Class 20: Fair Use Fundamentals

- Administrative
  - Next Time: 799-810; 822-33
  - Monday, April 16: Perfect 10 handout online.
  - Papers
    - I'll try to get grades back to you by the Monday of the last week of class.
  - Today: Office Hours: 3pm to 3:30pm.
  - Trends
    - Parody
      - http://youtube.com/watch?v=Vj9swNR5-IY
      - http://waxy.org/random/video/dog_eyed_welders_-_my_humps.mov
      - http://www.youtube.com/watch?v=W91sqAs-_-g
- Last Time
  - Grokster v. MGM
    - Reasoning
      - First, attempts to clarify/recast Sony
      - New way to establish contributory infringement: Inducement of infringement
        - Napster-association
- Fair Use
  - Generally
    - Section 107
      - Some sample purposes
      - "Not an infringement"
      - Four Factors (illustrative, not exhaustive)
      - Leg Hist: An Equitable Rule of Reason
    - Public Policy Rationale?
  - The Four Factors
    - Sony Facts
      - Sued by Movie companies because movies (and other shows) were being taped by purchasers of the VCRs.
      - 75%: Time-shifting
      - 96%: Caught a show I would've missed.
      - 70% of total programs only watched once.
    - Factor 1: Purpose and character of the use (by D)
      - Commercial or nonprofit?
      - Educational?
      - Transformative
    - Factor 2: Nature of the copyrighted work.
      - "Core" of copyright protection
        - Creative
        - Factual
      - Unpublished
    - Factor 3: Amt and Substantiality of the portion used in relation to the copyrighted work as a whole.
    - Factor 4: Effect of the use on the potential market for or value of the Copyrighted Work.
  - Parody