

Class 14: The Right To Reproduce



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Prong 1: Copying

Arnstein v. Porter

Basic Facts

Aside: great archive of music clips from famous copyright cases at <http://ccnmtl.columbia.edu/projects/law/library/song.html>

This case: http://ccnmtl.columbia.edu/projects/law/library/cases/case_arnsteinporter.html

- 1 Million Copies of A Mother's Prayer had been sold.
- 2000 copies of "The Lord is My Shepherd."
- 1 song not published, but played on radio.

Stooges hired by Defendant.

"I don't know that he had to do with it, but I only know that he could have."

A copy of a song had been stolen from his room, maybe by the stooges.

Evidence of "Access"

Lower Court
2d Cir. 1946

Proof of copying -- "probative similarity" +

Role of Experts

Subconscious copying +

Planted errors as proof of copying

Prong 2: Misappropriation

Basic Idea

Once we've established copying, we must judge whether what was taken is protected by copyright.

Puts into play the idea/expression analysis from two classes ago.

Nichols v. Universal Pictures Corp. +

More on the Levels of Abstraction +

How to apply the test? +

Steinberg v. Columbia Pictures +

Special rules for music (500)