

COMPARATIVE DIGITAL COPYRIGHT LAW

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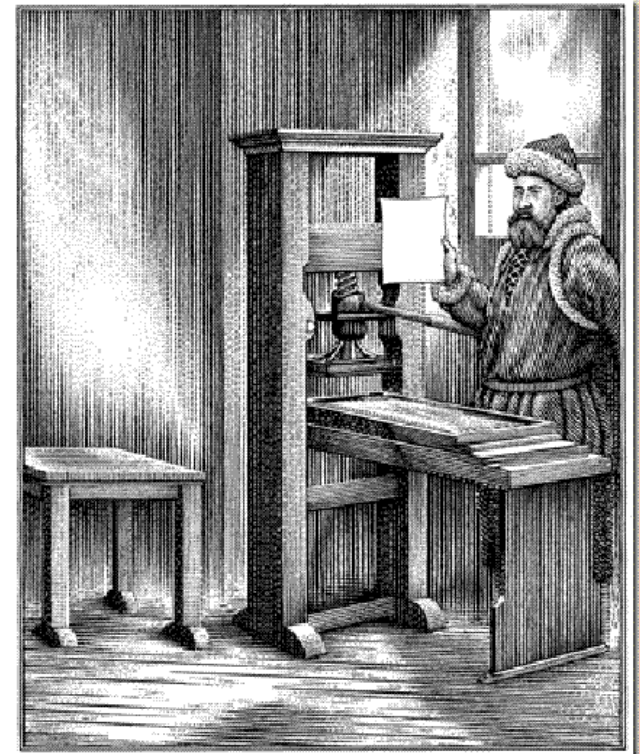
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COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

Four different phenomena had a crucial role in the appearance and development of copyright law:

(1) The **technology / printing press:**
Johannes Gutenberg (cca. 1439)

“The production of books spread like wildfire in Western Europe following the invention of the printing press in 1450. It is estimated that during the Incubala [which is the period of time from Guttenberg’s invention to 1500] alone, approximately 15,000 different texts were printed in 20 million copies, and in the 16th century 150,000-200,000 different books and book editions were printed, totaling more than 200 million copies.”
(Zack Kertcher & Ainat N. Margalit)



COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

(2) The **author**: individuality (humanism) and the renaissance



COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

(3a) The **market**: consumers' need for intellectual creations;



COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

(3b) **Turbulent years:** reformation, privileges and censorship;

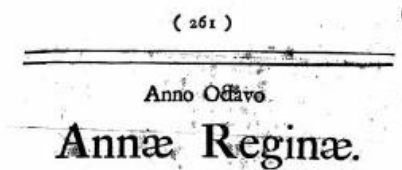
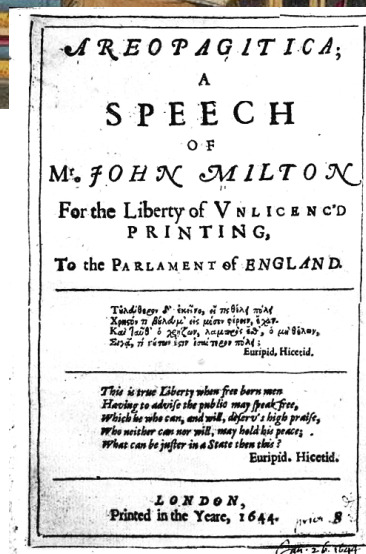


COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

(4) Legislative / political willingness to regulate copyright



HE FOUND THAT HIS ARMS AND LEGS WERE TIGHTLY FASTENED TO THE GROUND.



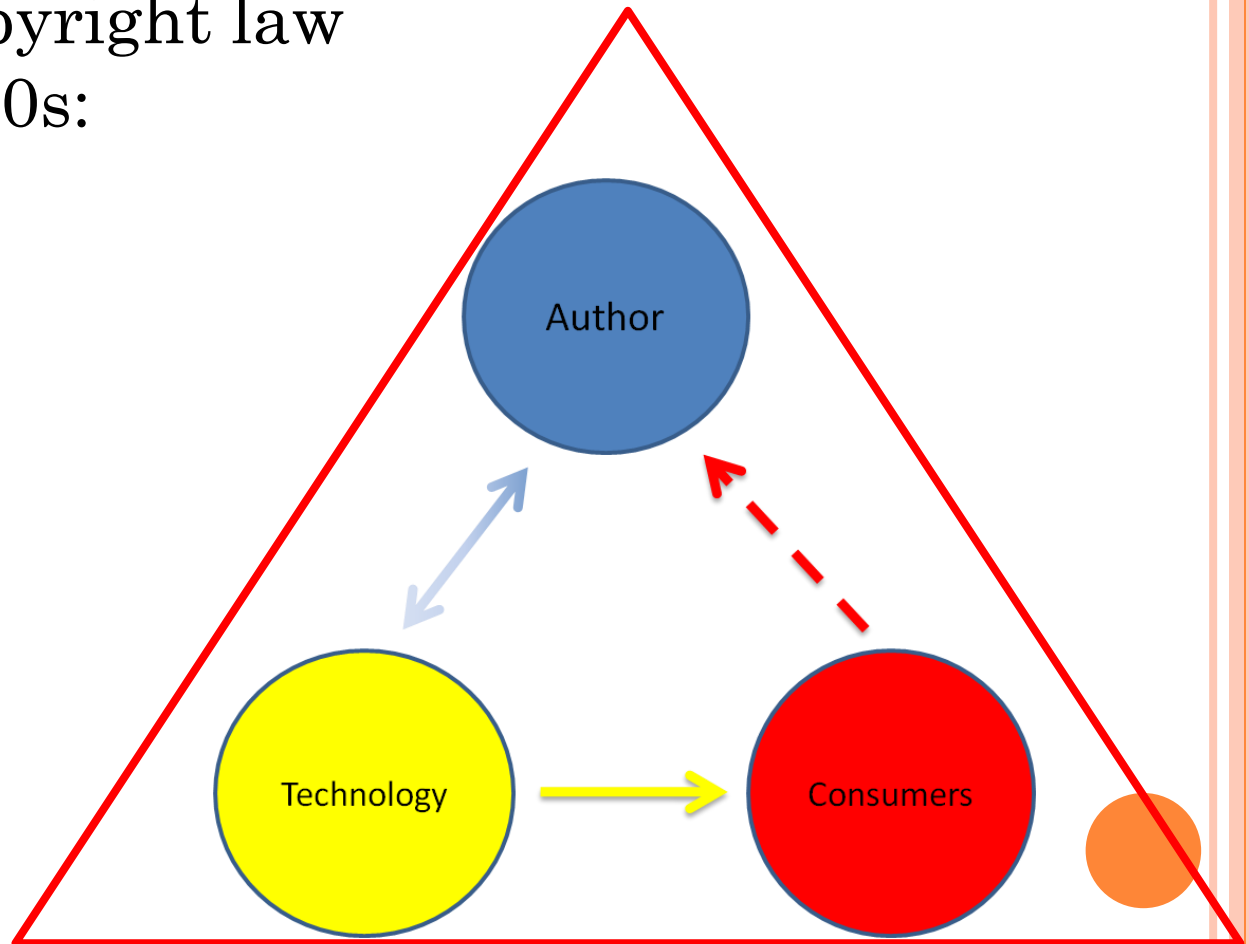
An Act for the Encouragement of Learning, by Vesting the Copies of Printed Books, in the Authors or Purchasers of such Copies, during the Times therein mentioned.

