

Class 20: Fair Use I

Administrative

Next Time

552-56; Supp/109-15; 561-62 (note 6 only); 564-75; 576-79

Note small change from syllabus: do not read the "Note on the Interoperability Provisions of the EU Software Directive," pages 575-76

Basics

Section 107

Harper & Row v. Nation Enterprises

Basic Facts

Gerald Ford wrote an autobiography after leaving office.

Lots of "newsworthy" tidbits, most importantly his telling of the events leading up to the pardon of Nixon.

Time magazine entered into contract with Ford & publishers to publish excerpts from the book one week before release date.

Two payments. Second was supposed to be for \$12,500.

Two to three weeks before release, someone stole a copy of the manuscript and gave it to the editor of The Nation

Editor of The Nation (Navasky) worked quickly to excerpt passages in his magazine to scoop Time.

Navasky "attempted no independent commentary, research or criticism, in part because of the need for speed"

Time canceled second payment (\$12.5k)

Held

Listen

1964: Roy Orbison writes "Oh, Pretty Woman"

Assigned rights to Acuff-Rose

Basic Facts

1989: 2 Live Crew write "Pretty Woman".

P uses word "parody" and D uses word "satire"

July 1989: Sought a license from Acuff-Rose

Acuff-Rose refused permission.

Released song anyway. Large success.

Held (Supreme Ct. 1994)

Parody or Satire?