

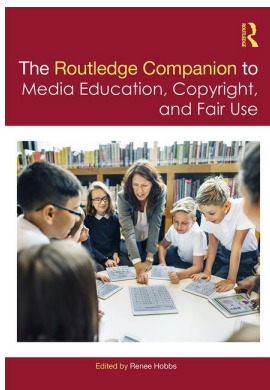
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## **The Routledge Companion to Media Education, Copyright, and Fair Use**

Renee Hobbs

### **Teaching Copyright and Legal Methods Outside the Law School**

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# TEACHING COPYRIGHT AND LEGAL METHODS OUTSIDE THE LAW SCHOOL

*Bill D. Herman*

Before the mass adoption of the Internet, few undergraduates learned much if anything about copyright. A professor teaching communication law might spend a week or two on intellectual property, including copyright but probably also subjects like trademark and the right of publicity. Library and information science programs have long taught copyright to master's students, but undergraduate degrees in the field were (and still are) rare.<sup>1</sup> Even in graduate schools of law or library and information science, courses generally covered copyright as a technical, isolated subject of interest to specialists. Few courses covered the political context or broader cultural impact of copyright.

Narrow interest on campus mirrored the broader world's unconcern. Congress passed bills extending copyright terms (Copyright Term Extension Act 1998) and creating whole new sets of rules for digital media (Digital Millennium Copyright Act 1998), and few even noticed. Yet the dawn of the new century saw an explosion of news coverage, academic writing, and activism around copyright (Vaidhyanathan 2004). Much of this work advanced the claim that old media interests had hijacked the copyright system to protect outdated business models at the expense of innovation in the digital era. These critics eventually mounted enough political power to put a halt to further expansions of copyright—a remarkable feat (Herman 2012, 2013b).

By 2008, when I joined the Department of Film and Media Studies at Hunter College, City University of New York (CUNY), I was part of a wave of copyright scholars who had either entered the academy or had already been there and found their way to the subject. I knew of courses taught by communication studies faculty who were trailblazers in this area—in particular, Kembrew McLeod and Siva Vaidhyanathan. Still, I was pleasantly surprised when the department encouraged me to create and teach my own version of a class focused on copyright. Thus, I created Media 365: Digital Copyright, teaching it most semesters from Fall 2009 to Spring 2015.

I looked forward to fusing legal principles and cultural interrogation with a new generation of learners. This kind of course fits into a niche that is increasingly important in communication departments of all kinds—one that connects law and policy, political process (and its failures), media business models, and the evolution of media technology.

As I developed and taught the course, though, I found myself focusing a great deal on legal process, the role of the courts in government, and the tools of the legal trade. I have long found the law to be fascinating, and its central role in society is hard to argue. Thus, I sought to infect my students with my enthusiasm for knowing the law, as well as giving them enough understanding of the system of laws, policies, and regulations that they would develop a better understanding of legal issues and systems much more broadly. This model is even portable to other areas of law—and therefore a potential curricular model that could be applied in many academic departments.

In this chapter, I explore some of the goals, contents, and strategies of teaching copyright, especially for undergraduates who are not in pre-law. Several other faculty, especially in communication and media studies, have also taught such a course. I thus sought out the syllabi and a selection of other teaching materials such as essay prompts. Of the faculty whom I could identify as having taught such a class, each generously agreed to share the latest syllabus. They are Peter Decherney (University of Pennsylvania, Departments of Cinema Studies and English), Tarleton Gillespie (Microsoft Research, New England; Cornell University, Departments of Communication and Information Science), Kembrew McLeod (University of Iowa, Department of Communication Studies), John Simson (American University, Department of Management), Aram Sinnreich (then at Rutgers University, School of Communication and Information; now at American University, School of Communication), Siva Vaidhyanathan (University of Virginia, Department of Media Studies), and Shawn VanCour (New York University, Department of Media, Culture, and Communication). Renee Hobbs (University of Rhode Island, Department of Communication Studies) also shared an example of a massive open online course (MOOC) she has co-taught with Kristin Hokanson. Casey Rae (SiriusXM; Georgetown University, Communication, Culture, and Technology program) was also good enough to share the syllabus from a graduate course that deals substantially but not so exclusively with copyright. Virginia Kuhn (University of Southern California, School of Cinematic Arts) also wrote back to confirm that copyright is a major part (about 30%, she estimates) of all of her courses but not any single course.

In this chapter, I attempt to provide reflective transparency about how and why I teach copyright outside the law school. While I know and speak the most about my own goals and strategies, I also discuss the other courses, especially other undergraduate courses in communication departments. My course is relatively unique in its special emphasis on legal methods; I warn students that, over the semester, I try to cram an abbreviated version of the first year of law school into the margins of the class. In part, this is a reflection of my interest in the law and legal methods. It is also, though, a reflection of the value of such legal education as part of the undergraduate experience. Additionally, faculty make curricular choices in light of the needs of the students they serve. My academic peers who are teaching copyright outside the law school teach student populations that are substantially different from Hunter's student body, which may contribute to the differences between my class and the other courses. I also have my own points of view about and areas of research into copyright; these also shaped my pedagogical choices. These add up to fairly different courses, with mine including a relatively larger emphasis on the fundamentals of legal methods and the law per se—and thereby less on the interdisciplinary questions raised by the copyright debate.

In the following pages, I begin by explaining the context in terms of the student population and available resources. Next, I discuss the course's target learning outcomes, and I identify the similarities and differences versus other instructors' goals. Then, I give an overview of the subjects covered in the course and the assigned readings. After that, I discuss the course's major writing assignment and the exams. I conclude with a brief argument that more schools should offer a course like this—whether a course on copyright specifically or a course that adopts this deep focus on legal methods but attached to another area of law.

### **Context: Student Population and Campus Resources**

My strategies for teaching the course reflect the context at Hunter, including a diverse student population and limited support resources for students. Understanding this context may prove helpful to other faculty who teach or hope to teach undergraduate versions of a similar course, though this section may prove somewhat less helpful to other readers—for instance, those who hope to create an online general education class.

As one of the selective four-year colleges in CUNY, Hunter features one of the most diverse—and dogged—student bodies in the country. “CUNY sees itself as one of the only affordable pathways to opportunity for the city’s underprivileged. Last fall, minority students made up around 75 percent of the student body. Over half were Pell Grant recipients, and about a third came from households making less than \$20,000” (Wexler 2016). Students are also especially likely to have immigrated to the United States—a quarter of incoming students were born abroad in 2014—or to be the children of immigrants. This comes with incredible linguistic diversity. In 2014, 33% of incoming freshmen had a native language other than English, and 67% spoke a language other than English at home (“Factbook 2014” n.d.: Table 10).<sup>2</sup> Among the entire student body in 2014, students spoke 107 languages and came from 155 different countries (“Factbook 2014” n.d.: Table 14).