Whereas Printers, Bookellers, and other Persons have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the Encouragement of Learned Men to Compose and Write useful Books: May it please Your Majesty, that it may be Enacted, and be it Enacted by the Kings most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons in this present Parliament assembled, and by the Authority of the same, That from and after the Tenth Day of April, One thousand seven hundred and ten, the Author of any Book or Books already Printed, who hath not Transferred to any other the Copy or Copies of such Book or Books, or Part or Parts thereof, or the Bookeller or Book-sellers, Printers or Printers, or other Person or Persons, who hath or have Purchased or Acquired the Copy or Copies of any Book or Books, in order to Print or Reprint the same, shall have the sole Right and Liberty of Printing such Book and Books by the Term of One and twenty Years, to Commence from the said Tenth Day of April, and no longer: and that the Author of any Book or Books already Composed and not Printed and Published, or that shall hereafter be Composed, and by Whomsoever, or Whomsoever, shall have the sole Liberty of Printing and Reprinting such Book and Books by the Term of Fourteen

COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

Dynamics of copyright law
in the early 1700s:

- technology;
- author;
- market;
- legislative power.

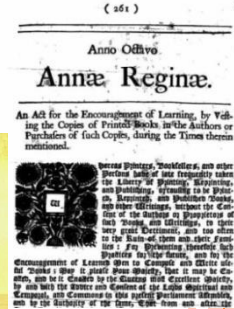


FROM NATIONAL TO INTERNATIONAL PROTECTION

(1) National protection of *domestic authors*.

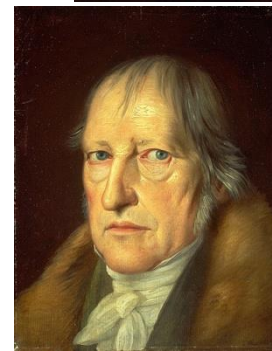
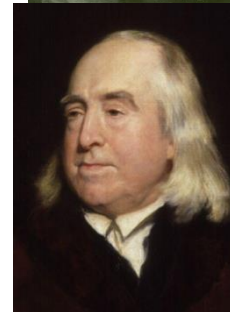
First copyright statutes:

- England (1709);
- United States (1791);
- France (1791/1793).



Copyright law concepts:

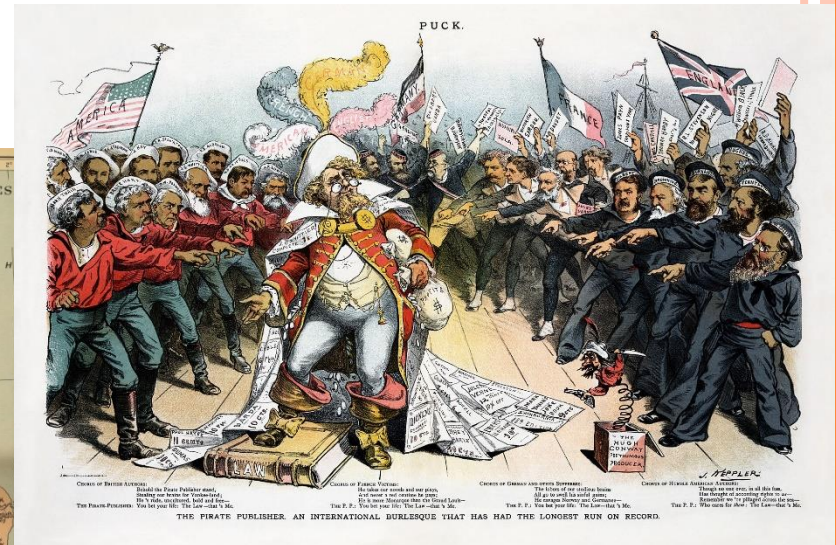
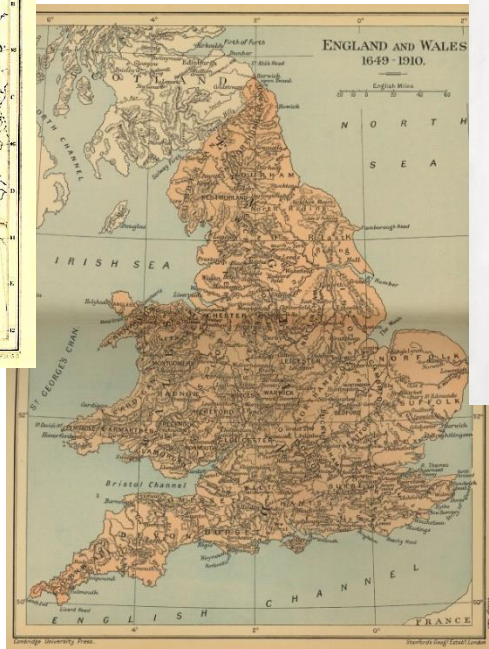
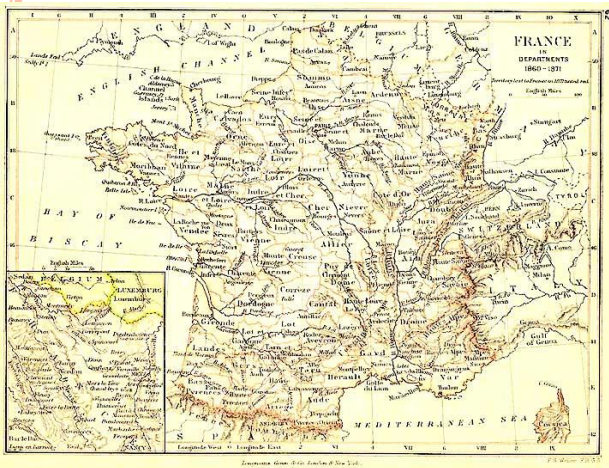
- utilitarian and labour theories (traditionally common law countries);
- personality theory / natural law model (traditionally Continental European countries).



FROM NATIONAL TO INTERNATIONAL PROTECTION

(2) Cross-border use of protected works:

- controversies between *French and Belgian publishers*;
- „battle of the book-sellers” between publishers in Scotland and London; and UK (incl. Canada) v. US.

