



Department of Media, Culture, and Communication MCC-UE 1405 Copyright, Commerce, and Culture

Instructor and Course Information

- Prof. Lisa Gitelman
- T Th, 2-3:30 pm, 7 E 12th St. 121
- Office hours Th 11-12 and by appointment, 239 Greene St, Rm 720
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Course Description

This course examines the U.S. system of copyright and intellectual property to explore its impact on the creation, distribution, and consumption of media and related cultural products both domestically and abroad. We will consider the theory, history, goals, and tensions surrounding intellectual property law as it has grown and changed in relation to innovations in media and communication technology. We will explore efforts by the contemporary culture industries to build and protect their intellectual property, including issues of online piracy, trademark protection disputes, domestic and global licensing agreements and industrial synergies. We will consider questions of ownership and appropriation, including parody and remix.

Learning Outcomes

- Deepen your knowledge of the history and goals of copyright and intellectual property regulation in the U.S. and their impact on the creation, distribution, and consumption of media and cultural products at home and abroad.
- Develop a better understanding of the economic and cultural struggles surrounding intellectual property past and present.
- Understand the specific challenges that technological change presents to copyright, and familiarize yourself with critical perspectives on the relationship of law and culture
- Demonstrate this knowledge by writing about copyright and related concepts in a way that builds on your own training, experience, and interest in media studies
- Raise your awareness of the rights and responsibilities of media consumers and makers

Readings/Texts

There are no required books for this class, but you are expected to read the texts assigned before class and bring a copy with you when you come to class. A hard copy is *strongly preferred*. Some are posted under the "Resources" tab in NY Classes, and the rest are linked through the syllabus. Be sure you are logged in to the NYU Libraries (not just NYU Home) to use these links. Please report any difficulties, and I will try to troubleshoot.

Assignments

Written work:

First essay, approx.. 3 pp. on an assigned prompt, due in class September 24 (please bring hard copy)

Research essay: This approx. 10 pp. essay will ask you to pursue an IP-related topic or case study of special interest to you. All topics must be cleared with me, and all essays will be expected to have a core argument supported by analysis. This essay should make reference to at least two required readings from the course, as well as at least two independent sources. We'll talk at length about finding a suitable topic. Due December 18 via email. No exceptions.

You will be asked to hand in a brief proposal for this essay on Friday, October 18th. This will be graded on its quality and potential. Later in the semester you will be asked to hand in a partial draft (aim for 5-6 pp.) of your final essay for peer review (November 22nd) and to offer comments on at least one essay by someone else in the class. Your draft will be graded on its quality and potential. Your peer review will be graded pass/fail. You will receive comments from peer(s) and from me with the goal of completing a polished final version by December 18.

Presentations:

During the semester, you will be asked to present at least once, and toward the end of the semester you'll be asked to report on the topic of your research essay in progress.

Reading:

To succeed in this course, you must complete all of the assigned reading, which is both challenging and substantial, and do it on time. You must bring the text to class. Note taking while you read is highly encouraged and various note-taking strategies will be discussed in class.

Reading quizzes: I will be giving occasional quick reading quizzes at the beginning of class to test your preparation and command of the readings. Expect to be quizzed.

In-class assignments: Don't be surprised by occasional (or, if people start to get behind on the reading, more-than-occasional) in-class writing or research charettes. We'll be working across learning modalities in this class—meaning that class meetings are likely to include writing as well as reading. Come prepared: please make sure that you have a pen/pencil and paper (preferably in a notebook that pages can be removed from, if necessary). Note taking by hand is strongly encouraged for the sake of comprehension and retention. Laptops are permitted in class if and only if WiFi is turned off, except in cases where you are directed to enable the network for a specific purpose. As difficult as it may be, your phones should be 100% out of sight, out of mind.