The financial situation in many students’ households is a source of particular concern and distraction. At Hunter, 78% of students receive need-based financial aid (“CUNY—Hunter College: Best College” 2015). This share is substantially higher than that at all of the other campuses where the other courses discussed here have been taught: American (54%), Cornell (47%), Georgetown (38%), Iowa (46%), New York University (53%), Penn (48%), Rutgers (55%), Southern California (39%), and Virginia (33%) (“National University Rankings” n.d.). Many college students, even at private schools, work to help pay for their own education or living expenses. Informal observation suggests that not only do nearly all Hunter students work, many do so in order to make meaningful contributions to family budgets—with some even being the primary breadwinners.

I loved my time teaching Hunter students, perhaps especially because I was also a first-generation college student and Pell Grant recipient. They are extremely intelligent, have tremendous grit (Stoltz 2015), and are impressively self-directed. Most of the students continue to study and succeed despite one or more major obstacles that most college students at selective colleges do not face. When it comes time to do something as difficult as researching and writing about complex legal questions, however, most have not been ideally prepared. Many are also short on sleep and mental bandwidth as they struggle to stay afloat.

Hunter itself also faces a very challenging funding environment. Across the country, states have de-invested in higher education, contributing to inequality via the very institutions that are supposed to ameliorate it (Mettler 2014; Mortenson 2012). Not only is CUNY part of this trend, political support for the school is so thin in Albany, the state capitol, that Governor Andrew Cuomo’s latest budget initially proposed a \$485 million cut in state funding for the

school (Yee 2016). This was eventually defeated, but not having their budget slashed is a thin victory for a university system that is already struggling with subpar infrastructure, salaries (Skelding 2016), and student services.

The college also provides thin support for students seeking writing help. Students have received widely varying amounts of training in how to conduct high-level research and write a sophisticated research paper. They also have little time to get writing help outside the classroom. Yet those who pursue such help are regularly disappointed. The writing center is staffed by upper-class undergraduates, and yet it is still apparently understaffed; several of my students reported having trouble getting substantial help that is of the duration and regularity required to make real progress. This is not to impugn the tutors or the center but to identify that the school simply does not seem to have the capacity to give the quality or quantity of writing support that would be ideal for this specific student population. In sharp contrast, at Fordham, tutors are graduate students or degree-holding professionals (the latter having graduate degrees and/or substantial relevant experience), with a majority of those on the main campus being PhD students in the humanities (“Rose Hill Tutors” n.d.). Further, students can use up to 90 minutes of the service, per week, during the semester (“Writing Center: About Us” n.d.). Compared to Hunter, Fordham has much more help available, even as a much smaller share of the Fordham student body desperately needs it.

Thankfully for Hunter and its students, the deficit in resources is not nearly as true for research assistance. The library is reasonably well staffed, even compared to the library staff at some better funded schools.<sup>3</sup> Yet this was of less use for teaching the course than writing support would have been, as the research requirements were so unique to the course that I devoted substantial class time to teaching these techniques and working with students directly when they had questions.

### **Target Learning Outcomes for My Copyright Course**

My target learning outcomes are substantially different from other versions of the course, especially those taught by other communication faculty in the undergraduate curriculum. My version of the class focuses relatively more on black letter law (legal questions and methods that determine the outcomes of cases), whereas the other undergraduate communication courses tend to spend more time on other topics that are more of a piece with the rest of a liberal arts curriculum. This is partly a reflection of my students’ more substantial need for foundational instruction on the nature of the legal system—few of them have lawyers in the family, for instance—but it also reflects my desire to use the course as a vehicle for introducing the fundamentals of the legal system more broadly.

First I discuss my teaching goals; then I describe the other courses’ learning outcomes. Finally, I say a bit about why I chose my outcomes, including why I focused more on strictly legal questions and less on the broader array of topics that are common in other courses.

As I taught it, Digital Copyright advances a very ambitious set of target learning outcomes. In particular, by the end of the semester, students are expected to be able to:

1. Define copyright, including how copyright differs from other areas of law such as trademark, patent, and publicity rights.
2. Identify the exclusive rights of copyright holders and the most important categorical exceptions to and limitations on those rights.
3. Describe the four factors of fair use,<sup>4</sup> as well as how the courts interpret those factors.

4. Explain the major tenets of copyright that are specific to digital media, including especially Title I and Title II of the Digital Millennium Copyright Act and related case law.
5. Apply the major tenets of copyright and its exceptions/limitations to a variety of potential scenarios.
6. Describe the policy conflicts over copyright in the contemporary era and how these affect various people and policy goals.
7. Explain the key tenets of the U.S. legal system and how it fits into the broader system of government.
8. Conduct basic legal research.
9. Use legal research and legal reasoning to write about copyright law.

This is an exceptionally ambitious set of objectives for a one-semester course. Objectives one through six, the topic-specific subject matter objectives, would themselves present plenty to cover in one semester. These outcomes are professionally relevant to the majority of the course's students who intend to work in the media industry. As media professionals, they will likely help create works that are worth protecting and also take part in decisions about if, when, and how other creators' content can be used. Students typically enter the course expecting to focus largely on such subject matter mastery. Along the way, though, they also receive a sliver of a legal education, providing benefits I describe further later in the chapter.

Objective seven is also a subject matter objective, but it is a foundational understanding that makes it possible to learn and understand topics of the course per se—something akin to a refresher on trigonometry at the beginning of Calculus I. As I taught the class in successive semesters, I began to see how a refresher on civics needed to be included not only toward the beginning of the course, but also stitched into other discussions over the first half of the semester. Students generally had a limited understanding of the role and workings of the courts, let alone in relation to the other branches of government—such as the difference between legal decisions (which courts make) and policy decisions (which, in principle at least, they leave to the other branches).

Objectives eight and nine are listed last for reasons of logic (they build on the earlier steps), not diminished emphasis. Throughout the semester but especially after the midterm, the class is in large part a streamlined version of a course on legal research and writing. Students must learn how to conduct basic case law research, grounded (via objective seven) in an understanding of the basics of the legal system. They then have to apply this research in constructing a coherent and well evidenced legal argument in the form of an eight- to ten-page term paper, which identifies a copyright dispute and argues for one side (later in the chapter). Students also have to be able to apply their subject knowledge to write cogent arguments about copyright law during examinations.

