

**UNIVERSITY OF BALTIMORE SCHOOL OF LAW**  
**SPRING 2020**

**Course:** Copyright and the Arts  
LAW 713  
Section 511

**Assignment for First Class:**

Wednesday, January 15, 2020

- ALFRED C. YEN & JOSEPH P. LIU, COPYRIGHT LAW: ESSENTIAL CASES AND MATERIALS 1-13 (3D ED. 2016)
- Read syllabus carefully<sup>1</sup>
- Enroll in the TWEN site

**Instructor:** Professor William Hubbard  
LC 508  
[whubbard@ubalt.edu](mailto:whubbard@ubalt.edu)

OFFICE HOURS: Tuesday from 1:00 p.m. to 3:00 p.m. or by appointment (Or just stop by. Unless I'm under the gun with some other commitment, I will be happy to talk with you.)

**Days/Time:** Wednesday and Friday from 1:30 p.m. to 2:45 p.m.

**Location:** Room assignments are available through MyUB. (The administration asks professors not to list room numbers in syllabi. I think they want to keep their options open.)

**Course Description:**

CATALOG DESCRIPTION: The study of the extent of authors', composers', and artists' rights to prevent the exploitation of their works by others (primarily copyright but also express and implied contract and the doctrine of "moral rights") and the extent of individuals' rights not to be personally exploited or maligned in others' writings (invasion of privacy, defamation, and the right of publicity).

**Course Materials:**

ALFRED C. YEN & JOSEPH P. LIU, COPYRIGHT LAW: ESSENTIAL CASES AND MATERIALS (3D ED. 2016)

**Student Learning Outcomes:**

By the end of this course, the successful student will be able to:

1. Identify claims and defenses arising under copyright law in factual scenarios,
2. State the legal elements of these claims and defenses,
3. Cite authority in support of statements of copyright law,
4. Construct arguments using the facts to demonstrate that the elements of claims and defenses are satisfied,
5. Construct arguments regarding interpretations of law based on other legal sources, theory, and policy,
6. Assess the strengths of the claims and defenses,
7. In light of this analysis, recommend litigation strategies including potential approaches to forum selection, discovery, and settlement.

**Grades:**

Your grade will be based on the following two components.

- Quizzes (35%): Each week, there will be a graded on-line quiz that you must take before 11:59 p.m. on the next Sunday after class. Questions will be multiple choice and will test your comprehension of basic features of patent law.

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<sup>1</sup> The irony of putting this in the syllabus is not lost on me, but the Administration requests that I put my first assignments in my syllabus.

- Final Exam (65%): There will be an open book, take home final exam.
- Class participation: I may adjust your grade one grade step to reflect outstanding contribution to the class or egregious lack of contribution, e.g., raising a grade from a B+ to an A- for great participation, lowering a grade from an A- to a B+ for poor participation.

### **Course Expectations:**

American Bar Association Standards for Law Schools establish guidelines for the amount of work students should expect to complete for each credit earned. Students should expect approximately one hour of classroom instruction and two hours of out-of-class work each week for each credit earned in a class, or an equivalent amount of work for other academic activities, such as simulations, externships, clinical supervision, co-curricular activities, and other academic work leading to the award of credit hours.