Evaluation

First (short) essay (20%)

Participation in class discussions, activities, and presentations (15%)

Reading quizzes (20%)

Proposal for final essay (10%)

Partial draft of final essay for peer review (10%)

Final essay (25%)

Evaluation Rubric

A = Excellent

This work is comprehensive and detailed, integrating themes and concepts from discussions, lectures and readings. Writing is clear, analytical and organized. Arguments offer specific examples and concisely evaluate evidence. Students who earn this grade are prepared for class, synthesize course materials and contribute insightfully.

B = Good

This work is complete and accurate, offering insights at general level of understanding. Writing is clear, uses examples properly and tends toward broad analysis. Classroom participation is consistent and thoughtful.

C = Average

This work is correct but is largely descriptive, lacking analysis. Writing is vague and at times tangential. Arguments are unorganized, without specific examples or analysis. Classroom participation is inarticulate.

D = Unsatisfactory

This work is incomplete, and evidences little understanding of the readings or discussions. Arguments demonstrate inattention to detail, misunderstand course material and overlook significant themes. Classroom participation is spotty, unprepared and off topic.

F = Failed

This grade indicates a failure to participate and/or incomplete assignments

A = 94-100

A- = 90-93

B+ = 87-89

B = 84-86

B- = 80-83

C+ = 77-79

C = 74-76

C- = 70-73

D+ = 65-69

D = 60-64

F = 0-59

Course Policies**Absences and Lateness**

More than two unexcused absences will automatically result in a lower grade. Chronic lateness will also be reflected in evaluation of your participation. Regardless of the reason for your absence you will be responsible for any missed work. Travel arrangements do not constitute a valid excuse for missing classes or assignments. There are no extra credit assignments for this class.

Format

Please type and double-space your written work. Typing improves the clarity and readability of your work and double-spacing allows room for me to comment. Please also number your pages and staple any hard copies. You are free to use your preferred citation style. Please use it

consistently throughout your writing. If sending a document electronically, please name the file in the following format: Yourlastname Assignment1.doc

General Decorum

Slipping in late or leaving early, sleeping, fiddling with your phone, doing homework in class, eating, etc. are distracting and disrespectful to all participants in the course.

Academic Dishonesty and Plagiarism

http://steinhardt.nyu.edu/policies/academic_integrity

The relationship between students and faculty is the keystone of the educational experience at New York University in the Steinhardt School of Culture, Education, and Human Development. This relationship takes an honor code for granted and mutual trust, respect, and responsibility as foundational requirements. Thus, how you learn is as important as what you learn. A university education aims not only to produce high-quality scholars, but to also cultivate honorable citizens.

Academic integrity is the guiding principle for all that you do, from taking exams to making oral presentations to writing term papers. It requires that you recognize and acknowledge information derived from others and take credit only for ideas and work that are yours.

You violate the principle of academic integrity when you cheat on an exam, submit the same work for two different courses without prior permission from your professors, receive help on a take-home examination that calls for independent work, or plagiarize.

Plagiarism, one of the gravest forms of academic dishonesty in university life, whether intended or not, is academic fraud. In a community of scholars, whose members are teaching, learning, and discovering knowledge, plagiarism cannot be tolerated.

Plagiarism is failure to properly assign authorship to a paper, a document, an oral presentation, a musical score, and/or other materials that are not your original work. You plagiarize when, without proper attribution, you do any of the following: copy verbatim from a book, an article, or other media; download documents from the Internet; purchase documents; report from other's oral work; paraphrase or restate someone else's facts, analysis, and/or conclusions; or copy directly from a classmate or allow a classmate to copy from you.

Your professors are responsible for helping you to understand other people's ideas, to use resources and conscientiously acknowledge them, and to develop and clarify your own thinking. You should know what constitutes good and honest scholarship, style guide preferences, and formats for assignments for each of your courses. Consult your professors for help with problems related to fulfilling course assignments, including questions related to attribution of sources.

Through reading, writing, and discussion, you will undoubtedly acquire ideas from others, and exchange ideas and opinions with others, including your classmates and professors. You will be expected, and often required, to build your own work on that of other people. In so doing, you are expected to credit those sources that have contributed to the development of your ideas.

