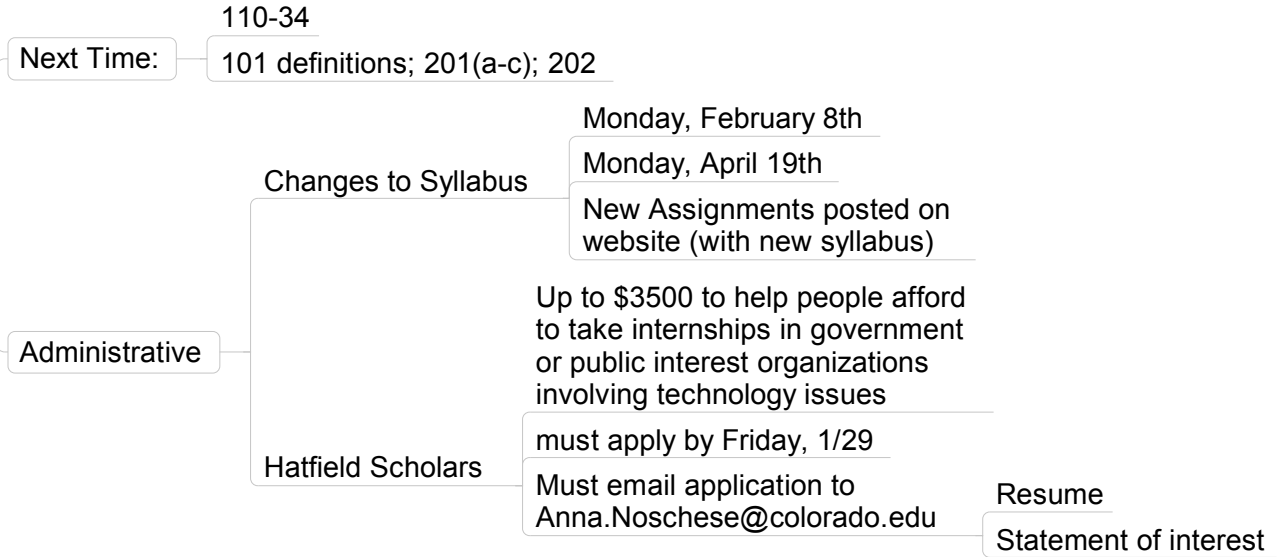


Class 4: Derivative Works and Compilations

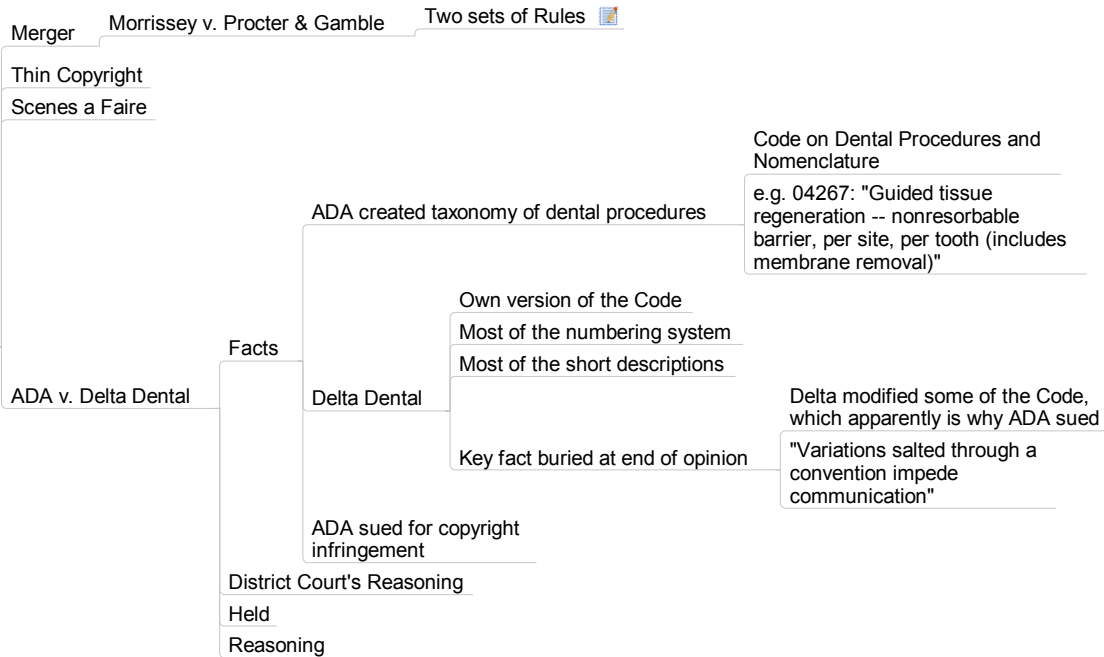
Administrative



Class 4: Derivative Works and Compilations

Last Time

Merger, Thin Copyrights, Scenes a Faire



Class 4: Derivative Works and Compilations

Derivative Works

Basics

DW for Plaintiffs versus DW for Defendants

Definition of Derivative Work [U](#) Page 91

Section 103 [U](#) Pages 90-91

Recall what I said in last two classes about fixation and idea/expression

May focus on P's acts

102(a): Is this fixed in a tangible medium to get a Copr?

102(b): Do I have protectible expression here, or is this just unprotectible idea?

May focus on D's acts

106: Did he make a copy (did he fix in a tangible medium)?

106: Did what he take amount to P's idea or expression?

This gets especially confusing with DW

Earlier work...

Is P's work a valid DW copyrighted work under 103(a)?

Did D violate P's 106 right to make DWs?

Class 4: Derivative Works and Compilations

Derivative Works

Originality Requirement for DWs

Batlin v. Snyder

Facts

Reproductions of Uncle Sam mechanical banks for Bicentennial

Snyder makes plastic version based on cast-iron original. Some differences

- Two inches shorter
- Different base
- Carpetbag
 - Different shape
 - Different texture
- Eagle clutching arrows versus leaves
- Umbrella in single molded piece
- Rollover on coolcopyright.com
- "Many of these differences are not perceptible to the casual observer"

Held

Snyder registers copyright

Batlin (competitor) tries to import own version of banks into US

Blocked by Customs Service

Batlin brings action for DJ of noninfringement

District Court: PI

Reasoning

Distinguishing Winner

Reproductions of Rodin's Hands of God



Class 4: Derivative Works and Compilations

Derivative Works

Originality Requirement for DWs

E.R.G. vs. Genesis Creative Group

Facts

P manufactured 3-D inflatable costumes of 2D copyrighted characters

FN 1: With license from Copr. holders

Some differences

District court: All differences primarily driven by functional consideration: fit human body

P sued another creator of 3D costumes as well as common distributor

- A Cartoonist
- B **ERG**
- C DEF: Genesis and Aerostar

Held

Reasoning

Pickett v. Prince

Facts

Held

Reasoning

Photos?