### **Additional Class Policies:**

- a. Class Participation:
  - i. I hope that you will all actively participate in class discussions and contribute your thoughts and ideas.
  - ii. I encourage you to volunteer in class, but I will also call on people at random if necessary to make sure that everyone gets a chance to contribute.
- b. Professionalism: I expect you to behave like graduate students, and I expect you to behave professionally. That means you should generally be prompt, prepared, and polite. I consider this part of your class participation, and failure to behave professionally may therefore affect your grade.
- c. Seating Chart
  - i. To help me learn your names, I will be using a seating chart.
  - ii. I will be passing around the seating chart on the ***first day of class***, so choose your first seat wisely. Don't sit next to your nemesis.
- d. Internet use:
  - i. I love the Internet truly, madly, deeply. I think it makes all of our lives better. If I could, I would hug the Internet. I would send the Internet a present every year on her birthday. I would give the Internet a pony.
  - ii. Unfortunately, in my experience Internet use during class does not help students learn. Almost always, a student who surfs learns less and participates less in class discussions. Online activities are also distracting to the people around you. Online social networking (e.g., a chat room) is even worse, as it adds peer pressure to online distractions.
  - iii. As a result, during our class we will take a break from the information superhighway.
  - iv. When you come to class, please turn off your Wi-Fi altogether. If you have trouble figuring out how to do this, you can ask me or call OTS (x6262).
- e. Email: If you email me from an email account other than your University of Baltimore account, the University's spam filter may prevent me from getting your email. To be on the safe side, always use your University of Baltimore email account to contact me.
- f. Recording classes: I allow audio/video taping allowed with permission. Please let me know if you would like to record class so that I can adjust the lighting, my makeup, etc.
- g. Facilitating learning: If anything happens in our class that makes you feel less inclined to participate or learn, ***please let me know***.

### **Attendance:**

Class attendance is a primary obligation of each student whose right to continued enrollment in the course and to take the examination is conditioned upon a record of attendance satisfactory to the professor. You are allowed 3 unexcused absences in this course. A student who exceeds the maximum allowed absences may be compelled to withdraw from the course, or may be barred from sitting for the final exam. Students who are forced to withdraw for exceeding the allowed absences may receive a grade of FA (failure due to excessive absence). Attendance will be taken each class. If you do not sign in, you will not be counted as present. If you have not signed in when the attendance sheet is collected, it may count as an absence. A student who is present but unprepared for class may be treated as absent.

**IMPORTANT NOTE:** Don't fool yourself. Missing class probably will lower your grade even in the absence of a formal rule that reduces your grade. The more engaged you are in any class the more you will learn and the better you will perform.

**Course Website:**

This course has a TWEN page that links to this syllabus, announcements, the class assignments, and other class materials. You are responsible for self-enrolling in the TWEN page and for checking it regularly for course information.

**Computers:**

Students may use laptop computers for class related purposes.

**Class Cancellation:**

If the instructor must cancel a class, notices will be sent to students via email and posted on the classroom door. If there is inclement weather, students should visit the University of Baltimore web site or call the University's Snow Closing Line at (410) 837-4201. If the University is open, students should presume that classes are running on the normal schedule.

**Academic Integrity:**

Students are obligated to refrain from acts that they know or, under the circumstances, have reason to know will impair the academic integrity of the University and/or School of Law. Violations of academic integrity include, but are not limited to: cheating, plagiarism, misuse of materials, inappropriate communication about exams, use of unauthorized materials and technology, misrepresentation of any academic matter, including attendance, and impeding the Honor Code process. The School of Law Honor Code and information about the process is available at [http://law.ubalt.edu/academics/policiesandprocedures/honor\\_code/](http://law.ubalt.edu/academics/policiesandprocedures/honor_code/).

**Title IX Sexual Misconduct and Nondiscrimination Policy:**

The University of Baltimore's Sexual Misconduct and Nondiscrimination policy is compliant with Federal laws prohibiting discrimination. Title IX requires that faculty, student employees and staff members report to the university any known, learned or rumored incidents of sex discrimination, including sexual harassment, sexual misconduct, stalking on the basis of sex, dating/intimate partner violence or sexual exploitation and/or related experiences or incidents. Policies and procedures related to Title IX and UB's nondiscrimination policies can be found at: <http://www.ubalt.edu/titleix>.

**Disability Policy:**

If you are a student with a documented disability who requires an academic accommodation, please contact Leslie Metzger, Director of Student Services, at 410-837-5623 or [lmetzger@ubalt.edu](mailto:lmetzger@ubalt.edu).