Students thus gain much more from the class than an understanding of the basics of copyright and its role in the digital political economy. Rather, it forces students to learn a new way of thinking, researching, and writing, all built on vocabulary and rules that are mostly foreign to them. Some understanding of legal research and the legal system is broadly helpful in work and in life, even for those who will never practice law. (Understanding the differences between civil and criminal law, for instance, is quite valuable and yet in surprisingly short supply. This is true for virtually all of the legal foundations required to properly understand a copyright case.) More importantly, though, it builds students' skills and confidence in a world where work is increasingly specialized and technical, and where new and longtime employees alike are expected to learn new universes of concepts, vocabulary, and systems, with rapid turnaround times and minimal supervision. Thus, the most important learning outcomes for the class are

probably not students' knowledge of the intricacies of copyright but an expanded ability to come in with no real knowledge of a specialized area and rapidly get up to their elbows in the relevant jargon and research techniques.

The class also connects a broader array of social, political, and economic issues that copyright impacts or helps illustrate. This is best exemplified by learning outcome number six, covering “the policy conflicts over copyright in the contemporary era and how these affect various people and policy goals.” This is the area that makes copyright interesting today, where it was boring in 1980. These include why people create and what ratio of content is created for the types of incentives that copyright rewards; the politics of copyright in historical and forward-looking terms, including the various communication strategies of various policy actors; and how copyright shapes and is shaped by various media business models. Such topics help students to see the relationships between politics and political interests, technological developments, industry trends and strategies, and political communication. This helps a graduate to be better prepared to start a new business or organization, contribute vision and leadership to an existing one, and even be a better citizen.

On the syllabus as actually delivered, I never defined my learning outcomes explicitly, even though I was reasonably clear if implicit about these goals in class. Thankfully, Hunter and other colleges have begun nudging faculty toward such clarity, even if it has also contributed to syllabi becoming ever longer. Doing so helps students—and even instructors—to better understand how everything fits together and why each part of the class belongs, from each lecture or reading to each graded component. Faculty should thus take these seriously and include them in their syllabi. The outcomes described here represent what I would include in future versions of the class.

### Learning Outcomes in Other Copyright Courses

In reviewing syllabi and course materials for other courses, I noticed that no other courses have the legal methods goals that are present in my course, even though I am sure these are implicitly covered. The other undergraduate courses offered in communication departments (as well as Decherney's graduate course) focus more on critical, political, or historical coverage, whereas my course is closer to (if not entirely) an undergraduate version of a copyright class one might find in a law school. For instance, in Aram Sinnreich's (2014: 1) syllabus for *Copyright, Media and Culture*, taught at Rutgers University's School of Communication and Information, he states:

By the end of the course, students will be able:

- To understand the origins and function of intellectual property law
- To recognize the role of copyright in regulating culture and commerce
- To participate in the growing public debate over the “copyfight” and the appropriate limits of intellectual property law
- To strategically use existing copyright law for business and creative purposes

Similarly, Kembrew McLeod's (2014: 1) course *Copyright Controversies*, taught at the University of Iowa's Department of Communication Studies, promises to teach students:

How digital technologies have dramatically changed media and popular culture landscapes; the advent of relatively cheap editing programs that allow anyone to collage media

on their home computers and enable people to become cultural producers; technologies that allow more people to break the law in the eyes of copyright industries; historical look at collage practices, from pre-digital era to present; ethical and legal questions surrounding the use and re-use of copyrighted materials; the notion of free speech in a media age.

This emphasis on broader social, economic, technical, and political forces runs across all of the other for-credit communication studies classes as well. Gillespie (2009: 1) promises to teach about “recent legal battles in the context of the historical and ideological relationships between authorship, technology, commerce, law, and culture.” Vaidhyanathan (2016) similarly covers topics including but not limited to “[t]he social and cultural roles that copyright plays in American and global culture. The role that copyright plays within the larger field of intellectual property. The ethical dimensions of copyright infringement and copyright enforcement. The global political economy of copyright, and how it affects global flows of music, images, video, and software.” VanCour (2013: 1) has a similar array of learning outcomes, and in particular he seems to zoom in on “the history and goals of copyright and intellectual property regulations in the U.S. and their impact on the creation, distribution, and consumption of media and related cultural products at home and abroad.”

These courses all fulfill very valuable and important roles in the communication curriculum. As with the similar (if diminished) portion of this focus my class, they help students prepare to be visionary leaders in the media industry of the future, as well as to be more informed citizens and consumers of media. These are of a piece with the broader liberal arts mission of these departments. Yet these courses all, to at least some extent, also help students to understand the actual legal machinations that shape copyright case law. It is simply that they emphasize the former, and their learning outcomes illustrate this.

The courses outside the undergraduate communication curriculum are, unsurprisingly, somewhat different in their focus, goals, and pedagogy. In Peter Decherney’s (2015) graduate course at the University of Pennsylvania’s Department of English, the assigned readings imply an especially strong emphasis on history, as well as substantial coverage of political contest over copyright, the effects on industry, the intersection with technology, and the fundamentals of fair use. This reflects Decherney’s own research interests in cinema history and his own copyright advocacy—notably, his regular efforts before the U.S. Copyright Office that have led to the exemptions to the Digital Millennium Copyright Act’s anticircumvention provisions that allow film professors and educators broader rights to use film excerpts for learning purposes (Sender & Decherney 2007).

Casey Rae’s (2015) course, part of Georgetown’s Master of Arts Program in Communication, Culture, and Technology, is much more future-focused. While it is largely about copyright, it also tackles questions such as:

What’s the future for media access and discovery in an era of seemingly infinite access? How will the current copyright regime handle an influx of new creators, and what business models can support this brave new world of always-on connectivity and media saturation? How might practitioners navigate a shifting landscape for creativity and commerce while pushing forward with new innovations and modes of expression? Who gets to put a price point on access to culture in the 21st century and beyond?

Covering all of what Decherney and Rae cover and doing it well would be all but impossible in an undergraduate course, but in this case, each has the luxury of working with top graduate



students. Moreover, the purpose of such graduate courses is much less the mere transmission of knowledge and more a dialectic conversation, facilitated by an expert. Decherney and Rae will readily admit that they are not sure how copyright will evolve, how this will affect existing and future industries, and so on. By showing students how the sausage is made, though, they prepare students to have those conversations and generate new insights.

