Dr. Ashley J. Stevens
President



With thanks to:

Howard Zaharoff



- Federal Law: 17 U.S. Code § 101 et seq.
- Subject Matter: Original literary, pictorial, musical, audiovisual, and other works of authorship, including computer programs, fixed in tangible form
 - "Original" = not copied from other source (minimal creativity)
 - Lower standard than patents "novel and non-obvious"



"Only one thing is impossible for God: To find any sense in any copyright law on the planet."

Mark Twain



- Examples of protected works in software industry:
 - □ Software: code; detailed structure, sequence and organization
 - Multimedia works: code, images, structure and sequence
 - Documentation: Manual, notes, flowcharts
 - Databases
 - Other, including:
 - Original marketing and promotional materials; ad copy
 - White papers and research reports
 - Notebooks, memos, correspondence and contract forms



Scope of Protection:

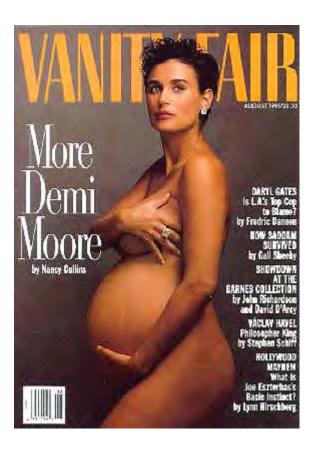
- Right to copy, adapt, distribute, publicly perform and publicly display work, also --
- Rights of attribution and integrity for visual art
- Rights of digital audio transmission for sound recordings
- Rights to prevent (i) circumvention of technological access-controls or (ii) removal/alteration of copyright management information (DMCA)

Limitations:

- Copyright protects original expression, not ideas, facts or principles
- Built-in limits: public performance, first sale
- No protection for common features ("scenes a faire")
- □ Fair use by third parties



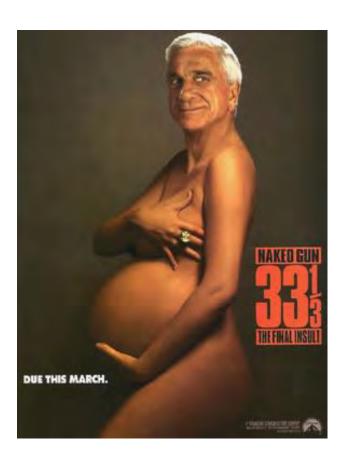
Copyrights - Fair Use



- Leibovitz v. Paramount Pictures (2d. Cir. 1998)
- "Leibovitz is entitled to protection for such artistic elements as the particular lighting, the resulting skin tone of the subject, and the camera angle that she selected."



Copyrights - Fair Use



"...but a parodist's copying of more of an original than is necessary to conjure it up will not necessarily tip ... against fair use."



Ownership:

- Author / artist owns, not the employer, unless
 - 1. Within scope of employment or
 - 2. Written work-made-for-hire or assignment agreement
 - □ Technically, a "work-made-for-hire" must be one of 9 identified types of works
 - For other works, employer will own the copyright only by written assignment
 - Assignments can be terminated in 36th-40th year



Term:

- Life of author plus 70 years
- 95 years from publication / 120 years from creation for pseudonymous and anonymous works and works made for hire (mainly corporate works)

Filings:

- Registration is voluntary, but:
 - Registration/deposit is precondition to suit and provides:
 - Statutory damages (\$30K / \$150K) and attorneys fees for post-registration infringements
 - Prima facie evidence of validity and stated facts
 - Formal record of transfers, assignments and security interests



Cost:

- Copyright is automatic (= fixation+\$0)
- Registration costs \$45

Notice:

- Copyright, Copr. or ©, year, and name, e.g.:
 - "Copyright © 2005-2018 Ashley J. Stevens. All rights reserved. Do not modify or copy"



International Copyright Treaties

- Berne Convention
 - □ First signed in 1886
 - □ Effective 1887
 - Last revision 1971
 - Pre-digital era
 - Currently 177 signatories
 - U.S. ratified in 1989
 - Administered by WIPO
- Term of Protection:
 - Minimum of 50 years after author's death
 - Minimum of 25 years after a photograph is created
 - Minimum of 50 years after first showing for cinematography



Technologies that can be used to infringe copyright

- Movie and TV industries were very concerned about VCR's
- Sued
 - Sony Corp. of America v. Universal City Studios, Inc., 464 U.S. 417 (1984)
 - Claimed Sony liable for copyright infringement by buyers contributory infringement
- District Court found:
 - Recording of individual TV shows for personal use was "fair use"
 - No contributory infringement if substantial non-infringing uses
- Finished up in the Supreme Court
 - District Court decision upheld 5-4



In the Digital Age

- Napster found not to have substantial non-infringing uses
 - Injunction
 - Shut down
- Trivia:
 - Where did Napsters' technology finish up?



Enforcing Copyrights

- In the Analogue Era, enforcement was retroactive, through the Courts
- In the Digital Era, enforcement is proactive, through Digital Rights
 Management systems
- Have become a form of proprietary protection
 - iTunes
- Can be a competitive liability
 - Sony



Open Source

- Generally applies to software
- At least 56 license formats
 - GNU GPL very popular
 - Originally written by Richard Stallman, MIT in 1989
 - Current version V3.0 released in 2007
- Allows user to modify and distribute
 - Normally prohibited under copyright law
 - "Copyleft"
 - Rights carry through to derivatives
 - Viral
 - Everything that incorporates the smallest amount becomes Open Source
 - Verify, verify, verify
- MIT and Mozilla licenses very popular
 - More commercial leeway



Open Source

- So how do you make money if something is Open Source?
- If someone else wrote the copyrighted material and made it Open Source:
 - Sell services
 - □ E.g, RedHat / Linux
- If you wrote the copyrighted material
 - Make a basic model and make it Open Source to create demand
 - Sell a value added version



Some Open Source Products

- SMGTools
- Linux kernel operating system based on Unix
- Eclipse software framework for "rich-client applications"
- Apache HTTP web server
- Tomcat web server web container
- Blender 3D graphics application
- Moodle course management system
- Mozilla Firefox web browser
- Mozilla Thunderbird e-mail client
- OpenOffice.org office suite
- OpenSolaris Unix Operating System from Sun Microsystems

