

Class 17: Subject Matter, Ownership, And Duration

Administrative

- News
 - Next Time: 458-84
 - IBM sued Amazon for infringing five patents.
 - Cheesesteak TM News
 - Boy Scout's Merit Badge

Last Time

Merger

- Morrissey
 - Basic Facts
 - Sweepstakes rules. Copied almost verbatim by defendant (402-403)
 - First Circuit 1967
 - Reasoning
- Jeweled bumblebee pins
 - Many similarities
 - Differences
 - Different total number of gems.
 - Some gems colored, not just white.
- Levels of Abstraction
 - Most Abstract
 - Jewelry
 - Jeweled Pins
 - Jeweled Insects
 - Jeweled Bees
 - Jeweled Bumblebees
 - Jeweled Bumblebees with gold veining
 - Level common to both
 - ... gold veining and white gems
 - Most Concrete/Specific
 - ...specific white gems
 - laid out like this one.
 - of a particular size and weight

What taken: Idea or expression?

Subject Matter

Embodied in Section 102 List is not exhaustive. Led by word, "include"

(1) Literary Works

- Protects against not only literal copies. Structure, sequence, and organization also protected.
- Words, numbers, or other verbal or numerical symbols or indicia.
- Regardless of the material object (book, periodical, manuscript) in which they are embodied.
- Fictional Characters?

(5) Pictorial, Graphic, and Sculptural Works

- Fine, graphic, applied art, photos, prints, art reproductions, maps, globes, charts, diagrams, models, technical drawings.

(8) Architectural Works Protection for actual structures, as built.

- Exceptions
 - "overall form and elements in the design, but not individual standard features."
 - Cannot prevent people from making, distributing, or public display of pictures, paintings, photos, or other pictorial representations of the work.
 - Cannot prevent owners from altering or destroying the building.

(2) Musical Works and (7) Sound Recordings

- Musical Work
 - One copyright goes to the author of the music and lyrics
- Sound Recording
 - A separate Copyright goes to the person who embodies the musical work in a sound recording.
 - The musicians who play the instruments, the singer who sings, maybe the sound editors and producers who lay the track.

Rules are surprisingly different for the two.

- Public Performance Right
 - Musical Work owner can enforce.
 - Sound recording owner does not have right.
 - Result: Radio stations pay owner of work, but not owner of recording.
- Cover Version Handling.
 - Sound recording owner has no interest whatsoever in creation of most cover versions.
 - Musical work has a copyright in cover versions, but owner need not be asked for permission to record or distribute (but not perform) a cover version.

The Copyright Rights societies

(3) Dramatic and (4) pantomime and choreographic works.

(6) motion pictures and other A/V works

Section 103: Derivative works and compilations.

- Derivative works: "based upon one or more preexisting works, such as translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgment, condensation, or any other form in which a work may be recast, transformed, or adapted."

Don't trip up on this: you'll learn next week that owning a copyright means you can stop others from making DW's. But DW's are independently copyrightable.

Policy: encourage cover versions. Congressionally set compulsory license fee (around 9.1 cents per song distributed). Weird AI?

Ownership

Duration