



## Copyright, Fair Use, and the DMCA

COMP 96 Lecture 13 part 1  
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## A Brief History of Copyright

- 16<sup>th</sup> Century England: How do you censor a printing press?
  - Queen Mary Tudor granted a monopoly to the Stationer's Guild
  - Only books approved by the Crown could be printed
- No one else could print: Stationer's Guild controlled presses.

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## A Brief History of Copyright

- Britain, 1710: Statute of Anne
  - First protection for *consumers*
  - Created *limited term* monopoly
  - Limited copyright holder's rights to *print, publish, and sell*
  - Created *public domain* for expired copyrights

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## A Brief History of Copyright

- 1790: US Constitution
  - The Congress shall have power . . . to promote the progress of science and useful arts . . . by securing for limited times to authors and inventors the exclusive rights to their respective writings and discoveries."
- Copyrights granted for a 14-year term, renewable *once*
  - After that, work is in the public domain
- Work must be *fixed in a tangible medium*
  - Can copyright the sheet music to Beethoven's 5<sup>th</sup> but not the symphony itself

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## A Brief History of Copyright

- 1841: *Folsom v. March* introduces fair use doctrine
  - Author writing a fictionalized biography of George Washington used some of his letters.
  - Owner of letters *hadn't given permission*.
  - Court found that in some cases (4-part test) you don't need the owner's permission to use a copyrighted work.

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## Aside: Fair Use 4-Part Test

- Purpose and character of use
  - Educational? Noncommercial?
- Nature of copyrighted work
  - Some things deserve less protection
- Amount of work being used
  - No more than necessary
- Effect of use on potential market

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## A Brief History of Copyright

- 1908: Berne Convention
  - Common European copyright law
    - » US joined in 1988
  - Term of copyright: author's life plus 50 years
- 1909: US Copyright Act revised
  - Extend term of copyright to 28 years, renewable for another 28
  - Broadened copyrightable materials

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## A Brief History of Copyright

- 1976: US Copyright Act revised again
  - Fair use doctrine formally written into law
  - First sale doctrine codified
  - Copyright extended to *unpublished* works
- 1992: Copyright term extended 20 years

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## A Brief History of Copyright

- 1998: Congress acts to protect copyrighted works in response to the “threat” of the Internet.
  - Previously, copies were either degraded or required significant effort
  - Now, you can make many perfect copies with negligible effort – just copy a file!
- Result: the Digital Millennium Copyright Act (DMCA)

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## The DMCA Explained

- Prohibits circumventing methods of *access control*
  - Publisher can control when, how, and where I *view* or *use* his work
  - This is new! Copyright didn't do this before.
- Prohibits trafficking in “circumvention devices”
  - What's a circumvention device? What's trafficking?
- Requires ISPs to remove infringing material on receipt of notice from copyright holder
  - What if the infringement is unclear?

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## Stay tuned...

Monday we'll discuss DeCSS, SDMI, and *Felton v. Ashcroft* to see where this is going.

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