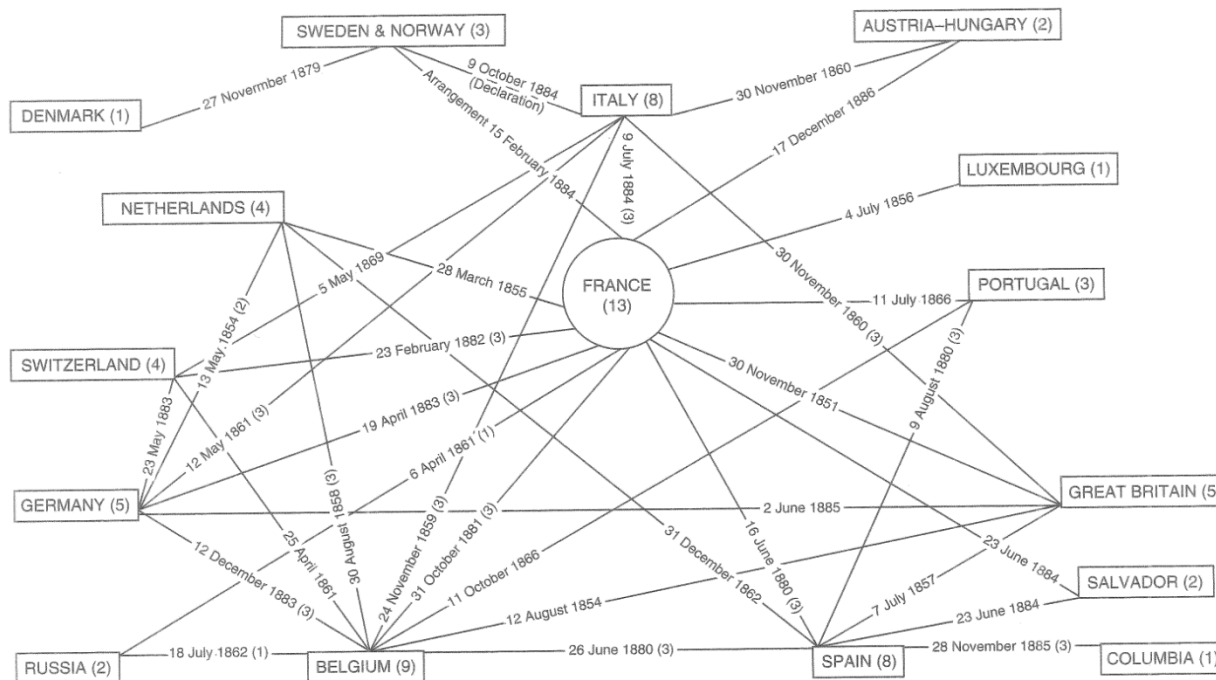


FROM NATIONAL TO INTERNATIONAL PROTECTION

(3) Bilateral agreements: *reciprocity principle*

BILATERAL CONVENTIONS IN FORCE IN 1886

(The numeral after each country is the total number of conventions to which that country is party.)



(1) Both denounced by Russia in 1885 to have effect from 14 July 1887 re France & 14 January 1887 re Belgium.

(2) Not ratified by Netherlands.

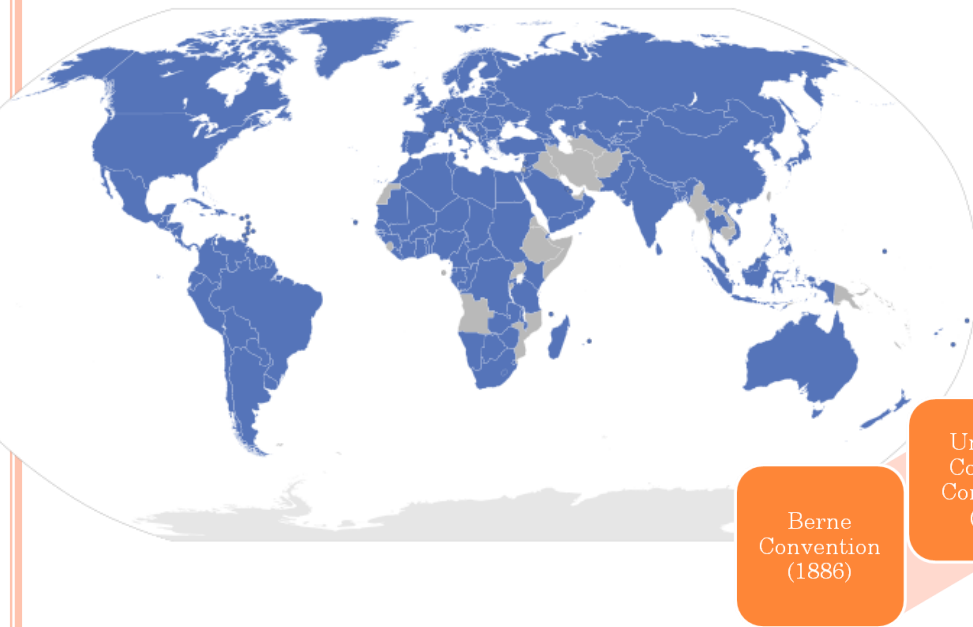
(3) Treaties with most favoured nation clauses.

Source: From Sam Ricketson and Jane C. Ginsburg, *International Copyright and Neighbouring Rights: The Berne Convention and Beyond* (Oxford 2006), page 40. By permission of Oxford University Press.

Figure 1.1 Summary of the bilateral conventions in force in 1886

FROM NATIONAL TO INTERNATIONAL PROTECTION

(4) Multilateral agreements: *national treatment*;
most favored nation treatment;



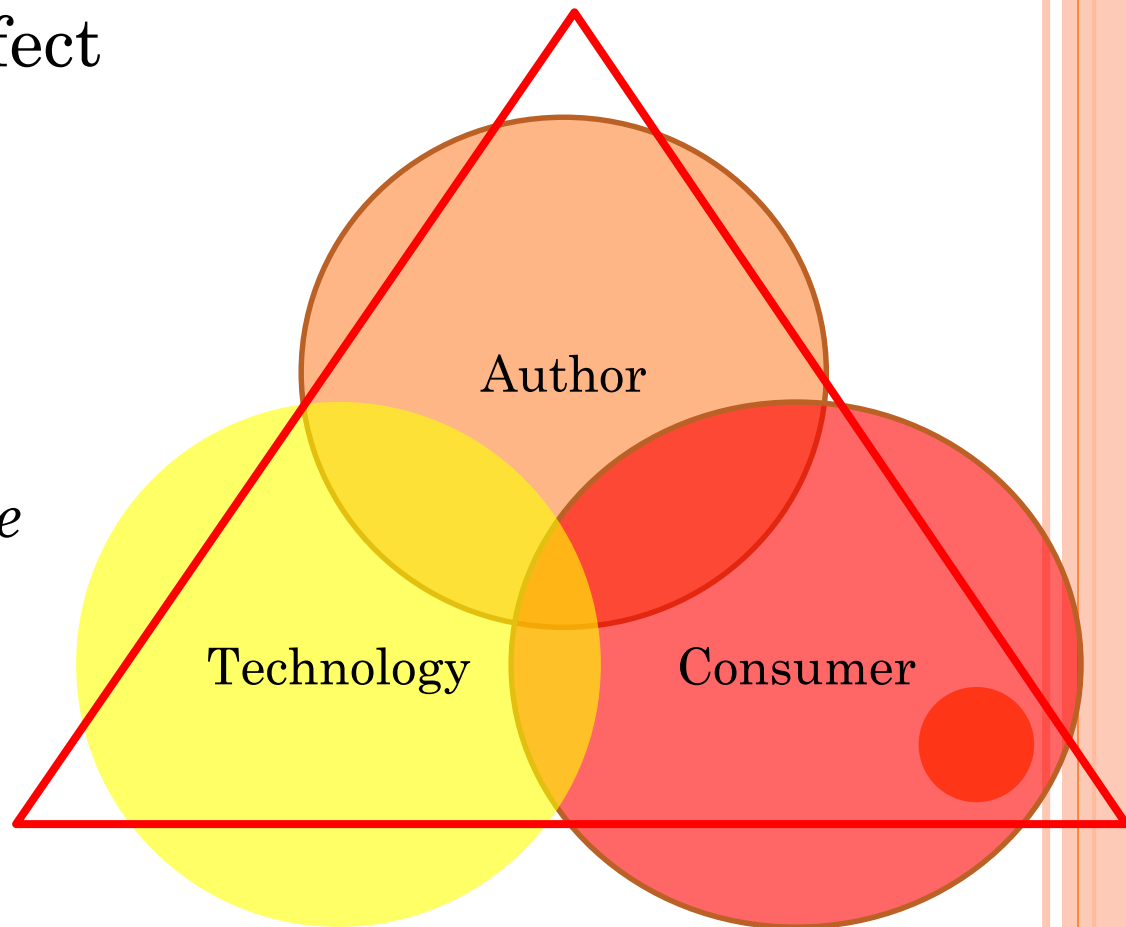
(5) Higher standard of protection: regional or free trade agreements.