Some faculty offer an even more specialized focus on copyright. In *Music Publishing and Copyright*, taught in the Department of Management at American University's Kogod School of Business, John Simson (2016) offers a strategic and laser-focused approach to the subject. It is the most intensely specialized of any of the credit-bearing courses discussed here, mostly zooming in on copyright as applied in music publishing. For instance, the course covers topics such as the business side of the craft of songwriting and coauthorship (wk. 2, p. 2), when and how a songwriter might transmit their rights (wk. 3, p. 2), licensing for TV and movies (wks. 10–11, p. 4), and “special publishing issues related to compositions written by recording artists” (wk. 5, p. 3). It is still somewhat interdisciplinary, though; along the way, students “explore several major changes that have occurred as the ‘traditional music industry’ has been transformed by digital technology and changing business models” as well as “who the major players are in the music publishing industry” (p. 1). The course also examines “the tension created by technologies that have blurred distinctions that have long existed in music publishing and how those conflicts are likely to be resolved” (p. 1). Simson thus promises to teach historical, political, strategic, and forward-looking perspectives on changes in the industry. Still, the course is most obviously useful for either aspiring musicians or for those who seek to work in management roles in the music industry. This is exceptionally specialized, but it surely makes it a real gem for the targeted audience. I am also unsurprised that there is sufficient demand for it. My own class regularly includes at least a half dozen musicians per thirty-two-student section, and many of the rest were at least considering working in the music industry—this despite the course not being advertised as (or being) music specific and despite no outreach to the Music Department.

The other class, an online open course taught by Professor Renee Hobbs and Technology Integration Coach Kristin Hokanson of the University of Rhode Island, is “Copyright Clarity.” The class is designed for educators:

In this course, you will learn about the most common myths and misinformation related to copyright and fair use. You’ll learn how copyright law protects both the rights of authors and audiences and about three prevailing views of copyright in relation to digital media and digital learning. You will gain practice in conducting a situational analysis to determine when you need to ask permission, buy a license, claim fair use, or use alternative licensing schemes like Creative Commons. By gaining copyright clarity, you will become an advocate to help others appreciate how fair use supports digital learning and understand the scope of our rights and responsibilities under the law.

(Hobbs & Hokanson 2014: para. 1)

Compared to even Simson’s class and my own, this is exceptionally functional, targeted squarely at helping educators make decisions about the appropriate uses of copyrighted material. (The curriculum is almost as functional, though they do save the sixth and final module for discussing “The Future of Copyright.”) For those teaching such a course—a useful overview of copyright, especially one intended for users of copyrighted works who may underestimate their rights under the law—these learning outcomes present a very useful starting point.

### Explaining Differences in Learning Outcomes

Each of these courses contains a blend of straightforward coverage of the law on one hand and of a broader array of topics on the other, with sharply varying ratios between the two. These other topics especially include historical developments, policy debates over the direction of copyright, effects on industry and various industries' agendas, and the intersection between copyright law and media technologies. I started researching copyright law because I find all of these topics, and the relationships among them, utterly fascinating—a view surely shared, to at least some degree,<sup>5,6</sup> by all of the professors named here. That this animates these courses, then, should be unsurprising. It also presents a fantastic teaching strategy: use these controversies as a way to get student engagement and explain the law along the way. By seeing where and how the law applies, students start from a position of more substantial interest.

My course deviates substantially from the other communication classes, with learning goals that nearly turn the class into a law course per se. Part of this decision was driven by an effort to balance out the department curriculum. The department has a bountiful set of production courses, but a majority of students take more traditional—that is, nonproduction—courses. The vast majority of these are focused on studying, analyzing, and even critically interrogating media content of various kinds. There should be room for several of these classes in any communication major, but realizing that this content rules the major quickly pushed me toward introducing more “hard” skills (Andrews & Higson 2008) and more social science into my courses, across the board.

There are legitimate reasons for pushing back against the expanding professional or even occupational emphasis in higher education overall. Yet going back to at least the founding of land grant institutions in the late 19th century, there has long been an emphasis on colleges teaching both “the liberal and the practical” (Grubb & Lazerson 2005: 3). In a department where the curriculum is more balanced, this course can and perhaps should be more balanced between those two poles. In a department that is almost entirely practical and/or social scientific in focus, a more critical or historical focus may be warranted. In Film and Media Studies at Hunter, however, students who do not choose production tracks leave with limited direct training for work in the media business—and, because of their economic backgrounds in particular, are unlikely to have the personal connections that can help one secure entry-level work in desirable industries with promising career tracks. By focusing more on developing an understanding of an area of the law of substantial use to media professionals, the class seeks to give them at least one more bit of preparation for media careers. Further, the demand that they quickly learn and competently use a highly specialized language, which is mostly new to them, also teaches what is considered a valuable skill in most professions.

The focus on legal methods more generally, though, is also an example of the type of educational outcome that is commendable even under the paradigm that guides a more classical education. First, many of the students come with a limited understanding of even the basics of the policymaking and legal process. (One especially bright and seemingly well prepared student missed an exam question because he believed U.S. senators are appointed.) Thus, Digital Copyright students become more informed citizens and more capable future leaders. Second, legal research and writing is just plain hard, and this makes such a focus a good tool for stretching students' capacity to do difficult intellectual work of any kind. For example, despite my undergraduate degree in philosophy, I cannot remember any of Heidegger, but I remember that it was really difficult; studying the works of such thinkers definitely expanded my ability to read, think, write, and speak coherently about difficult topics. Similarly, years after graduating, few of my students will be able to recite the reasoning of the so-called Betamax decision

(*Sony Corp. of America v. Universal City Studios, Inc.* 1984), but the ideal is that they walk away as better thinkers, readers, and writers.

### Introducing Fundamentals of Copyright Law

I explore the content arc of the course in this section and the one that follows. Ideally, this chapter persuades those readers who are college faculty to try teaching a copyright-focused course or to advocate for one in their own or in other relevant departments. Alternately, it may convince some readers to offer a class on another legal topic that adopts a similar focus on legal methods. This roadmap will prove especially helpful for them. Yet it is also for anybody interested in integrating copyright or other legal education into any part of any curriculum for adults (or even high school students) outside the law school. It also may help spark further discussion among those already teaching such courses.

The class cleaves neatly in two, and this section discusses the first half, which introduces the fundamentals of copyright and some basics on the legal system overall. While there are meaningful differences between subjects covered here and those covered by the other faculty who have taught similar courses, these are examined only briefly here due to space limitations.

