

Class 12: Reproduction And Distribution

Admin

Next Time: 437-40; 456-58; 464-79; handout Sections 106(2), 114(a-c), 115(a-c), 117, relevant terms in 101.

Trends Monday

- The GPL
- Google Books
- Sampling

Homework

Cell Phone Ringers

Last Time

Joint Works

What intent is required?

s. 101: "that their contributions be merged into inseparable or interdependent parts of a unitary whole."

C and T

Billing?

- C: NO
- T: YES

Highly collaborative Works (Note 11)

Basics

- Difference between JW and CW?
- Special rule for 201(c).

Collective Works

Tasini v. NYT

Basic Facts

Freelance writers (Ps) wrote articles for NYT and other newspapers. NYT placed copies of articles onto online DBs (including Nexis).

Key Fact

Retrievable by user in isolation and clear of context.

Held

Reasoning

Dissent

Faulkner v. NGS

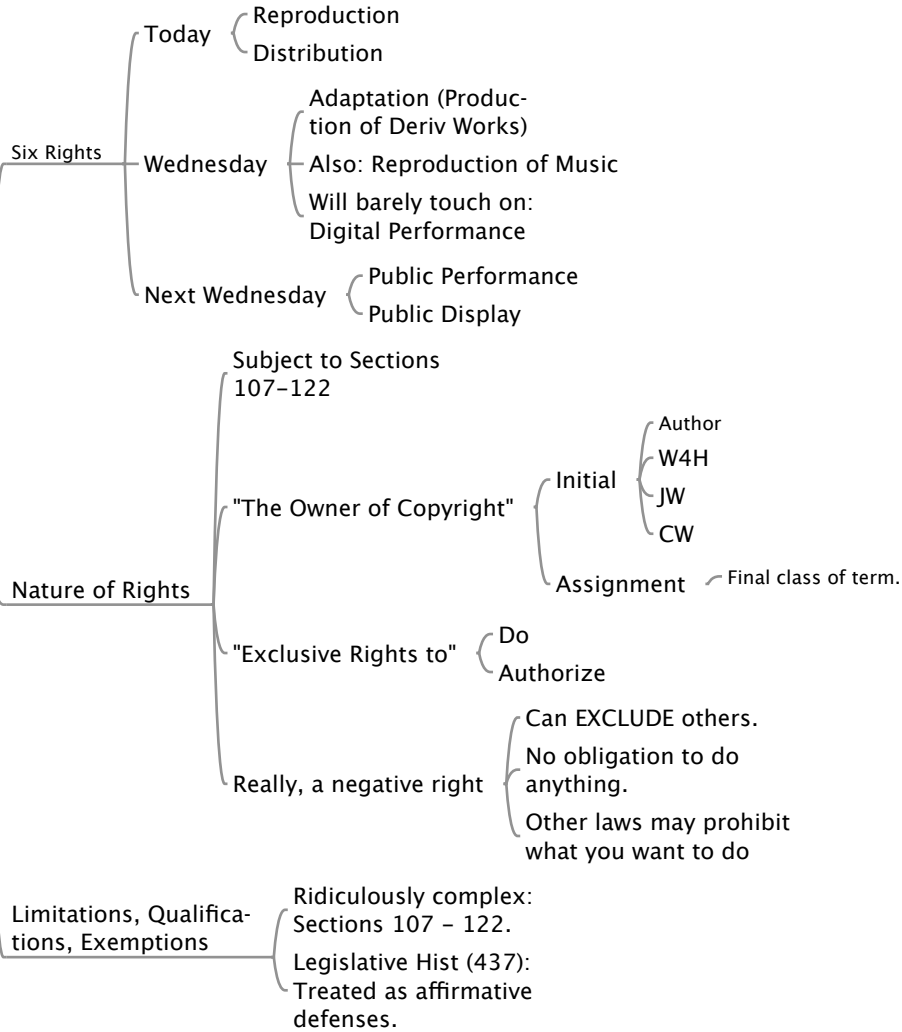
National Geographic has PDF-like CD-ROM library for sale.

Text, images, ads. Complete run of the magazine.

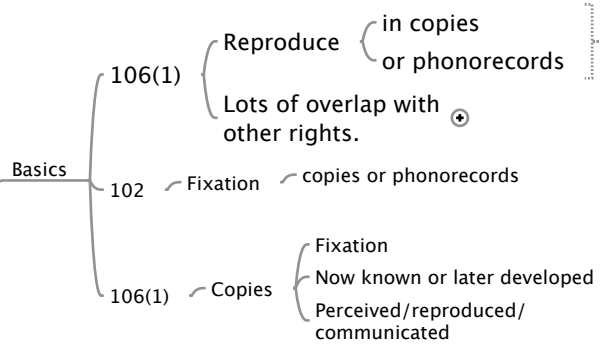
Held

Class 12: Reproduction And Distribution

Section 106 Generally



Reproduction



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Reproduction

Disney v. Filmation

Basic Facts

Disney Classics

Pinocchio, Alice in Wonderland, Jungle Book.
ALL based on prior public domain works.

Filmation New Classics

"New Adventures of Pinocchio", etc.
Based on same prior public domain works.

Alleged infringing acts

Casebook author's dream:
No distribution, just reproduction
Produced: Script, Story Board, Story Reel, Models, and Designs

Procedural Posture

D moves for Summary Judgment

Held (CDCa 1986)

Reasoning

Other Issues

Note 3: Why is private copying actionable, but private performance, display, and distribution are not?

More intermediate copying fact patterns

Crazy Section 108 (the Library Provision)

Basic Structure
Why?

Distribution

Basics

106(3)

Distribute

Means

- Sale
- Other Transfer of Ownership
- Rental
- Lease
- Lending

Copies or Phonorecords

To the Public

Note 4: What does that mean?

Hotaling v. LDS

Basic Facts

Work: Genealogical Research Materials compiled by P

Review: Copy-rightable?

1985 - 1989: LDS acquire ONE copy.

Watch it reproduce

Pre-1992: Copies sent to branch libraries

C&D and lawsuit scared LDS into recalling and destroying ALL of the remaining copies.

At some point, original was destroyed. LDS placed a copy in main library in SLC.

The fact that warms the hearts of Law Professors' everywhere

1995 Lawsuit filed.

Copyright: 3 year Statute of Limitations!

Suit over these acts barred as untimely.

Only Act Left

One "unlawful" copy still at main library.

Placed in collection

Indexed

Why should that matter?

"Made available" to public

Perhaps the most important fact

Dist Court

Held (4th Cir. 1997)

Reasoning

More on Distribution

First Sale Doctrine