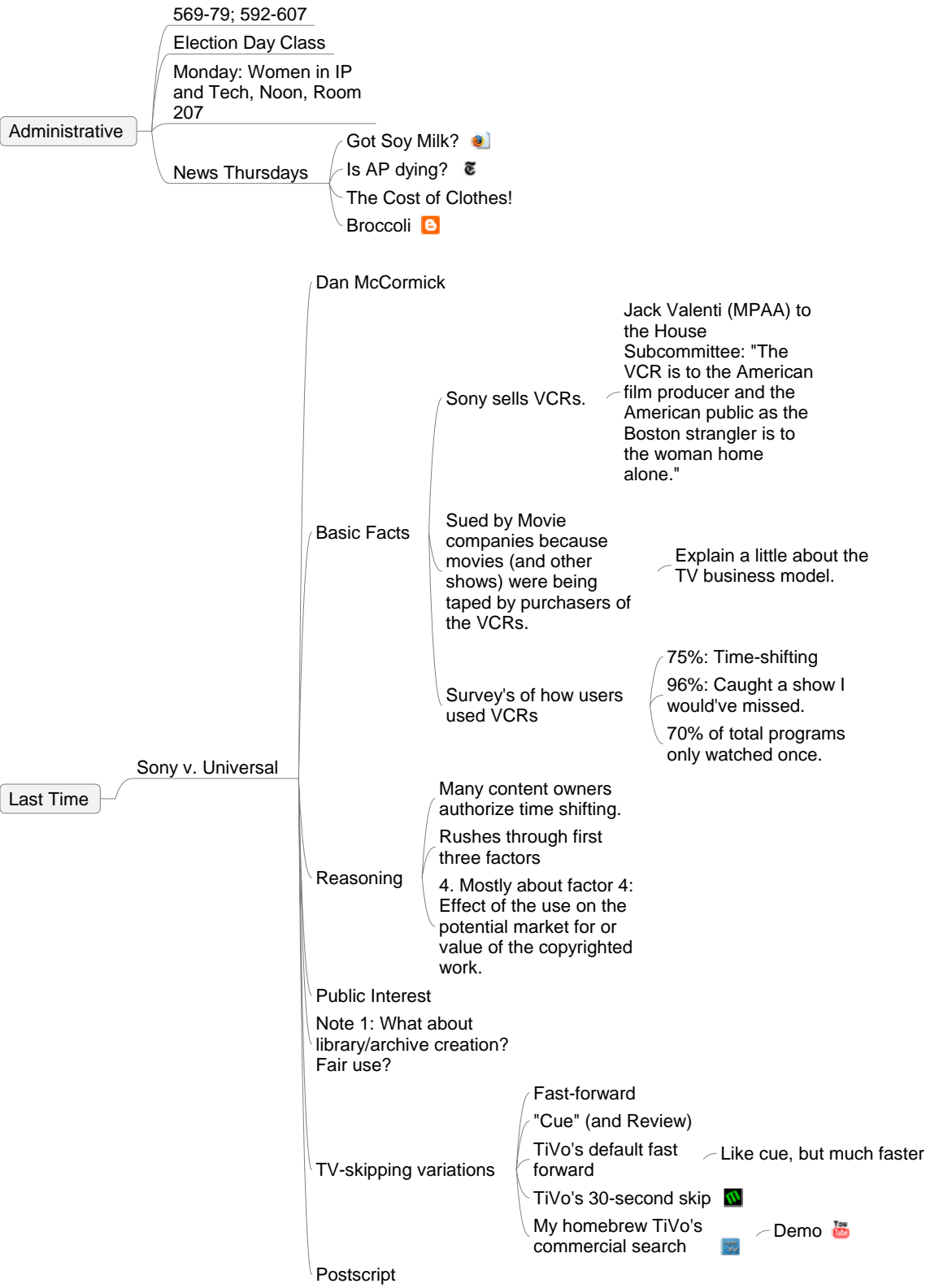


Class 17: Fair Use (Part 2)



Class 17: Fair Use (Part 2)

Policy

Why do we have fair use?
Why not for Patent?

Photocopying

American Geophysical v. Texaco

Basic Facts

83 Publishers of scientific journals sue Texaco for copyright infringement of articles by photocopying.

Texaco's 400-500 scientists

Odd Procedural approach: Pick one lucky scientist at random (Chickering) and dig through his files.

Texaco pays double the ordinary subscription rate as an institutional subscriber

Texaco routes journals to scientists with an interest.

Chickering photocopied eight files on own or with other employees' assistance.

Facilitate current or future professional research.
No immediate use -- placed in his files.

Held

Reasoning

1. Purpose and character of use.
2. Nature of Copyrighted Work
3. Amount and Substantiality of Portion Used
4. Effect upon potential market or value.

Other questions

- Note 2: Photocopies
- Note 2: Research
- Note 4: Profound effect on market. In less than a decade, CCC well known and used.

Class 17: Fair Use (Part 2)

Parodies /
Transformative Uses

Campbell v. Acuff-Rose

Basic Facts

1964: Roy Orbison writes "Oh, Pretty Woman"

Assigned rights to Acuff-Rose

1989: 2 Live Crew write "Pretty Woman".

P uses word "parody" and D uses word "satire"

July 1989: Sought a license from Acuff-Rose

Acuff-Rose refused permission.

Released song anyway. Large success.

Held (Supreme Ct. 1994)

Importance of Transformative Works

Parody

Test for whether something is a parody

Reasoning

1. Character and Purpose of Use

2. Nature of the copyrighted work

3. Amount and Substantiality of the Portion Used

4. Effect of the use on the market