What follows implies that the class proceeds in an exactingly logical order. While this is the course's blueprint, I count on and even encourage students to ask a panoply of questions. Many of these come at the "wrong" time in the semester; my students typically ask about peer-to-peer trading before we have even finished covering what copyright protects. Yet I find this crucial to maintaining engagement in the lectures, and I even reward such behavior by giving quick answers when possible—even if it is just a very short version of a longer explanation that is coming later. On campuses where there is not a culture of students freely asking questions or for instructors who have not had luck fostering such outrageous curiosity, it may be best to structure group discussions or other activities to break up the logical progression of the subject matter. There is a lot to master in a short time, so showing some mercy on the student brain is in order. Also, I believe there are still substantial improvements I could have made in structuring the course and delivering the materials; some of these are hinted at in the "Further Reading" section at the end of the chapter.

The one required text that I used across all semesters is Mary LaFrance's *Copyright Law in a Nutshell* (2011). While it is intended more as a supplementary text to a copyright casebook, nearly every chapter makes sense if read on its own (or at least in sequence), and students consistently report that it is quite accessible. When I started teaching the course, I also assigned a second text that includes more critical coverage of the topic. Over successive semesters, I tried several, such as books by Jessica Litman (2000), Tarleton Gillespie (2007), and William Patry (2011). Students generally appreciated these books but, surprisingly, responded that they wanted to focus more solidly on the more properly legal materials. This led to paring down the other readings to a chapter here and there, focusing more on LaFrance and relevant cases.

The class starts with an overview of copyright (Crews 2012: 1–8) and a discussion of why we have copyright (Yen & Liu 2008: 510–515). Next is an introduction to the legal system (Bureau of International Information Programs 2004), how to read case citations ("Case citation" 2016: § 10, "United States"),<sup>7</sup> and an introduction to the art of reading cases as written by one of the department's adjuncts.<sup>8</sup> These civics and legal readings start what I call the "first year of law school, shoved in along the margins" part of the class. These are the only readings on the subject, but I say more in lectures, spread throughout the semester. Other topics include the difference between criminal and civil cases; the structure of the federal court system and the appeals process; the difference between constitutional, statutory, case, and administrative

law; the nature of legal precedent; and the difference between legal and policy decisions. The other communication syllabi mostly lack dedicated space to include these topics; in part, this surely reflects those student populations typically coming to college with more of this knowledge than Hunter students do. Yet even the few Hunter students with parents who are lawyers appreciated this coverage, so other instructors may wish to consider adding a bit more.

Coverage of copyright law per se begins with the question of what can be copyrighted (*Feist Publications, Inc., v. Rural Telephone Service Co.* 1991),<sup>9</sup> ownership and formalities such as registration (“Registering a Copyright with the U.S. Copyright Office” 2016),<sup>10</sup> and the duration of copyright protection (*Eldred v. Ashcroft* 2003). Next I cover the exclusive rights of copyright holders, some of the more salient limitations on those rights, the basic elements of infringement (*Bright Tunes Music v. Harrisongs Music* 1976; Herman 2013a), and civil remedies against infringers (*Sony BMG Music Entm’t v. Tenenbaum* 2013). The *Bright Tunes* case presents an especially good opportunity to make light of oneself in class; I like to sing (badly but happily) the original song over top of George Harrison’s song to highlight the melodic similarity. One can use audio mixing or sometimes find examples online,<sup>11</sup> but that is far less memorable for the students.

After all of that and a lot of building impatience among the students, I finally get to fair use (*Campbell v. Acuff-Rose Music* 1994; *Harper & Row v. Nation Enterprises* 1985). Parts of this discussion can be very fun. In discussing *Campbell*, I seek six volunteers, then pass out three copies each of the lyrics to Roy Orbison’s “Oh, Pretty Woman”<sup>12</sup> and of the parody version by 2 Live Crew, “Pretty Woman.” Students then read the song—about one-third per volunteer—to the whole class. After each song, I foster a discussion about the meaning of the lyrics. One of the random lessons students leave with is that the Orbison version’s lyrics are creepier than most people realize; in most semesters, a student makes this observation with little or no prompting. This sets up students to recognize the saccharine, overly romantic spin on what is ultimately a rather misogynistic view of gender roles and sexuality. Within that context, the 2 Live Crew version’s removal of the sugar coating, combined with the racialized discussion of Black women, presents a substantial contrast. At its best, the class discussion includes students both recognizing the racialized misogyny of the 2 Live Crew version and the racial privilege of the Orbison version’s mainstream acceptance. In all discussions, though, students readily see the basis for the court’s “parody” conclusion, allowing them to make their own decisions about whether this is warranted in the context of what they already know about fair use. Most semesters, at least some students have concluded that this is not a fair use, making some of the same arguments as the dissent—whether or not this was part of the assigned reading.

It is broadly understood among copyright scholars that, where *Campbell* presents a foundational finding of fair use (Jackson 1995), *Harper & Row* is the model for a case that finds infringement despite at least a colorable fair use claim. To understand *Harper & Row*, students really have to grasp Gerald Ford’s place not only in history but also in the pantheon of U.S. presidents. In particular, they need to grasp that Ford’s most important action was pardoning Richard Nixon and that Ford is otherwise not a significant figure in U.S. history. (This is less riotous than students reading profane filth out loud, but it can also be pretty funny.) After all, the case centers on the leftist news magazine *The Nation* gaining access to Gerald Ford’s as-yet-unpublished autobiography, then scooping the authorized publication with their own detailed recounting of Ford’s inner emotional state as he pardoned Nixon—the heart that gave the work its commercial value. Much of the other fun, though, comes from students asking many detailed questions about related hypothetical scenarios. A good discussion or examination question, for instance, asks whether and how the court might have differed if *The Nation’s* article had come out after Ford’s book was published.

Next, I include a discussion of the statements of best practices in fair use (Aufderheide & Jaszi 2011), with two examples that are especially relevant to media studies undergraduates (“Documentary Filmmakers’ Statement” 2005; Jaszi et al. 2008). This framework presents a fantastic opportunity for group work in which students apply fair use to hypothetical situations and explain their reasoning. For instance, one might create a class handout with three hypothetical examples of using material as part of a documentary—perhaps one each that is clearly fair use, one clearly infringing (e.g., *Elvis Presley Enterprises, Inc., v. Passport Video* 2003), and one in more of a gray area. Groups could then decide their answers for each, designate a member to defend each position (ideally a different member for each case), and present their brief analysis before the whole class.

