



Copyright, Fair Use, and the DMCA

COMP 96 Lecture 13 part 1
July 27, 2001

Andy Wilson - 72001 - Slide 1



A Brief History of Copyright

- 16th 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.

Andy Wilson - 72001 - Slide 2



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

Andy Wilson - 72001 - Slide 3



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 5th but not the symphony itself

Andy Wilson - 72001 - Slide 4



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.

Andy Wilson - 72001 - Slide 5



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

Andy Wilson - 72001 - Slide 6



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

Andy Wilson - 72001 - Slide 7



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 - Copyright extended to *unpublished* works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

Andy Wilson - 72001 - Slide 8



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 Millenium Copyright Act (DMCA)

Andy Wilson - 72001 - Slide 9



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?

Andy Wilson - 72001 - Slide 10



Stay tuned...

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

Andy Wilson - 72001 - Slide 11