

Class 7: Formalities

Administrative

Next Time:

209-35; §§ 101 (“audiovisual works”, “literary works”, “motion pictures,” “pictorial, graphic, and sculptural works,” “sound recordings,” “useful article”, “including”, “such as”), 102(a), 113(a) - (c)

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Last Time

Duration

The Rules

Duration measured from fixation in a tangible medium

Life Plus 70 for individual or joint authors (for joint, life of last to die)

For anonymous, pseudonymous, or works for hire: 95 from publication or 120 from creation (whichever shorter)

Eldred


Facts

Testing Constitutionality of CTEA

Held

Constitutional

Issues:

 Congressional Power under Copyright Clause

 Effect on Incentives?

 First Amendment

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Last Time

Terminations of Transfer

The Rules

For transfers made after 1/1/1978

Won't review the ones made before 1/1/1978


Calculator 

You CANNOT assign or waive your termination rights

Policy?

Superheroes

Siegel v. Warner Brothers

Jack Kirby 

NOT for works for hire

ONLY for first transfer in chain (from author to someone else)

NOT for transfers by will

Who Authors living: Need 51%

Authors dead Very complicated Per stirpes

Timing

The window

5 year window

Opens at end of 35 years from day of execution of grant

Closes at end of 40 years from day of execution of grant

One date in this range chosen as the "effective date"

Notice

Must be served not less than two years

And not more than ten years

prior to the effective date


Copy must be recorded with Copyright Office

Joseph Siegel and Joseph Schuster sold rights to Superman for \$130

District court has awarded some rights back to Siegel

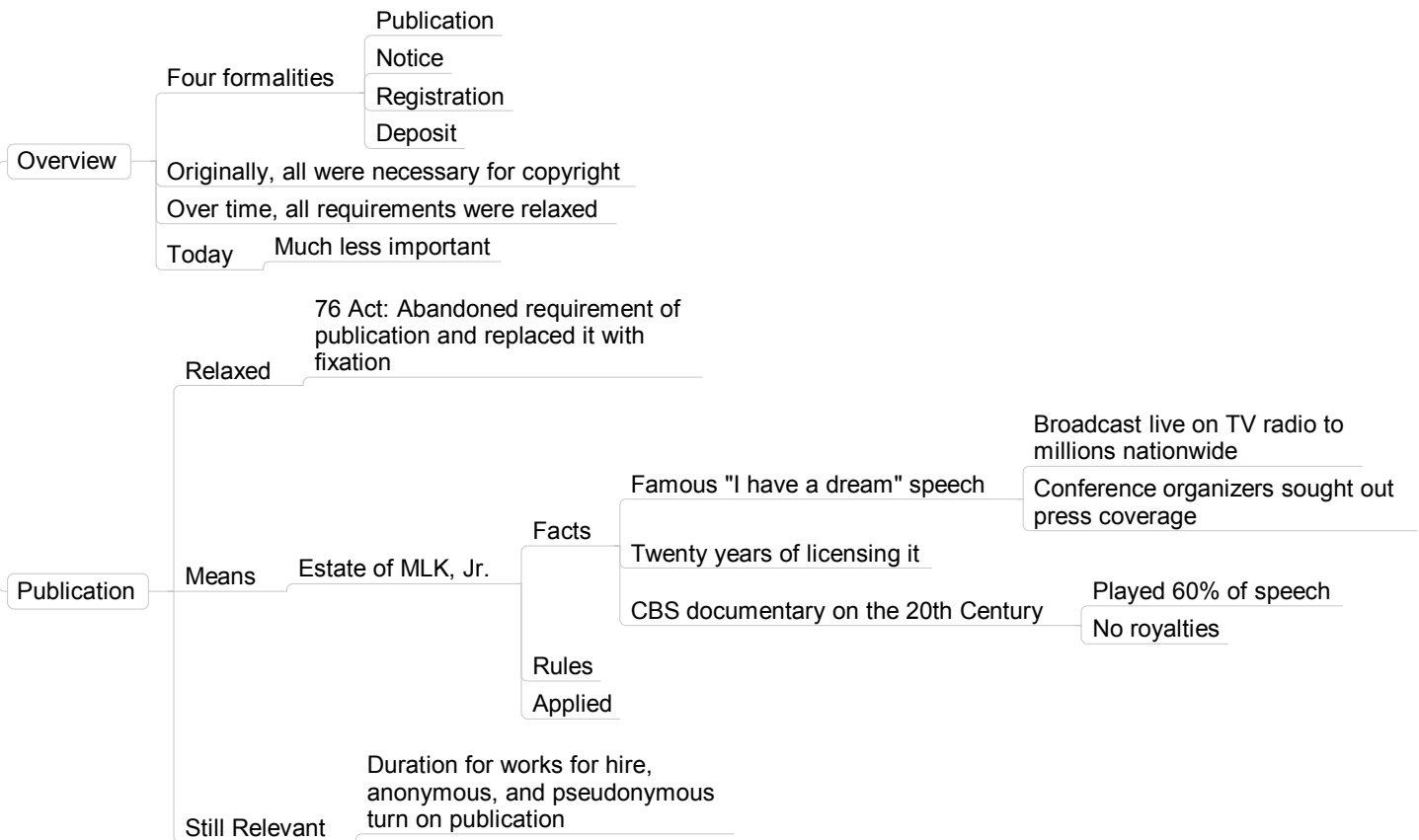
Schuster gets second chance at window in a few years

The four sets of material mentioned above includes Superman's origin story, his parents Jor-El and Lora, infant Superman, and other story elements. The materials from 1938 to 1943 includes "kryptonite," Lex Luthor, Jimmy Olsen, and Superman's ability to fly.

