

Session 3: So You Think You're a Copyright Lawyer

CSUSA Annual Meeting
June 11, 2018, Toronto

Overview: A showdown of expertise at a meeting of experts. The first part of the session will be a computerized quiz format with 10 to 15 pre-determined teams. The questions will range in in-depth copyright topics, including issues and holdings in notable cases, copyright related international treaties and trade agreements, as well as significant debates within the field of copyright. These more contentious topics include the expansion of fair use and fair dealing, the making available right, and the concept of moral rights. After the initial round, there will be a final “showdown” of more complex questions with the three top teams to put their copyright expertise to the ultimate test!

1. Categories of Questions:

a. Major Copyright Cases: *The major cases involve issues of fair use/fair dealing, first sale doctrine, scope of copyright protection, and works for hire. These cases include United States and Canadian cases and the questions will require knowledge of the general facts, issues, and holdings of the cases.*

- i. Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994).
<https://www.copyright.gov/fair-use/summaries/campbell-acuff-1994.pdf>
- ii. Harper & Row Publishers, Inc. v. Nation Enters., 471 U.S. 539 (1985).
<https://www.copyright.gov/fair-use/summaries/harperrow-nationmagazine-1985.pdf>
- iii. Authors Guild v. Google, Inc., 804 F.3d 202 (2nd Cir. 2015).
<https://www.copyright.gov/fair-use/summaries/authorsguild-google-2dcir2015.pdf>
- iv. Cambridge Univ. Press v. Patton, 769 F.3d 1232 (11th Cir. 2015).
<https://www.copyright.gov/fair-use/summaries/cambridgeuniv-patton-11thcir2014.pdf>
- v. Sony Corp. of America v. Universal City Studios, Inc., 464 U.S. 417 (1984).
<https://www.copyright.gov/fair-use/summaries/sonycorp-universal-1984.pdf>
- vi. Authors Guild v. HathiTrust, 755 F.3d 87 (2nd Cir. 2014).
<https://www.copyright.gov/fair-use/summaries/authorsguild-hathitrust-2dcir2014.pdf>
- vii. Oracle America, Inc. v. Google, Inc., 750 F.3d 1339 (Fed. Cir. 2014).
<https://www.copyright.gov/fair-use/summaries/oracle-google-fedcir2014.pdf>
- viii. Salinger v. Colting, 607 F.3d 68 (2nd Cir. 2010).
<https://www.copyright.gov/fair-use/summaries/salinger-colting-2dcir2010.pdf>
- ix. Kirtsaeng v. John Wiley & Sons, Inc., 568 U.S. 519 (2013).
- x. Lenz v. Universal Music Corp., 815 F.3d 1145 (9th Cir. 2015).
- xi. Community for Creative Non-Violence v. Reid, 490 U.S. 730 (1989).
- xii. Feist Publications, Inc. v. Rural Telephone Service Co., Inc., 499 U.S. 340 (1991).
- xiii. Eldred v. Ashcroft, 537 U.S. 186 (2003).
- xiv. Metro-Goldwyn-Mayer Studios Inc. v Grokster, Ltd., 545 U.S. 913 (2005).
- xv. Golan v. Holder, 565 U.S. 302 (2012).

- xvi. American Broadcasting Co., Inc v. Aereo, Inc., 134 S.Ct. 2498 (2014).
- xvii. *The Canadian Copyright Licensing Agency v. York University*, 2017 FC 669 (July 12, 2017).
- xviii. CCH Canadian Ltd v Law Society of Upper Canada, [2004] 1 SCR 339.
- xix. Google Inc. v. Equustek Solutions Inc., 2017 SCC 34
- xx. Oracle America, Inc. v. Google LLC, 2017-1118 (Fed. Cir. Mar. 27, 2018).

b. Treaties: *These treaties are significant to the global copyright framework and help establish universal guidelines for copyright protection among the signed members. The questions will require knowledge of years of joining, members of the treaties, subject matter and treaty language.*

- i. Berne Convention (Article 6bis, Moral Rights)
http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=283698
- ii. Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994
https://www.wto.org/english/docs_e/legal_e/27-trips_03_e.htm
- iii. WIPO Internet Treaties (Making available right)
http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=295166
- iv. Universal Copyright Convention http://portal.unesco.org/en/ev.php-URL_ID=15381&URL_DO=DO_TOPIC&URL_SECTION=201.html
- v. Marrakesh Treaty
http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=301016

c. Statutory Language: *Questions will require specific knowledge of certain sections of the Copyright Acts in both Canada and the United States, including the following statutory provisions:*

- i. U.S. Copyright Act of 1976
 - 1. Section 106 – Exclusive Rights
 - 2. Section 107 – Fair Use
 - 3. Section 108 – Exceptions for libraries and archives
 - 4. Section 109 – First Sale
 - 5. Section 512– Limited Liability
- ii. Digital Millennium Copyright Act of 1998
 - 1. Section 512
 - 2. Section 1201
- iii. Copyright Act of Canada (Section 29 on purposes under fair dealing)