
Chapter XIII

Copyright Law in the Digital Age

Jordan M. Blanke
Mercer University, USA

ABSTRACT

This chapter discusses the current state of copyright law with respect to works contained on different media. It traces the history and purpose of the law, while focusing on how digital technology has shaped its evolution. It describes how recent legislation and court cases have created a patchwork of law whose protection often varies depending upon the medium on which the work lies. The author questions whether some of the recent legislation has lost sight of the main purpose behind the copyright law, the promotion of learning and public knowledge.

INTRODUCTION

As society has transitioned to a digital world, copyright has emerged as the most important area of intellectual property law. While the scope of patent, trademark and trade secret law has each greatly expanded in the last decade or so, copyright law has gotten the most attention. The popularity of the Internet

This chapter appears in the book, Social, Ethical and Policy Implications of Information Technology, edited by Linda Brennan and Victoria Johnson. Copyright © 2004, Idea Group Inc. Copying or distributing in print or electronic forms without written permission of Idea Group Inc. is prohibited.

and the digitization of information have strained traditional copyright principles and presented many difficult new questions. The law, which must and does evolve as society changes, is being forced, again, to address new technologies. It must either apply existing rules to these new technologies, or create new rules.

A BRIEF HISTORY OF COPYRIGHT LAW

In order to understand copyright law, as it exists today, it is important to understand its origins. The legal authority for copyright law in the United States comes from the Constitution itself. Among the enumerated powers granted the Congress in Article I of the Constitution is the power:

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries. (U.S. Const. art. I, § 8, cl. 8.)

Like much of the language in the Constitution, this clause was the product of compromise. James Madison, the principal drafter of the language, believed that the copyright law should benefit both the author and the general public. The author would reap the rewards of his creative effort for a limited period of time, and thereafter, the public would benefit by receiving these works into the public domain. Thomas Jefferson was apprehensive of any type of monopoly, even a limited one granted to the author of a creative work. He finally acquiesced to the notion of a copyright, as long as it was for a limited period of time. Both Madison and Jefferson readily agreed that the primary purpose of the law would be to promote learning and the progress of public knowledge (Vaidhyanathan, 2001).

An author's copyright interest in a work is granted by statute for a specific period of time, as opposed to being a "property" right to be possessed indefinitely. British law, at the time, recognized both types of these interests, but the Constitution only granted Congress the authority to create a statutory right for a limited period (Patterson, 1992).

The first Copyright Act of 1790 granted a copyright to authors of maps, charts and books for a period of 14 years, renewable for one additional term of 14 years. Over the past 200-plus years, both the scope and duration of this copyright interest have greatly increased. As new media were developed, the law responded. During the 1800s, the copyright law was modified several times to expand its scope to include prints and engravings, musical compositions, public performances of dramatic works, photographs, paintings, drawings and statues.

In 1909, the copyright law was completely rewritten, granting copyrights for "all the writings of an author" (Copyright Act of 1909, § 4). Since that time, this language has been interpreted to include, among other things, motion pictures,

9 more pages are available in the full version of this document, which may be purchased using the "Add to Cart" button on the publisher's webpage: www.igi-global.com/chapter/copyright-law-digital-age/29315

Related Content

Standards Development as Hybridization

Xiaobai Shen, Ian Graham, James Stewart and Robin Williams (2013). *International Journal of IT Standards and Standardization Research* (pp. 34-45).

www.irma-international.org/article/standards-development-as-hybridization/83546

Assessing IPR Disclosure within Standard Setting: An ICT Case Study

Anne Layne-Farrar (2015). *Modern Trends Surrounding Information Technology Standards and Standardization Within Organizations* (pp. 86-105).

www.irma-international.org/chapter/assessing-ipr-disclosure-within-standard-setting/115270

Ready – Set – Slow: A View from Inside a CEN Working Group

Jürgen Wehnert (2006). *Advanced Topics in Information Technology Standards and Standardization Research, Volume 1* (pp. 138-148).

www.irma-international.org/chapter/ready-set-slow/4661

Information Security Policies

J.R Ikoja-Odongo (2011). *Handbook of Research on Information Communication Technology Policy: Trends, Issues and Advancements* (pp. 434-448).

www.irma-international.org/chapter/information-security-policies/45399

Community-Driven Specifications: XCRI, SWORD, and LEAP2A

Scott Wilson (2013). *Innovations in Organizational IT Specification and Standards Development* (pp. 250-263).

www.irma-international.org/chapter/community-driven-specifications/70703