BUT: copyright protection has remained territorial in nature, whilst internet works as a borderless phenomenon.

COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

Yoshiyuki Tamura: three waves of technologies have had a leading effect upon the evolution of copyright law:

- first wave: *printing technology*;
- second wave: *analogue reproduction technologies*;
- third wave: *digital recording equipments*.



COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

Technological development and growing users' demands + late, but powerful reaction from the copyright industry.
See: ***musical works***.

18th century: first copyright statutes (no protection for music);

19th century: growing interest to protect musical works;

19th-21st century: music

John Philip Sousa:

When I was a boy . . . in front of every house in the summer evenings you would find young people together singing the songs of the day or the old songs. Today you hear these infernal machines going night and day. We will not have a vocal cord left. The vocal cord will be eliminated by a process of evolution as was the tail of man when he came from the ape.

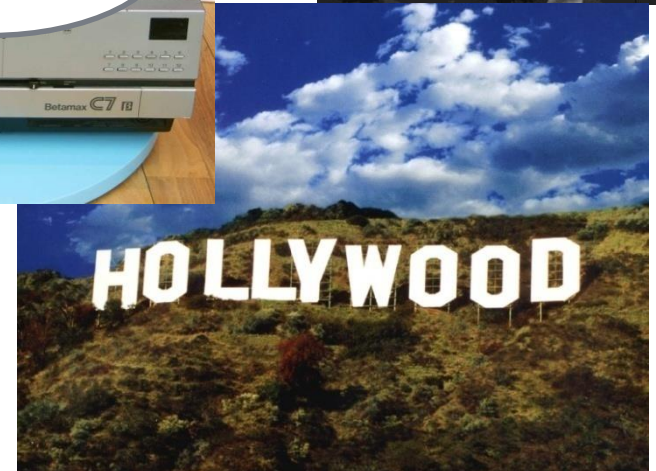
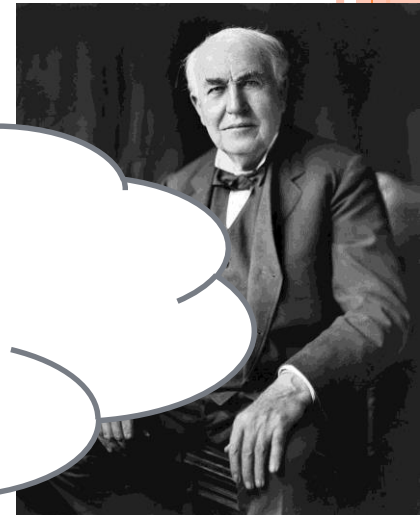


COPYRIGHT LAW AND TECHNOLOGY: HAND IN HAND

Technological development and growing users' demands + late, but powerful reaction from the copyright industry.
See: ***audiovisual works***.

Jack Valenti:

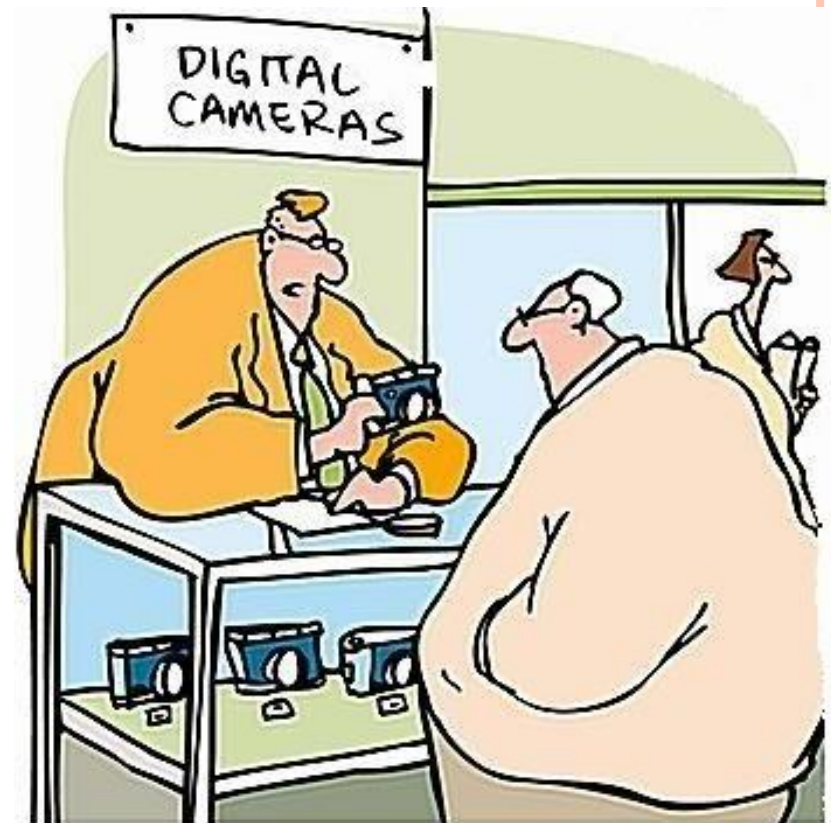
"I say to you that the VCR is to the American film producer and the American public as the Boston strangler is to the woman home alone."



COPYRIGHT LAW AND THE DIGITAL SOCIETY

The economical and social trends, including the human communication, methods of marketing, education and studying, went through a ***significant change*** in the past decades.

Digital technologies: an essential, leading role in this transition + an extraordinary ***influence on IP law*** as well.



"Enter the date and time and press OK.
Step 7, enter your credit card number..."

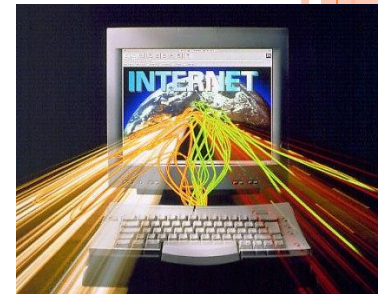
COPYRIGHT LAW AND THE DIGITAL SOCIETY

Traditional way of distribution: from the producer of a work through a long chain of intermediaries to the consumer.



