

Class 10: Initial Ownership / Work For Hire

Administrative

Next Time: 271-91; sections 101; 201(c); 202.

Reminder about RIAA debate

No class on Tuesday, 3/4  
 Debate is NOW rescheduled (final time, I hope) for Wednesday, 4/9, 5:30 - 7 pm  
 If you know you can't make it, you need to go to the Silicon Flatirons conference on IP and Entrepreneurship on 3/4.  
 If you can't make that, talk to me in advance about a make-up assignment.

Must attend 2 of 4 parts  
 3pm - 6:30pm

News

- Hollywood Writer's Strike Ends
- Rowling v. RDR Books
- Spongebob and Classic Movies
- Rewind Kindly

Basics

Constitution: "Authors"

Section 201

- Sole authors
- Works for Hire vs. Commissioned Works
- Joint Works
- Collective Works

Default Rule (From CCNV): "the author is the party who actually creates the work . . . the party who translates an idea into a fixed, tangible expression."  
 Later



Work for Hire / Commissioned Works

CCNV v. Reid

Basic Facts

In support of CCNV

- Mitch Snyder (member and trustee of CCNV) and others conceived of idea.
- CCNV Contributions During development of idea

- Two adults, one infant. (Black, Life-sized)
- Pedestal
- Grate
- Real "steam"
- Suggested reclining poses.
- Many visits to check on his progress.
- Built the pedestal and base.
- Rejected shopping bags, suitcases in lieu of cart.

In support of Reid

- Selected material to use (given funding constraints)
- Several sketches made.
- Sculptor: Skilled occupation.
- Own tools
- Distant from CCNV (Baltimore)
- Less than two months
- Absolute freedom as to schedule
- Discretion as to assistants.
- No taxes, benefits, etc.

Oddity in the case

Who "owns" the physical sculpture?  
 So Reid couldn't prevent the traveling show, anyway!

Held Reasoning

Aren't these rights always assigned away.  
 Stakes: Why does initial ownership even matter?

Other Concepts

- Policy Concerns
- Which Restatement of Agency factors seem most relevant? (note 5)
- Note 6: Within the scope of employment
- 101(2) Commissioned Works