By this point, students can put it all together to see how a court might rule for a plaintiff or defendant. To illustrate, I developed something I call the “copyright case flowchart.” This encourages students to consider copyright cases in a logical order. At each step, there’s a specific answer required for the plaintiff’s case to proceed, and any answer that takes one off the path means that the defendant wins. (I use a series of PowerPoint Smart Art process charts to illustrate this.) Before giving the copyright flow chart, though, I give an analogy: a lawsuit over getting injured in a car accident. For that, the questions are:

1. Did the cars collide? (Proceed if yes.)
2. Was the plaintiff operating the car? (Proceed if yes.)
3. Was the car crash the plaintiff’s fault? (Proceed if yes.)
4. Is there a categorical exemption (e.g., some cities will impose a snowstorm exemption)? (Proceed if no.)
5. Is there substantial injury due to the crash (versus, e.g., a possible nick that cannot be identified in a large set of obviously preexisting dents and scratches)? (Proceed if yes.)
6. Does the defendant have a defense that negates his or her own legal liability (e.g., manufacturer-created mechanical failure)? (Proceed if no.)

This analogy leverages the lived experience of the students; even young adult New Yorkers, many of whom do not drive, understand this much of how civil liability works on the roads. This sets up the copyright case flowchart, which I describe in lecture. It goes as follows:

1. Is the original work copyrighted? (Proceed if yes.)
2. Is the plaintiff the registered copyright holder? (Proceed if yes.)
3. Is the use one of the six exclusive rights in Section 106? (Proceed if yes.)
4. Is the use covered by a statutory exemption (e.g., classroom performance)? (Proceed if no.)
5. Is the use substantial? (Proceed if yes.)
6. Is the use protected by an affirmative defense such as fair use? (Proceed if no.)

In addition to understanding copyright more generally, this helps students understand how the law works more generally—that a plaintiff has the burden of proof and that this means they have to prove several different things in a specific, logical order.

### **Creativity, Digital Copyright, and Copyfights**

This is the point where the class begins to deviate more from black letter law, not only in the interest of helping students contextualize the law but also to encourage them to think about

the broader purpose and the conflicting policy goals of copyright. It is also where the “digital” part of Digital Copyright comes in. The first class after the midterm, though, I meet students in a computer lab and show them how to conduct basic case law research on LexisNexis Academic. Since I am a Mac user, it is very straightforward to use QuickTime to record a class presentation, and I record this class and post it online, at Vimeo or YouTube. This allows students to rewatch the lecture at their leisure if they run into any difficulties applying the research techniques as they research their papers. A few students specifically thanked me for this, and surely more watched at least select portions. Most students are seemingly comfortable using these research tools by the end of the lecture, but others apparently follow up by watching the video and filling in the gaps. (View counts jumped quickly, and one semester’s lecture (Herman 2013c) is now at fifty-five views, suggesting it has even helped folks outside the course.) Even for the students who are not using the video after class, though, it demonstrates a commitment to guiding students through a new and difficult research domain. It thus provides an example of the kind of extra instructional push that demonstrates a broader “investment in the lives, careers, and development of [one’s] students” (Bain 2004: 148) that is such a foundational element of successful college teaching. In the classes from this point until the paper is due, I also regularly check in at the start of class to see where students are on their papers, what else needs an explanation, and what if anything needs to be revisited; if one student is brave enough to ask such a question, several more are also confused and thus appreciate the answer.

I then discuss why people create the kinds of works that are subject to copyright protection. While my assigned reading is a very accessible section from James Boyle’s (2008: 42–82) *The Public Domain*, this is decidedly inspired by Yochai Benkler’s (2006) work on different information production strategies (pp. 41–48). Virtually all the students are themselves creators of substantial creative work, even if we only include their photography; most of this is for nonmonetary rewards such as fun and social bonding, though a few are doing work that they hope will someday be marketable. I ask them to talk about their incentives and then use this to illustrate the limitations—and possible disadvantages—of incentives targeted at protecting works for sale.

Next, I explore secondary liability. I start this with the broader sense of the concept in the context of noncopyright examples—a parent’s liability when a child breaks a figurine in a store, an employer’s responsibility when a rogue employee defrauds customers, and so on. I then discuss the standards for contributory infringement and vicarious liability, though largely as a setup to discussing secondary liability as applied to the providers of potentially infringing technologies (*MGM Studios, Inc. v. Grokster, Ltd.* 2005; *Sony Corp. of America v. Universal City Studios, Inc.* 1984). I then provide a somewhat detailed explanation of Title II of the Digital Millennium Copyright Act (17 U.S.C. § 512), focusing on the notice-and-takedown process with YouTube as an illustration rather than a reading of the statute (which I do not recommend for any human) or related case law. While not the subject of assigned readings, I include an explanation of the political history of this part of the law (Herman 2013b: 47–52) to help students understand the policy goals of the statute.

I then cover digital rights management (DRM) technology and its regulation under Title I of the DMCA (17 U.S.C. §§ 1201–1205). This topic can be difficult to explain, but I include it because I believe it to be one of the core parts of the copyright debate—in addition to the debates over the length and extension of copyright terms, the line between infringement and fair use, and the notice-and-takedown regime for allegedly infringing content online. The statute bans the circumvention of most DRM without the permission of the copyright holder, even when the use would otherwise be permitted—such as a fair use. This is a substantial

threat to communities of users who rely on exemptions and limitations for their work (Herman & Gandy 2006; Sender & Decherney 2007). This subject also happens to be a major part of my research to date, letting me bring in a more extensive discussion of the politics behind copyright law. In addition to the relevant sections of LaFrance (2011 §§ 12.3–12.5), I assign a bit more from Boyle (2008: 83–89), as well as bits by Gillespie (2007: 50–64), Patry (2011: 231–244), and Yen and Liu (2008: 510–515). Each of these is a particularly eloquent and insightful contribution to the discussion over whether and how DRM technologies should be protected by copyright. In class, so that students can understand the technical limitations of encryption-based DRM and the motivation for such regulation, I perform<sup>13</sup> the introduction and first section of Cory Doctorow’s (2004) anti-DRM presentation given to Microsoft, in which he describes cryptography, why the application of encryption to DRM creates inherent vulnerabilities, and why this perpetually fails to stop circumvention. We also discuss what I consider the two most significant cases in this area (*Chamberlain Group v. Skylink Technologies* 2004; *Universal City Studios v. Reimerdes* 2000), trying to identify the slim space between lawful and unlawful circumvention of encryption.