## ASSIGNMENTS

Please read the material listed below for each class session carefully, and think about it before class. The expected schedule for reading may be adjusted depending on our pace.

| Date    | Topic                                   | Start | End | Date    |
|---------|---|-------|-----|---------|
| 1/15/20 | History and Policy Justifications       | 1     | 13  | 1/15/20 |
| 1/17/20 | Originality I                           | 14    | 25  | 1/17/20 |
| 1/17/20 | Originality II                          | 25    | 40  | 1/17/20 |
| 1/22/20 | Facts                                   | 40    | 59  | 1/22/20 |
| 1/24/20 | Ideas I                                 | 59    | 79  | 1/24/20 |
| 1/29/20 | Ideas II                                | 79    | 99  | 1/29/20 |
| 1/31/20 | Useful Article Doctrine                 | 99    | 114 | 1/31/20 |
| 1/31/20 | Fixation                                | 115   | 119 | 1/31/20 |
| 2/5/20  | Works made for hire                     | 120   | 149 | 2/5/20  |
| 2/7/20  | Joint Authorship                        | 149   | 157 | 2/7/20  |
| 2/7/20  | Joint Authorship                        | 161   | 169 | 2/7/20  |
| 2/7/20  | Assignment                              | 170   | 178 | 2/7/20  |
| 2/12/20 | Publication                             | 179   | 186 | 2/12/20 |
| 2/12/20 | Notice                                  | 187   | 188 | 2/12/20 |
| 2/12/20 | Deposit and Registration                | 189   | 190 | 2/12/20 |
| 2/12/20 | Duration                                | 190   | 206 | 2/12/20 |
| 2/12/20 | Renewal                                 | 206   | 207 | 2/12/20 |
| 2/14/20 | Basic Infringement                      | 228   | 232 | 2/14/20 |
| 2/14/20 | Copying                                 | 232   | 241 | 2/14/20 |
| 2/14/20 | Improper Appropriation                  | 241   | 253 | 2/14/20 |
| 2/19/20 | Ordinary Observer Test                  | 253   | 275 | 2/19/20 |
| 2/21/20 | copying and sound recordings            | 275   | 278 | 2/21/20 |
| 2/21/20 | <i>VGM Salsoul v. Madonna</i>           | TWEN  |     | 2/21/20 |
| 2/21/20 | Derivative Works                        | 278   | 288 | 2/21/20 |
| 2/21/20 | Public Display                          | 288   | 289 | 2/21/20 |
| 2/28/20 | Public Distribution and First Sale      | 290   | 290 | 2/28/20 |
| 2/28/20 | <i>Capitol Records v. Redigi</i>        | TWEN  |     | 2/28/20 |
| 2/28/20 | <i>Kirtsaeng v. Wiley</i>               | 295   | 307 | 2/28/20 |
| 3/4/20  | Public Performance                      | 308   | 321 | 3/4/20  |
| 3/4/20  | Compulsory Licensing                    | 322   | 323 | 3/4/20  |
| 3/6/20  | Digital Technology and Exclusive Rights | 323   | 353 | 3/6/20  |
| 3/11/20 | Fair Use I                              | 370   | 386 | 3/11/20 |
| 3/13/20 | Fair Use II                             | 386   | 412 | 3/13/20 |
| 3/18/20 | Fair Use III                            | 413   | 435 | 3/18/20 |
| 3/20/20 | Fair Use IV                             | 435   | 455 | 3/20/20 |
| 3/20/20 | First Amendment                         | 464   | 467 | 3/20/20 |
| 3/20/20 | Other Defenses                          | 469   | 471 | 3/20/20 |
| 3/25/20 | Vicarious Liability                     | 472   | 485 | 3/25/20 |
| 3/25/20 | Contributory Liability                  | 485   | 494 | 3/25/20 |
| 3/27/20 | Modern Tech and 3d Party Liability - I  | 494   | 521 | 3/27/20 |
| 4/8/20  | Modern Tech and 3d Party Liability - II | 521   | 534 | 4/8/20  |
| 4/10/20 | DMCA                                    | 535   | 552 | 4/10/20 |
| 4/15/20 | Anti-circumvention problems I           | 552   | 572 | 4/15/20 |
| 4/17/20 | Anti-circumvention problems II          | 572   | 591 | 4/17/20 |
| 4/22/20 | Injunctions                             | 592   | 603 | 4/22/20 |
| 4/22/20 | Preliminary Injunctions                 | 603   | 604 | 4/22/20 |
| 4/22/20 | Damages                                 | 605   | 618 | 4/22/20 |

