

# Class 16: Idea-Expression

Administrative

- Next Time: 420-27; 430-38; 449-52
- Youtube
- Spamland
- Aleksey Vayner

## Last Time

### Some examples / Problems

- 1 "Save the Cheerleader... Save the World!" (NO. Short phrase rule. (378) 37 CFR 202.1)
  - Fixed and Tangible
  - Haiku Too Short -- Not Original
  - No IP for You!
  - Probably copyrightable
- 2
  - Probably NOT copyrightable (analogous to short phrase rule).
  - More smileys
    - Probably not copyrightable.
    - Probably copyrightable.
- 3 New York Arrows logo (page 422)
  - Held: Not copyrightable.
- 4 White Pages?
- 5 Yellow Pages?
- 6 Compilations
- 7 Maps
  - Mercator Projection
  - Peters Projection
- 8 Audio Recordings
  - <http://www.birds.cornell.edu/ivory/multimedia/sounds/listening/900a>
  - [http://www.news.cornell.edu/stories/April05/Woodpecker\\_sound\\_tech.html](http://www.news.cornell.edu/stories/April05/Woodpecker_sound_tech.html)
  - Video Recordings
    - [http://www.youtube.com/watch?v=Ka3GV\\_lfHig](http://www.youtube.com/watch?v=Ka3GV_lfHig)

### Fixation

- Basic Rule
  - To qualify for Copr. protection, work must be "fixed in a tangible medium of expression"
  - sufficiently permanent or stable to permit it to be perceived, reproduced or otherwise communicated for a period of more than transitory duration.
  - fixation is sufficient if the work can be "perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device."
- Problems
  - Speech delivered in person to public audience.
  - Speech, televised live but unrecorded.
  - Live speech, recorded simultaneously.
  - Private Diary
  - Rock Concert recorded at sound board at request of band.
  - Rock Concert recorded by bootlegger in first row with concealed mike.
  - Notes?
  - Recorded with authorization?

## Idea-Expression

- Basic Idea
  - Only expression is copyrightable. The underlying "idea" is not.
- Baker v. Selden
  - Basic Facts
    - Selden devises a new system of book-keeping (Like double-entry, but columns and headings let you look at more data at one glance.)
    - Selden publishes a book with an introductory essay, explaining the system, and blank forms or blanks illustrating the system.
    - Baker publishes a similar book.
  - Held (1879)
  - Reasoning
  - A few ways to read Baker
    - Idea / Expression Doctrine
    - Useful arts are not copyrightable (later)
    - Blank forms are not copyrightable
    - Patent/Copyright Distinction
- Line between ideas and expression?
- Problem 4-3 Mediforms forms
  - Compare to Baker
    - More information
    - Short instructions on the form.
    - Personalized for Doctor.
    - Bulk of info is mandated by AMA categories.

## Merger

- Morrissey
- Problem 4-4 Jeweled bumblebee pins
  - Many similarities
  - Differences
    - Different total number of gems.
    - Some gems colored, not just white.
  - What taken: Idea or expression?
- Problem 4-5