Internet based distribution: from the producer of a content through a shorter chain of intermediaries.

Digital distribution of copyrighted materials did not result in significantly lower prices » streaming has become dominant! [» value gap?]



COPYRIGHT LAW AND THE DIGITAL SOCIETY

National Research Council (US):

Digital dilemma (2000): „perfect access
to works and perfect control of use.”

The circumvention of „digital
management” (**DRM**) / „technical
protection measures” (**TPM**),
infringement!

Charles Clark:
*The answer to the
machine is in the
machine.*

The balance of interests is upset!

Alternative models: Creative
Commons; GNU General Public
Licence.



COPYRIGHT LAW AND THE DIGITAL SOCIETY

The three generations of Internet

(1) *John Perry Barlow: A Declaration of the Independence of Cyberspace* (1996)

“Governments of the Industrial World, you weary giants of flesh and steel, I come from Cyberspace, the new home of Mind. On behalf of the future, I ask you of the past to leave us alone. You are not welcome among us. You have no sovereignty where we gather.(...)”

Your legal concepts of property, expression, identity, movement, and context do not apply to us. They are based on matter, There is no matter here.”



COPYRIGHT LAW AND THE DIGITAL SOCIETY

The three generations of Internet

(2) *Web 2.0* appeared around 2006 as a response to the centralization of the Internet by the content industry and as a consequence of the extremely rapid Internet penetration.

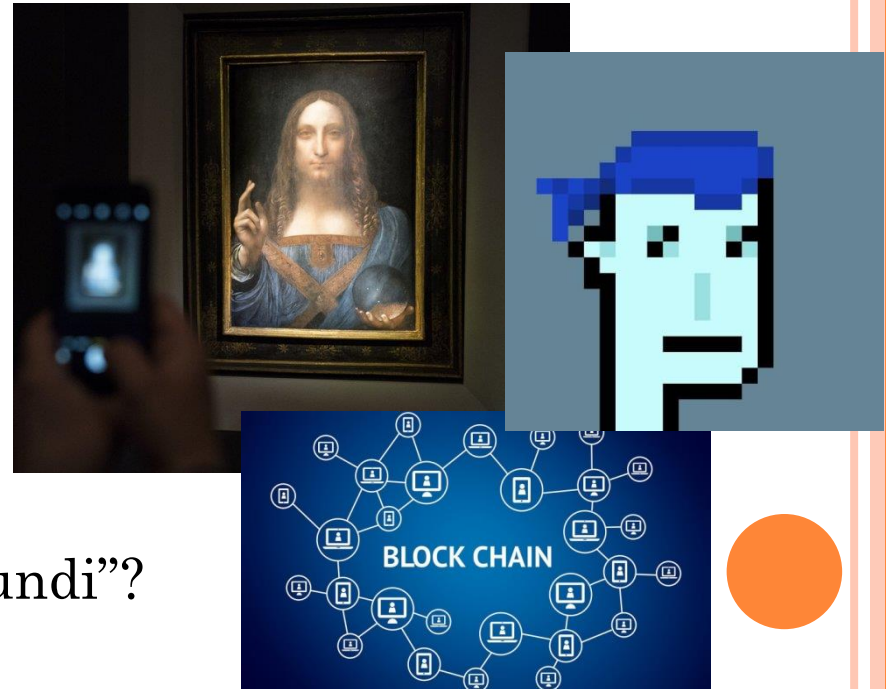
The paradox of web 2.0: services are offered to the users by for-profit organizations.



COPYRIGHT LAW AND THE DIGITAL SOCIETY

The three generations of Internet

(3) Democratization of web 2.0 has been ultimately overruled by the business purposes of the tech giants → *web3*

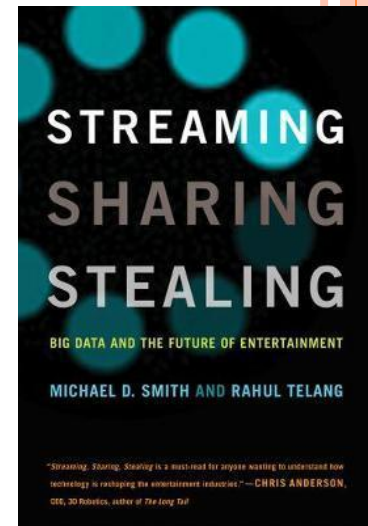
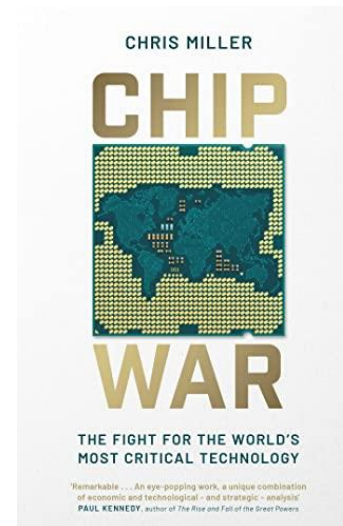
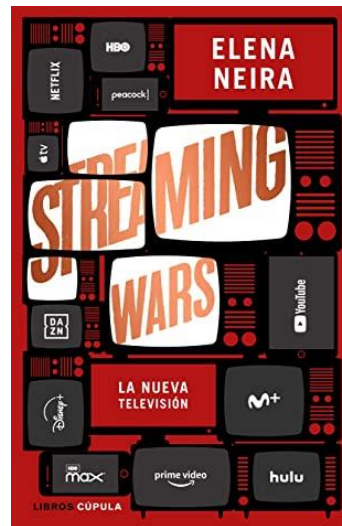
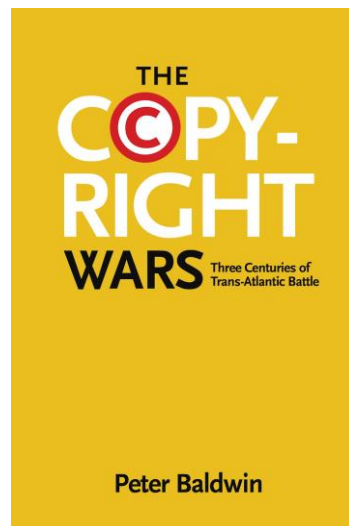
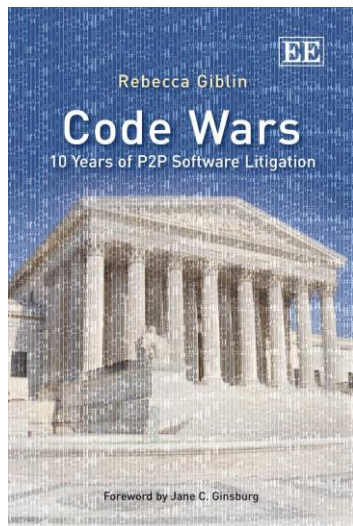


Is *blockchain* the new “Salvator Mundi”?

COPYRIGHT LAW AND THE DIGITAL SOCIETY

A **fair balance** of interests is needed! But where is that balance?

„*Copyright wars*” between rightholders, intermediaries and users.