Avoiding Academic Dishonesty

- Organize your time appropriately to avoid undue pressure, and acquire good study habits, including note taking.

- Learn proper forms of citation. Always check with your professors of record for their preferred style guides. Directly copied material must always be in quotes; paraphrased material must be acknowledged; even ideas and organization derived from your own previous work or another's work need to be acknowledged.
- Always proofread your finished work to be sure that quotation marks, footnotes and other references were not inadvertently omitted. Know the source of each citation.
- Do not submit the same work for more than one class without first obtaining the permission of both professors even if you believe that work you have already completed satisfies the requirements of another assignment.
- Save your notes and drafts of your papers as evidence of your original work.

Disciplinary Sanctions

When a professor suspects cheating, plagiarism, and/or other forms of academic dishonesty, appropriate disciplinary action may be taken following the department procedure or through referral to the Committee on Student Discipline.

The Steinhardt School Statement on Academic Integrity is consistent with the New York University Policy on Student Conduct, published in the NYU Student Guide.

Student Resources

- **Accommodations for Students with Disabilities**
Students requesting reasonable accommodations due to a disability are encouraged to register with the Moses Center for students with Disabilities. You can begin the registration process by completing [Moses Center Online Intake](#). Once completed, a Disability Specialist will be in contact with you. Students requiring services are strongly encouraged to register prior to the upcoming semester or as early as possible during the semester to ensure timely implementation of approved accommodations.
- NYU Writing Center (Washington Square): 411 Lafayette, 4th Floor. Schedule an appointment online at <https://nyu.mywconline.com> or just walk-in.

Schedule of Classes, Readings, and Assignments

*(*subject to change; changes will be announced in class and/or via NYU Classes)*

Week 1: An Introduction to Copyright/Copyright Today

Tuesday, September 3: An Introduction and Course Overview

U.S. Constitution: "Congress shall have the power . . . To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries" (Article I, Section 8).

Thursday, September 5: Copyright, Plagiarism, and Creative Reuse: An Introduction

Hess, Mickey. "Was Foucault a plagiarist? Hip-hop sampling and academic citation." *Computers and Composition* 23, 2006, pp. 280-295.

Lethem, Jonathan. "[The Ecstasy of Influence: A Plagiarism.](#)" *Harper's Magazine*, February 2007, pp. 59-71.

Consider creative re-use in the news: [Shepard Fairey](#) and [Katy Perry](#)

Week 2: Overview of Intellectual Property

Tuesday, September 10: Copyright and Intellectual Property: What Are They?

Hesse, Carla. "[The Rise of Intellectual Property, 700 B.C.-A.D. 2000: An Idea in the Balance.](#)" *Daedalus* 131.2, Spring 2002, pp. 26-45.

We'll look at this together in class: Menell, Lemley, and Merges, *Intellectual Property in the New Technological Age: 2017*, "New Features" and the Table of Contents ("Inside the Book" at [Amazon.com](#))

Thursday, September 12: Copyright on Campus?

Eichhorn, Kate. "[Breach of Copy/Rights: The University Copy District as Abject Zone,](#)" *Public Culture* 18.3 (2006) 551-71.

Entrona, Lucas, "[Algorithms, Governance, and Governmentality: On Governing Academic Writing,](#)" *Science, Technology, and Human Values* 41.1 (2016) 17-49. Concentrate on pp. 25-37.

Have you ever really read this? [NYU Policies and Guidelines](#)

Week 3: The Subjects (Persons) of Patent Law

Tuesday, September 17

Rankin, William. "The 'Person Skilled in the Art' Is Really Quite Conventional." *Making and Unmaking Intellectual Property* pp. 55-78.

Thursday, September 19

Kahn, Jonathan. "Inventing Race as a Genetic Commodity in Biotechnology Patents." *Making and Unmaking Intellectual Property* pp. 305-320.

