

Class 4: Idea-Expression (cont.) and Derivative Works

Administrative

- Next Time
 - 107-24
 - Section 101 Definitions, 201(a-c); 202

Basics

- Definition
- Policy Justification

Last Time

Baker v. Selden

Basic Facts

Blank Accounting Forms Pages 85-86

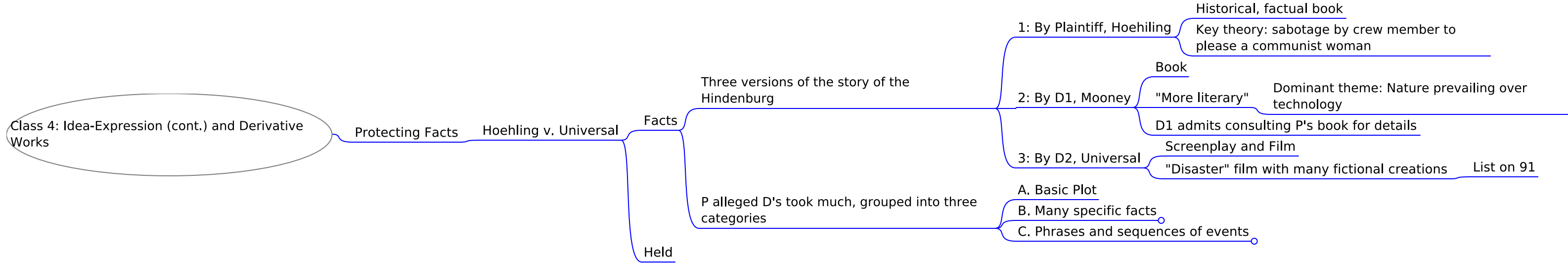
Selden came up with new method for accounting.

Key innovation: More summary data shown on two facing pages.

Selden's book: Introductory essay explaining the system.
Blank forms illustrating the system.

Baker's book

Held (Supreme Court 1880)



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Merger, Thin Copyrights, Scenes a Faire

- Merger
- Thin Copyright
- Scenes a Faire

ADA v. Delta Dental

Facts

ADA created taxonomy of dental procedures

Code on Dental Procedures and Nomenclature
e.g. 04267: "Guided tissue regeneration -- nonresorbable barrier, per site, per tooth (includes membrane removal)"

Delta Dental

- Own version of the Code
- Most of the numbering system
- Most of the short descriptions

Key fact buried at end of opinion

Delta modified some of the Code, which apparently is why ADA sued
"Variations salted through a convention impede communication"

Me: Is this a concern for copyright policy?

ADA sued for copyright infringement

Held

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Derivative Works Originality Requirement for DWs

Barfin v. Snyder

H&K

Facts

- Reproductions of Uncle Sam mechanical banks for Bicentennial
- Snyder makes plastic version based on cast-iron original. Some differences
- Snyder registers copyright
- Barfin (competitor) tries to import own version of banks into US
- Barfin brings action for DJ of noninfringement
- District Court: PI

- Photo on 10¢
- Two inches shorter
- Different base
- Carpetbag
 - Different shape
 - Different texture
- Eagle clutching arrows versus leaves
- Umbrella in single molded piece
- Rollover on ceokopyright.com
- "Many of these differences are not perceptible to the casual observer"

Blocked by Customs Service

Distinguishing Alva Studios Reproductions of Rodin's Hands of God



FN 5: With license from Copp, holders

E.R.G. vs. Genesis Creative Group

Facts

P manufactured 3-D inflatable costumes of 2D copyrighted characters

Some differences

District court: All differences primarily driven by functional consideration: fit human body

P sued another creator of 3D costumes as well as common distributor

Common complication with DW cases: keeping track of THREE parties, not two

Harkens back to bad "joinder" diagrams in CsPro
In this case, D doesn't really matter at all.
Key comparison is between D and P