COMPARATIVE COPYRIGHT LAW - BASICS

The Continental European “*droit d’auteur*” / “*Urheberrecht*” and the Anglo-Saxon “*copyright*” law regimes show major differences with regards to:

1. the basic *philosophy* of copyright protection;
2. the distinction between *economical and moral rights*;
3. the existence of *related rights* in the Civil Law countries;
4. the *limitations and exceptions* of the exclusive rights;
5. the *collective rights management*;

[6. the differences between the precedent law (“judge made law”) v. positivist traditions (“statute made law”).]





LIMITATIONS AND EXCEPTIONS UNDER THE US COPYRIGHT LAW

17 U.S.C §107: *fair use doctrine*

„Notwithstanding the provisions of sections 106 and 106A, the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include –

- (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
- (2) the nature of the copyrighted work;
- (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and
- (4) the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.”

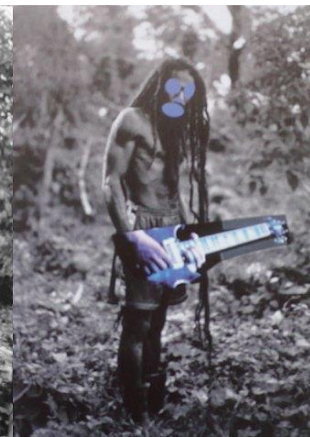
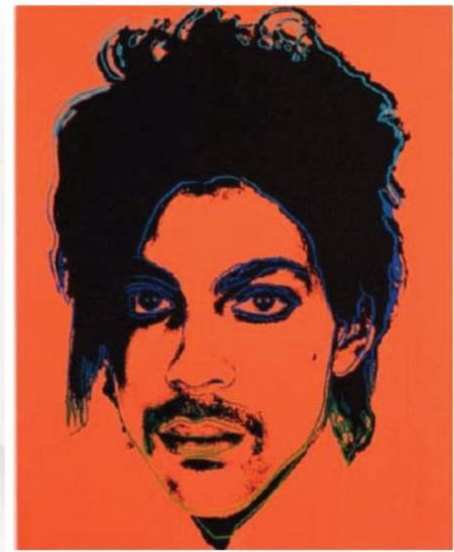


Defendant

Plaintiff

USCA §107

not presumptively
unfair, *Acuff-Rose*



*Warhol Foundation v.
Goldsmith*
598 U.S. ____ (2023)

Cariou v. Prince,
714 F.3d 694
(2013)

1. Purpose and Character of Use

A use is **transformative**, if a new work "adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message."

suicidegirls
10.5M followers

\$90,000
SOLD BY FAT CAT ARTISTS
AND MILLIONAIRE GALLERY OWNERS

20h

Based on people you follow
24991 likes

bigtime123 I like her tounge
kashimmi @kalyssoskitz basically she's obviously
my purrfect sister from another mister! @
richardprince1234 Private Lives, mind if I sneeze on
suicidegirls true art

size: 67x55
materials: ink jet on canvas
profits go to rich gallery
owner and millionaire "artist"

suicidegirls

\$90
SOLD BY SUICIDEGIRLS

20h

Based on people you follow
24991 likes

bigtime123 I like her tounge
kashimmi @kalyssoskitz basically she's obviously
my purrfect sister from another mister! @
richardprince1234 Private Lives, mind if I sneeze on
suicidegirls true art

size: 67x55
materials: ink jet on canvas
sold by the actual people who created
the image and profits go to charity

View More on Instagram

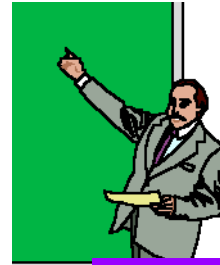
18,824 likes



Defendant

Plaintiff

USCA §107



not presumptively
unfair, *Acuff-Rose*



Commercial nature

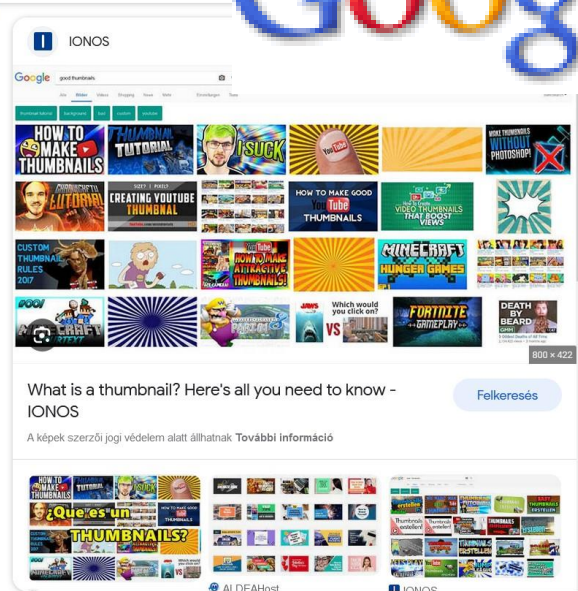
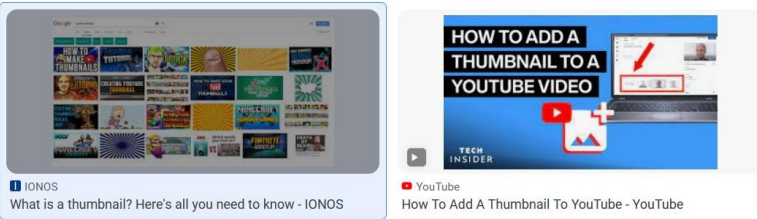
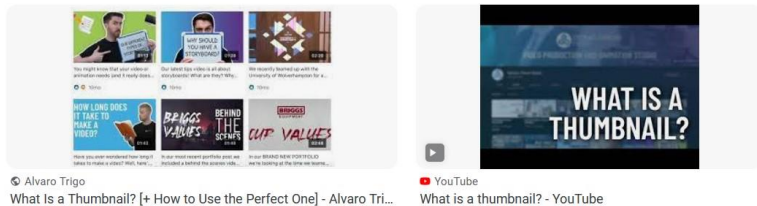
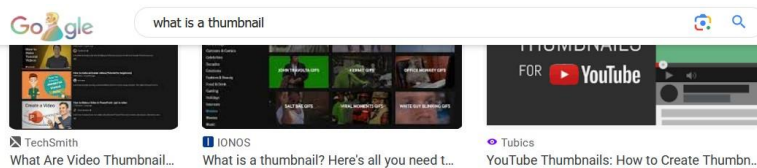
The *transformative* nature of
the use is the main question



1. Purpose and Character of Use

A use is *transformative*, if a new work "adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message."

Google books

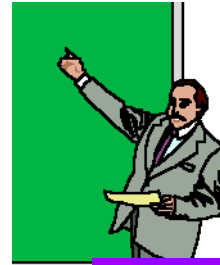




USCA §107

Defendant

Plaintiff



not presumptively
unfair, *Acuff-Rose*



1. Purpose and Character of Use

A use is **transformative**, if a new work "adds something new, with a further purpose or different character, altering the first with new expression, meaning, or message."



Commercial nature

The transformative nature of the use is the main question

2. Nature of Copyrighted Work

If the existing work is **factual** in nature, the more likely there will be a finding of fair use; the more **expressive** a work, the less likely there will be a finding of fair use.