Consider [Harvard College v. Canada](#) (a Canadian case, 2002)

Week 4: Copyright and Intellectual Property in the United States

Tuesday, September 24: From the Colonies to the Revolution

Balázs, Bodó's Coda (scroll down): "[A Short History of Book Piracy](#)"

First essay due in class (please bring hard copy to hand in).

Thursday, September 26:

Slauter, Will. "Scissors Editors: Cutting and Pasting in Early America" from *Who Owns the News?*

Week 5: The Subjects (Authors) of Copyright

Tuesday, October 1: Authors Part 1: Difficult Theory

Foucault, Michel. "What Is an Author?" (posted in NYU Classes. The text itself indicates where you can skip a few pages. It's a tough read; try to push through it and come with questions.)

Consider [A case about photographs \(1884\)](#)

Thursday, October 3, Authors Part 2: On Collaboration and Author Function

Becker, Howard. "Art worlds and Collective Activity" *Art Worlds*. Berkeley: University of California Press, 1982, pp. 1-39. Read 1-24, 34-39.

Consider [A case about a movie *Aalmuhammed v. Lee, 2000.*](#)

Consider [A case about telephone books. \(1991\)](#)

Week 6: How does Trademark Fit In?

Tuesday, October 8: Brands

Mario Biagioli, et al. "[Brands R Us,](#)" *The Luxury Economy and Intellectual Property*, pp. 78-92

Thursday, October 10 Offensive marks

Consider [Matal v. Tam](#) and [Iancu v. Brunetti](#)

Week 7: The Public Domain

Thursday, October 17: The Public Domain in the Digital Age

Boyle, James. "[Fencing Off Ideas: Enclosure & the Public Domain.](#)" *Daedalus* 131.2 (2002). pp. 13-25.

Samuelson, Pamela. "[Mapping the Digital Public Domain: Threats and Opportunities.](#)" *Law and Contemporary Problems* 66.1 (2003). PP. 147-172.

Friday, October 18: Proposal for final essay due via email by 6 PM.

Week 8: How Does Publicity Fit In?

Tuesday, October 22

Jane Gaines, "Dead Ringer: Jacqueline Onassis and the Look Alike," *Contested Culture*, 84-100.

Thursday, October 24

Jane Gaines, “*Dracula and the Right of Publicity*,” *Contested Culture*, 175-207.

Week 9: Fair Use**Tuesday, October 29:** Principles of Fair Use

Stim, Rich. “Fair Use,” 216-227, *Getting Permission: How to License & Clear Copyrighted Materials Online and Off*. 3rd ed. Berkeley, CA: Nolo, 2017.

Aufderheide, Patricia, and Peter Jaszi. “The Culture of Fear and Doubt and How to Leave It.” *Reclaiming Fair Use: How To Put Balance Back in Copyright*. Chicago: University of Chicago Press, 2011. pp. 1-15.

Thursday, October 31: Fair Use in Action

Consider [Campbell v. Acuff-Rose Music, Inc.](#), (1994)

[Carou v. Prince](#) (2013)

Dogan, Stacey and Mark Lemley. “[Parody as Brand](#).” *The Luxury Economy and Intellectual Property: Critical Reflections*. New York: Oxford University Press, 2015. pp. 93-119

Week 10: Transnational Perspectives**Tuesday, November 5:** Global Legal Structures and Infrastructures

Patry, William. “[Effective Global Copyright Laws](#).” *How to Fix Copyright*. Oxford: Oxford University Press, 2012. pp. 245-262.

Larkin, Brian. “Pirate Infrastructures.” [Structures of Participation in Digital Culture](#). Ed. Joe Karaganis. New York: SSRN, 2007. pp. 74-87.