What is 50% owned by Siegel again 

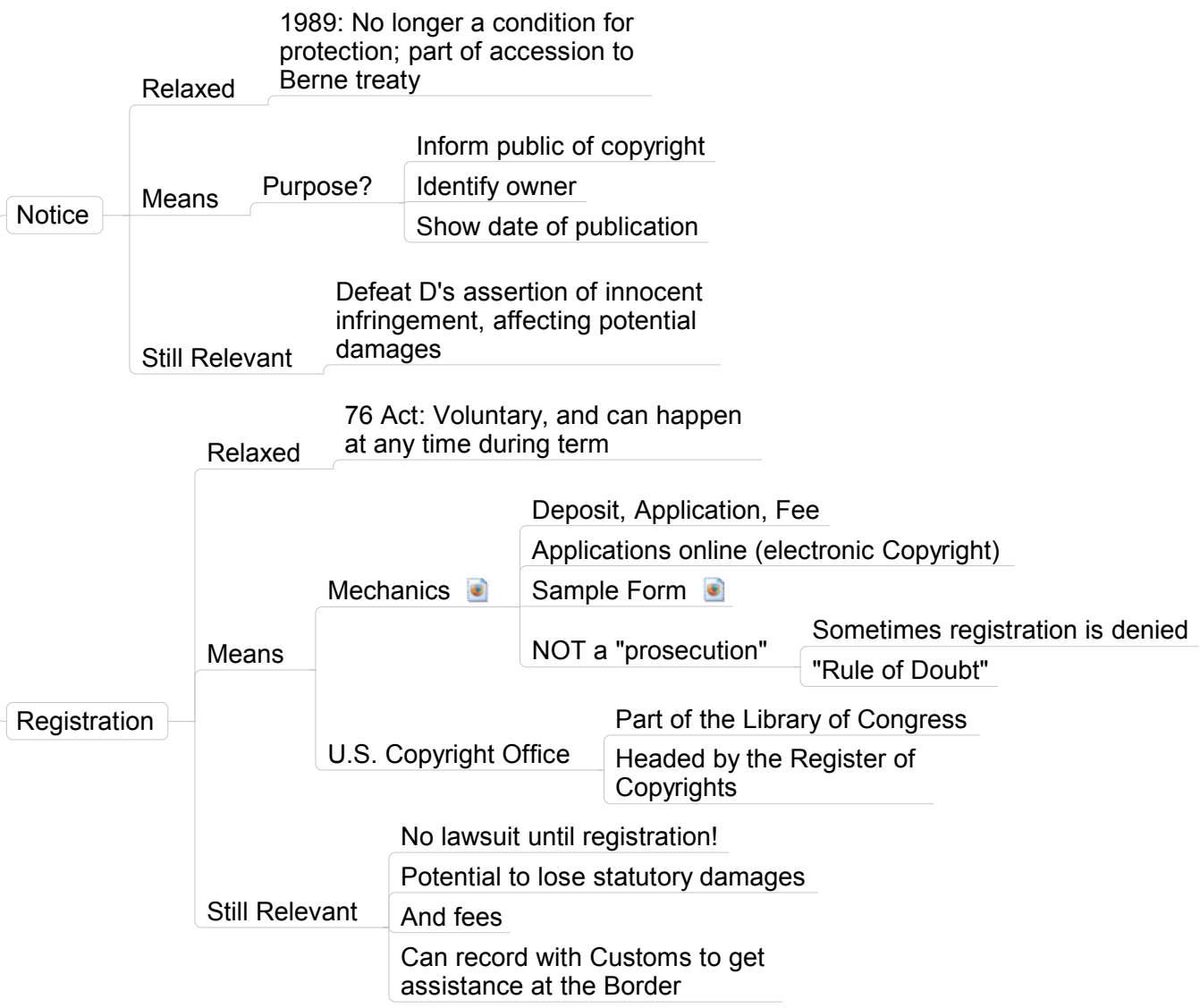
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Deposit

Relaxed

1989: No longer required, part of Berne accession

Means

Can't register without deposit

Policy

Still Relevant

Required for Registration

A good thing?


Is it a good thing formalities have been relaxed?

Interplay of International treaties and American law

Effect of fewer formalities

Orphan Works

Defined

January 2006 Report 

2008 Bill

Connection to Google Books