Factual

Expressive



**Based on the idea –
expression dichotomy**

3. Amount and Substantiality of Copying

The more you borrow, **either in quantity or in quality**, the less likely that the court will find your use fair.

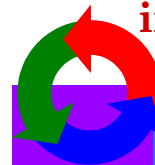
1%

100%

4. Effect on Potential Market for Copyrighted Work



**„Single most
important factor“**



Impact on the market of the original and its derivative works. **Decisive fact:** can the new work **substitute** the original on the market?



LIMITATIONS AND EXCEPTIONS UNDER THE US COPYRIGHT LAW

Matthew Sag [Predicting Fair Use, *Ohio State Law Journal*, 2012: p. 47-91.] – based upon the analysis of more than 280 fair use cases from the period of 1978-2011 – evidenced that:

- the average defendant win rate was 39.92%;
- the **most decisive factors in favor of finding a fair use** are (1) the creative/transformational use of the preexisting work, (2) partial copy of the original work and (3) the fact that the plaintiff is a natural person; ***these combined factors result in a 87% probability for the defendant to win the case.***
- the **most decisive factors against finding a fair use** are (1) the direct commercial use by the user and (2) the fact that the „underdog” defendant is represented by a less experienced attorney;
- decisions in post-1994 (Campbell v. Acuff-Rose) cases, in cases involving natural person defendants and „underdog” defendants represented by law firms evidence a slight support of fair use finding;
- commercial nature of the use, creative nature of the original work, and the industry relations of parties have a slight support against finding fair use;
- the unpublished nature of the work and the parties’ industry group do not have any effect on the outcome of the case.



L&ES IN THE EU

○ InfoSoc Directive [2001/29/EC]:

○ *Limitations & exceptions:*

- In respect of the right of **reproduction, communication to the public and making available to the public** [Art. 5(3)a-o)]:
 - illustration for teaching or scientific research;
 - uses for the benefit of people with disabilities;
 - reporting on current economic, political or religious topics;
 - quotations;
 - use for the purposes of public security, administrative, parliamentary or judicial procedures;
 - use of political speeches;
 - use during religious celebrations;
 - use of publicly erected works;
 - incidental inclusion of works in other materials;
 - use for the purpose of advertising the sale of artistic works;
 - caricature, parody, pastiche;





L&ES IN THE EU

○ InfoSoc Directive [2001/29/EC]:

○ *Limitations & exceptions:*

- In respect of the right of **reproduction, communication to the public and making available to the public** [Art. 5(3)a)-o)]:
 - use in connection with the demonstration or repair of equipment;
 - use of the artistic work in the form of a building for the purpose of reconstructing the building;
 - communication to the public of works by libraries for the purposes of private study or research;
 - „grandfather clause”: other uses of minor importance.
- „Where the Member States may provide for an exception or limitation to the right of reproduction pursuant to paragraphs 2 and 3, they may provide similarly for an exception or limitation to the right of **distribution** as referred to in Article 4 to the extent justified by the purpose of the authorised act of reproduction.” [Art. 5(4)].





L&ES IN THE EU

○ InfoSoc Directive [2001/29/EC]

- All L&Es are subject to the **three-step test**;
 - “The exceptions and limitations (...) shall only be applied in certain special cases which do not conflict with a normal exploitation of the work or other subject-matter and do not unreasonably prejudice the legitimate interests of the right holder.” [InfoSoc Directive, Art. 5(5)]
 - The provision of the InfoSoc Directive was based on the text of the pre-existing international documents:
 - Berne Union Convention, Art. 9(2);
 - TRIPS Agreement, Art. 13;
 - WIPO Copyright Treaty, Art. 10(1).





L&ES IN THE EU

○ InfoSoc Directive [2001/29/EC]:

- *The interpretation of the three-step test: ACI Adam v. Stichting de Thuiskopie [Case C-435/12]:*
 - „**Article 5(5)** of th[e InfoSoc] Directive does not therefore define the substantive content of the different exceptions and limitations, (...) but **takes effect only at the time when they are applied by the Member States**” (para. 25);
 - „to accept that such reproductions may be made from an unlawful source would encourage the circulation of counterfeited or pirated works, thus **inevitably reducing the volume of sales or of other lawful transactions** relating to the protected works, with the result that a **normal exploitation of those works would be adversely affected**. (...) the application of such national legislation may (...) **unreasonably prejudice copyright holders**. *Article 5(2)(b) of Directive 2001/29 must be interpreted as not covering the case of private copies made from an unlawful source.*” (para. 39-41)



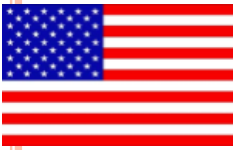


L&ES IN THE EU

○ InfoSoc Directive [2001/29/EC]:

- *The interpretation of the three-step test: Public Relations v. NLA [Case C-360/13]:*
 - 1st step: „since the on-screen copies and the cached copies are created only for the purpose of viewing websites, they constitute, on that basis, a ***special case***.” (para. 55)
 - 2nd step: „the viewing of websites by means of the technological process at issue ***represents a normal exploitation of the works*** which makes it possible for internet users to avail themselves of the communication to the public made by the publisher of the website concerned. Given that the creation of the copies in question forms part of such viewing, it cannot operate to the detriment of such an exploitation of the works.” (para. 61)
 - 3rd step: „although the copies make it possible, in principle, for internet users to access works displayed on websites without the authorisation of the copyright holders, the copies ***do not unreasonably prejudice the legitimate interests of those rights holders***.” (para. 56)





BOOK DIGITIZATION / CULTURAL PRESERVATION

2004: Google Print Library Project /
Google Books Library Project;



2005: *Class action* against Google in the US (by Authors Guild);

2008: *Google Books Settlement Agreement* (\$125 million) → Book Rights Registry / opt-out system;

2009: Agreement was amended (ASA) by the parties;

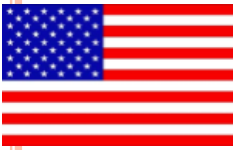
2011: Judge Chin rejected to accept the ASA, since he did not find it fair, reasonable and adequate.



Main copyright constraint: digitization took place without the consent of the authors/rightholders, and therefore it is generally an ***infringement of the right of reproduction*** → ***is there any affirmative defense? Fair use or not?***

Other problems with the project: antitrust dangers; privacy concerns; control over orphan works.





BOOK DIGITIZATION / CULTURAL PRESERVATION

The Authors Guild, Inc., et al. v. Google Inc.
[804 F.3d 202 (2nd Cir. 2015)]



1st factor

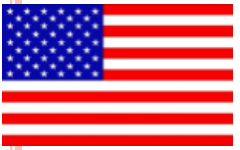
Google's division of the page into tiny snippets is designed to show the searcher just enough context surrounding the searched term to help her evaluate whether the book falls within the scope of her interest (...).

Snippet view thus adds importantly to the highly transformative purpose of identifying books of interest to the searcher”

+

„we see no reason in this case why Google's overall profit motivation should prevail as a reason for denying fair use over its highly convincing transformative purpose, together with the absence of significant substitutive competition, as reasons for granting fair use.”