I conclude with a discussion of the debate over the Stop Online Piracy Act (Stop Online Piracy Act 2011), as well as the political mobilization around the bill (Herman 2013b: 180–205). While the class has touched upon politics lightly at first and more substantially after the midterm, this is the first part of the class that is primarily about the politics of copyright. This is the culmination of the shift that happens in the second half of the semester, when the course moves decidedly out of the focus on canonic case law and into the territory covered more thoroughly by the other communication faculty previously discussed—the intersection of law, politics, technology, and industries.

I assign students to reading a good bit of case law, focusing primarily on the more canonic cases. Other faculty tend to assign fewer case readings, and those that are assigned tend to be more controversial and current rulings. In my review of syllabi, I found that other than my course, Sinnreich (2014) seems to be the other instructor who assigns a lot of cases. (That class actually covers more cases, but these are explicitly described as “debates,” and the selection is focused more on contests of ideas about what copyright is for, such as the case between Princeton professor Ed Felten and the recording industry (*Felten v. Recording Industry* 2001)). Nobody else seems to assign a detailed reading of *Campbell v. Acuff-Rose* (1994), let alone something as foundational but boring as *Feist v. Rural* (1991). The other communication courses are much heavier on secondary readings, including many of the professors included in this chapter assigning one another’s writings. All of these courses look extremely interesting, but I believe my strategy also has merit, and I believe it is a particularly good fit for the students and the curricular context at Hunter. Reading case law advances all of the learning goals set out here: challenging students to absorb this new and difficult language in its raw form, reinforcing the importance of broader legal principles to understanding specific outcomes, and even showing them especially good models of careful research and well written arguments.

### Assignments and Exams

The keystone of the course is the term paper, which is basically a short (about ten-page) legal brief. The overview states:

Choose a potential or actual (in-progress) legal dispute in which the core question is whether the use of a copyrighted work is a fair use. You may not choose a case that has already been decided in court, unless you are opposing the published opinion. You are

also not to choose a case that is “too easy,” such that any sensible application of copyright law would make the outcome a foregone conclusion. Once you have chosen a topic and had it approved by Professor Herman, write a legal analysis in which you choose a side—either infringement or fair use—and argue for your position. If you don’t have any specific topics in mind, consider picking a “reuse artifact,” or an online work that makes creative use of a major media property.

I illustrate what such an artifact might look like by giving an example in class, such as my favorite episode of *Bad Lip Reading* (2013), which is a web series that creates humor by adding deliberately mistaken audio dubbing to change the words being “spoken” by people on screen. This is intended to be and is embraced as a paper that is a fun and interesting application of materials that could otherwise be rather dull. In addition to *Bad Lip Reading*, students have imagined a broad range of hypothetical copyright cases. One student wrote about a hypothetical suit resulting from the web series “Honest Trailers,” which uses film footage to make humorous criticism of movies. Another argued for an outcome should the creators of the podcast “Serial” sue over a parody version. Other students wrote about actual cases that settled out of court. One involved a graphic designer suing Target over a dog-themed design on a T-shirt. Another was between a photographer and a painter who took obvious inspiration from these photos. Almost every paper has involved a fun, interesting set of events around which to build a paper, thus better holding the interest of both students and their professor as grader. One paper was even prophetic; the student<sup>14</sup> wrote a model paper arguing against the district court decision in *Cariou v. Prince* (2011), and the decision was actually overturned by the Second Circuit the following year (*Cariou v. Prince* 2013).

In developing their work, students must apply any relevant cases assigned during the semester and find at least five additional relevant cases to cite. They also need to use at least five print news sources in their work. I suggest that, after a brief introduction of the facts, they simply organize the rest of their paper (save for a conclusion) around the four fair use factors, citing relevant cases for each and then applying the case law to the subject of their paper. In the weeks before the final paper is due, I require a preliminary bibliography and then a detailed outline. This forces them to think about this big project as proceeding in steps, and it forces them to do the steps with a reasonable amount of time budgeted for each. It also gives me at least some capacity to intervene when a student is really struggling but does not proactively seek help.

In the weeks that students are researching and writing, I start every class with a discussion of how the paper is proceeding. I let students ask questions, and as soon as anyone gives me even the slightest direction for explaining what they are struggling with, I load up LexisNexis Academic or a new Word document or an example paper, and I show the students what comes next or how to solve their problems. If nobody gives me a specific question, I will start asking whether anybody wants me to re-explain something specific, such as (the week before the bibliography is due) how to look up cases. The emphasis is on reassuring students that they can do this, that I’m excitedly insistent on helping them get there, and that each of the steps that leads to a good term paper can be learned, repeated, and mastered.

I tell students, at the start of the semester, that this will probably be one of the very hardest assignments they complete at Hunter but that they can definitely do it. (Both parts of this are important.) At the beginning of the semester they doubt the difficulty, by midproject some doubt its possibility, but by the time the papers are turned in, they almost all agree on both counts. Anonymous written comments included, for instance, “I was pleasantly surprised at how much fun I had writing the term paper” (Spring 2015) and that the class “improved my writing” (Fall 2014).



In my review of course syllabi, I found few faculty who ask students to engage in this kind of legal research and writing. Different types of writing assignments are often assigned to students that require them to defend a claim or position. For instance, Vaidhyanathan assigns five 1,000-word essays, asking students to agree or disagree with statements or to answer questions such as:

- In the digital age we no longer need copyright. Copyright is merely an instrument of censorship. We should just do away with the whole system and let everything flow freely.
- Does GoldieBlox have a fair use right to use a version of the Beastie Boys' song "Girls" in a video advertisement for its toy systems?
- What is the biggest problem with music copyright, and what should we do to correct it?

The GoldieBlox question is very similar to a midterm question I used, but the other two are far more sweeping than my paper or anything I ask in exam questions. I believe Hunter students could also answer these questions, but my course focuses more on the law and less on the broader policy questions. Simson's class has weekly written assignments, each of which is more like a "think piece" than a full paper, but he invites students "who are particularly interested in a special topic and wish to write a paper of 10–12 pages in length" to do so as a substitute for the final exam.

Exams in my class are also quite challenging. This is even though they are open book, open note, and open computer/phone/tablet/e-reader; I want students to be able to find and apply relevant legal information, not just ask them about the (much more limited) amount I could expect them to memorize. I tell them not to use the Internet during exams, on the honor system, but I warn them (and honestly believe) that, if they are looking up information on the Internet during the exam, they are wasting their time. The best sources for information are the assigned readings, especially if they start with LaFrance (2011).