Thursday, November 7: The Politics of (Global) Appropriation

Douglas McCarthy, “[The Great Wave](#): What Hokusai’s Masterpiece Tells Us About Museums, Copyright and Online Collections Today”

WIPO on [Manga](#)

Week 11: Indigenous Knowledge**Tuesday, November 12:**

WIPO, [Protect and Promote Your Culture](#), “Examples”

Thursday, November 14: Research Day (optional office hours instead of class)Week 12: Remixes in the Digital Millennium Copyright Act**Tuesday, November 19:**

Lessig, Lawrence. "[REMIX: How Creativity is Being Strangled by the Law.](#)" *The Social Media Reader*. New York: NYU Press, 2012. pp. 155-169.

Lohmann, Fred von. "[Your Intermediary is Your Destiny.](#)" *The Social Media Reader*. New York: NYU Press, 2012. pp. 170-177.

Thursday, November 21:

South Park Season 10 Episode 8, "Make Love, Not Warcraft"

R. Sikoryak, [Terms and Conditions](#) (browse)

Friday, November 22 Preliminary partial drafts due via email by 6 PM

Week 13: IP in the Age of the Internet Part 1: Proprietary Software, EULAs, and DSM

Tuesday, November 26: Technology as Copyright (& Related Dystopian Futures)

Gillespie, Tarleton. "[Designed to 'Effectively Frustrate'](#): Copyright, Technology, and the Agency of Users." *New Media and Society* 8.4 (2006). pp. 651-669.

Stallman, Richard. "[The Right to Read.](#)" (1997).

THANKSGIVING BREAK

Week 14: IP in the Age of the Internet Part 2: Open Source and Open Access

Tuesday, December 3:

Litman, Jessica. "The Art of Making Copyright Laws." *Digital Copyright*. Amherst: Prometheus Books, 2001. pp. 22-34.

Patry, William. "Moral Panics," "The Digital Millennium Copyright Act," and "Takedown Notices Under the DMCA," *Moral Panics and the Copyright Wars*. New York: Oxford University Press, 2009. pp. 133-8, and 161-170.

Thursday, December 5:

Electronic Frontier Foundation. "[A Better Way Forward](#): Voluntary Collective Licensing of Music File Sharing." 2008.

Consider [A case about cheerleader uniforms \(2016\)](#)

Week 15: Looking Forward?

Tuesday, December 10: In class Peer review of essay drafts

Thursday, December 12: Final thoughts, Reports on Progress

Finals Week

Your research essay is due on **Wednesday, December 18**, by 6 PM. Please send it via email. You will receive an email acknowledging receipt.

Supplemental Bibliography/Suggested Readings (Highly Selective)

Craig, Carys, Joseph Turcotte, and Rosemary Coombe. "[What's Feminist about Open Access? A Relational Approach to Copyright in the Academy.](#)" *feminists@law* 1.1 (2011).

Gard, Elizabeth Townsend and W. Ronald Gard. [Video Games and the Law](#). New York: Routledge, 2017.

Johnson, Derek. [Media Franchising: Creative License and Collaboration in the Culture Industries](#). New York: New York University Press, 2013.

Oliar, Dotan and Christopher Sprigman. "Intellectual Property Norms in Stand-Up Comedy, " 385-98, Mario Biagioli, Peter Jaszi, and Marth Woodmansee, ed. *Making and Unmaking Intellectual Property: Creative Production in Legal and Cultural Perspective*. Chicago: University of Chicago Press, 2011.

Tasha Oren and Sharon Shahaf, ed. [Global Television Formats: Understanding Television Across Borders](#). New York: Routledge: 2012.

Haochen Sun, Barton Bebe, and Madhavi Sunder, [The Luxury Economy and Intellectual Property: Critical Reflections](#). Oxford University Press, 2015.

Siva Vaidyanathan. [Copyrights and Copywrongs: The Rise of Intellectual Property and How It Threatens Creativity](#). New York: New York University Press, 2001.

Janet Wasko, *Understanding Disney: The Manufacture of Fantasy* (Cambridge, UK: Polity, 2001).