BOOK DIGITIZATION / CULTURAL PRESERVATION

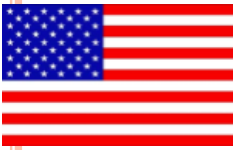
The Authors Guild, Inc., et al. v. Google Inc.
[804 F.3d 202 (2nd Cir. 2015)]



2nd factor

„While each of the three Plaintiffs' books in this case is factual, we do not consider that as a boost to Google's claim of fair use. ***If one (or all) of the plaintiff works were fiction, we do not think that would change in any way our appraisal.*** Nothing in this case influences us one way or the other with respect to the second factor considered in isolation. (...) [T]he second factor favors fair use not because Plaintiffs' works are factual, but ***because the secondary use transformatively provides valuable information about the original***, rather than replicating protected expression in a manner that provides a meaningful substitute for the original.”





BOOK DIGITIZATION / CULTURAL PRESERVATION

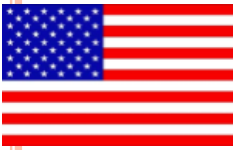
The Authors Guild, Inc., et al. v. Google Inc.
[804 F.3d 202 (2nd Cir. 2015)]



3rd factor

„While Google *makes* an unauthorized digital copy of the entire book, it does not reveal that digital copy to the public. (...) ***In no case were [the Plaintiffs] able to access as much as 16% of the text***, and the snippets collected were usually not sequential but scattered randomly throughout the book.”





BOOK DIGITIZATION / CULTURAL PRESERVATION

The Authors Guild, Inc., et al. v. Google Inc.
[804 F.3d 202 (2nd Cir. 2015)]



4th factor

„There must be a meaningful or significant effect ‘upon the potential market for or value of the copyrighted work’. (...) Even if the snippet reveals some authorial expression, because of the brevity of a single snippet and the cumbersome, disjointed, and incomplete nature of the aggregation of snippets made available through snippet view, we think it would be a rare case in which the searcher's interest *in the protected aspect of the author's work* would be satisfied by what is available from snippet view, and ***rarer still (...) that snippet view could provide a significant substitute for the purchase of the author's book.***”





BOOK DIGITIZATION / CULTURAL PRESERVATION

In order to give an opportunity to public or private organizations to preserve and distribute the collective memory in a „digital friendly” way, at least the following issues have to be discussed:

- (1) the **beneficiaries** of the exception or limitation;
- (2) the **types of works** that might be archived;
- (3) the **number of copies** allowed;
- (4) the possibility to „**format-shift**” the original work;
- (5) the **economical rights** involved.

Only libraries / archives benefit from the current *EU law*, however, they do not enjoy a blanket exception from the right economic rights. This tight exception cannot fulfill the needs of „*digital consumers*”.





BOOK DIGITIZATION / CULTURAL PRESERVATION

◦ InfoSoc Directive [2001/29/EC]:

- publicly accessible *libraries and archives* are allowed to *reproduce* copyrighted materials *if the use is not for direct or indirect economic or commercial advantage* [InfoSoc Directive, Art. 5(2)(c)];
- they are allowed to *make these copies available*, for the *purpose* of research or private study, to *individual members of the public* by *dedicated terminals on the premises of establishments* [InfoSoc Directive, Art. 5(3)(n)];
- all the national exceptions should be in accordance with the *three-step-test* covered by Art. 5(5) of the Directive [see further: InfoSoc Directive, Recital 40].





BOOK DIGITIZATION / CULTURAL PRESERVATION

Digital Single Market Strategy of the European Commission (December 9, 2015):

„Adapting exceptions to copyright rules to a digital and cross-border environment, focusing in particular on those exceptions and limitations which are key for the functioning of the digital single market and the pursuit of public policy objectives (such as those in the area of education, research - including text and data mining - and access to knowledge).”

Directive 2019/790 (EU): Copyright in the DSM, Art. 5:

- mandatory exception
- beneficiaries: cultural heritage institutions [compare to Art. 2(3)]
- sources: works and other subject-matter that are permanently in their collections (accessed via transfer of ownership of licence) (no general web-harvesting is allowed)
- purpose: preservation
- extent: necessary for preservation.

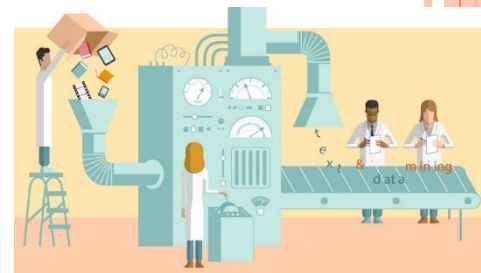




BOOK DIGITIZATION / CULTURAL PRESERVATION

○ Text- and data mining (TDM) for scientific research purposes (Art. 3)

- *Beneficiaries:* research organisations [§2(1): „university, including its libraries, a research institute or any other entity, the primary goal of which is to conduct scientific research or to carry out educational activities involving also the conduct of scientific research”] and cultural heritage institutions [§2(3): „publicly accessible library or museum, an archive or a film or audio heritage institution”];
- *Scope:* „any automated analytical technique aimed at analysing text and data in digital form in order to generate information which includes but is not limited to patterns, trends and correlations” [§2(2)];
- *Prerequisites:* reproduction/extraction; works or other subject matter; lawful access to the source content; natural and human sciences.
- *Storage of data:* „Copies of works or other subject matter (...) shall be stored with an appropriate level of security and may be retained for the purposes of scientific research, including for the verification of research results”. [§3(2)]





BOOK DIGITIZATION / CULTURAL PRESERVATION

○ General TDM (Art. 4)

- *Beneficiary*: everybody;
- Copies „*may be retained* for as long as is necessary for the purposes of” TDM [§4(2)];
- *Scope & prerequisites*: reproduce and extract for any (incl. commercial) purposes; lawful access to the source content; „the use [is allowed as long as it] (...) has not been expressly reserved by their rightholders in an appropriate manner” [§4(3)];
- + **AI Act**
 - Transparency requirements per §53(1)(a)-(b), except for FOSS based GPAI models;
 - Code of practice until a standard is published per §53(4).

Article 53

Obligations for providers of general-purpose AI models

1. Providers of general-purpose AI models shall:
 - (c) put in place a policy to comply with Union law on copyright and related rights, and in particular to identify and comply with, including through state-of-the-art technologies, a reservation of rights expressed pursuant to Article 4(3) of Directive (EU) 2019/790;
 - (d) draw up and make publicly available a sufficiently detailed summary about the content used for training of the general-purpose AI model, according to a template provided by the AI Office.



BOOK DIGITIZATION / CULTURAL PRESERVATION

Access to out-of-commerce (OOC) works: CDSM Art. 8-11:

- representative collective management organisations might conclude non-exclusive licences with cultural heritage institutions for the non-commercial reproduction, distribution, communication to the public or making available to the public of works and other subject-matter that are permanently in the collection of the beneficiaries;
- equal treatment for rightholders (even if not represented by the CMO); cross-border use of licensed subject matter;
- limitation or exception for the cultural heritage institutions for the making available to the public of the relevant subject matter for which no CMO manages the relevant right;
- opt-out regime;
- OOC = „when it can be presumed in good faith that the whole work or other subject matter is not available to the public through customary channels of commerce, after a reasonable effort has been made to determine whether it is available to the public”.

