 3: Originality

Originality

Two Requirements (Feist)

Independent Creation

Modicum of Creativity

Quantitative Limits ↗ Short phrase rule

Qualitative Limits

Policy

Evidentiary Problem --  
short phrases might be  
hard to attribute  
Takes words from the  
public domain.

Why not require more?

Why not Novelty?

Constitutional Source

Policy for Originality Requirement

Burrow-Giles Lithographic v. Sarony

Supremes, 1884 (Miller)

The Oscar Wilde case

Issue: Sufficient originality in photography?

Held

Reasoning

Bleistein v. Donaldson Lithographic

Supremes, 1903 (Holmes)

"Great Wallace Shows" posters

Advertisements

Copies made

Held

Reasoning

Dissent