The exams are so demanding because they depend on students getting quickly up to speed on the basics of legal reasoning, plus the basics of copyright law, then being able to apply it all in context. For instance, I usually have an essay question asking students to choose a side in an actual or hypothetical fair use case I have not taught; they must develop a complete argument applying each of the four factors. One such example shows the images from a photographer's complaint against a painter whose works are clearly at least inspired by the photos (*Greenfield v. Pankey*, 2013).

Multiple-choice questions also require students to apply rather than merely to regurgitate the course knowledge. For example:

Imagine that *The New York Times* finds out that a small news website has been taking the facts (and just the facts) out of their stories, writing news stories based on these facts, and publishing those stories that do not copy the *Times*' writing. Which case would be most relevant in deciding if this is infringing?

- A. *Campbell v. Acuff-Rose*
- B. *Feist v. Rural*
- C. *Harper & Row v. The Nation*
- D. *Eldred v. Ashcroft*

To get this right, students need to be able to see that the question is about whether copyright protects facts—and to know enough about each of the four cases (or at least the correct answer—*Feist*) to know which one to use here. Even the format of the question highlights

what is often the first problem of legal research and writing: of the potentially relevant cases, which is the most applicable and thus the best starting point?

As with the term paper, the goal is to challenge students to learn more material and more difficult material than they thought possible. The midterm is usually not a very happy experience for the students. But after I promise to curve as needed at semester's end, I take a whole 75-minute class (or half of a once-a-week meeting) to go over the answers and review the fundamentals and admonish them to work extra hard on the term paper, most students lean into the challenge and redouble their efforts for the rest of the semester. The final exam is usually much easier for them, in part because it again asks them to show their (now rather solid) mastery of fair use and a few other first-half topics. It is also easier for them, though, because it gives them more opportunities to share opinions on the controversies covered in the second half of the class. This is the same learning mode they've mostly mastered, and it shows in their answers.

Student satisfaction with the exams and the course overall really shows in the course evaluations, with commenters generally identifying exams as tough but fair, such as "The midterm was hard but justified" (Fall 2014). Whatever role the exams play in motivating them to keep up with the materials, students clearly believe they have learned a great deal. One writes, "I found myself learning much more than I expected" (Spring 2015). Another says, "I learned a lot about a subject that was more complicated than I thought" (Fall 2014). A third writes, "At first it was overwhelming and I was worried about the exam and the content. But by midterm I was relieved and then, as soon as we started fair use and reading the cases, it got SUPERB [*sic*] AMAZING" (Spring 2015). For the two most recent semesters (Fall 2014 and Spring 2015), the overall course instructor evaluation was 6.7 out of 7. Clearly, this course design works well for the student population.

### **Why Undergraduate Copyright Classes—and Other Law Classes—Belong on More Campuses**

A class devoted to the detailed examination of a single area of law can be an incredibly valuable part of the upper-division curriculum at any four-year college campus. Setting aside the topic of the course, the class represents an important contribution for the broader mission that colleges serve. It teaches students a much more nuanced understanding of the legal system, including an in-depth understanding of the interplay among the different branches of government. Especially if the class includes a legal research paper, this forces students to conduct sophisticated research. For most college populations—those at the vast majority of the nation's 5,300 colleges—such work is a lot to ask for, presenting quite the "stretch" goal (Duhigg 2016: 124–132). Few of them will become lawyers, and most will not have much use for detailed application of legal methods, but virtually all will need the skill of learning and applying arcane systems of knowledge at a high level in a short period of time.

More faculty and students should have such an experience. Even instructors whose expertise has not already led them into legal research can succeed with such a class, as demonstrated at NYU by Shaun VanCour—though in that case, a focus more on secondary materials and less on case law may be both necessary and appropriate.

Among legal topics to consider for adding to a curriculum, copyright is both a highly practical subject and one that is especially interesting to students. It is also a great subject for an introduction to the law. Relative to most other legal topics, its principles are easier to grasp<sup>15</sup> and more fun to argue about. It is also one of the few areas of law that has an identifiable

impact on ordinary people's lives and that is also the subject of federal but not state or local law, making the research materials easy to find and much more straightforward to assemble. Copyright thus provides a fantastic candidate for conveying both the subject matter and the related legal methods, providing the right level of difficulty to stretch students and force them to learn a new and different mode of thought. I urge faculty and administrators at a wide range of schools to consider adopting it.

### Notes

- 1 The searchable database of ALA-accredited programs (American Library Association 2017) lists just sixteen undergraduate programs today, after decades of overall expansion in major offerings.
- 2 All percentages for student populations are recalculated relative to the number of students from whom data were successfully collected, since (for all items) the data is missing for a third or more of students.
- 3 Tony Doyle, now a tenured associate professor, proved especially helpful. There was also the fortuitous coincidence that he is also interested in copyright law.
- 4 These are set out in 17 U.S.C. § 107, which reads in part:
 

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.
- 5 The editor of this volume may actually be less intrinsically interested in copyright than most or even all of the other contributors. Most of the rest of us got into copyright for its inherent interest, or because it plays a central role in certain industries. However, in both conversations and her published work, Professor Hobbs gives every impression of being primarily concerned with keeping copyright in its place and reducing its hindering effects on those who have other things to do—such as media literacy education. The reader is holding proof that this, too, can be powerful motivation to study the topic.
- 6 Robert Alpert, an IP attorney with decades of practice.
- 7 This is an excellent example of where Wikipedia has real value. The section on U.S. citations is the best short introduction to the subject that I have seen.
- 8 While earning my PhD at the Annenberg School for the University of Pennsylvania, I was fortunate enough to take a fantastically useful version of just such a course from Paul M. George, Associate Dean and Director of the Biddle Law Library.
- 9 In addition to readings noted here, I assign the appropriate sections of LaFrance throughout the semester.
- 10 Works are, in theory, protected even when not registered. Under 17 U.S.C. § 411, however, “registration continues to be a prerequisite to filing a civil action for copyright infringement of a United States work” (LaFrance 2011: § 4.2).
- 11 These are often subject to DMCA takedowns, so instructors may want to use browser plug-ins to save the audio files to their hard drives.
- 12 One of the random lessons students leave with is that the original version's lyrics are creepier than most people realize.
- 13 I have also tried showing video of the original talk, but the quality is unbearably bad. This also makes it much easier to pause and unpack a lot of the technical terms so that students will be able to continue following along.

- 14 The student, Nora Egloff, has since earned an MLIS and found success as a media archivist. She is just one of the many fantastic Macaulay Honors students I have had the pleasure of teaching.
- 15 In fairness, my view of copyright's simplicity is partially shaped by my second strongest area of legal research, telecommunications law—a labyrinth, inside a vortex, wrapped in obfuscation.

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