

THE COPYRIGHT SOCIETY OF THE U.S.A.
A non-profit organization dedicated to copyright law education

ONLINE NEWSLETTER
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LETTER FROM THE PRESIDENT

Dear friends:

In the next few weeks we will be sending you registration information for the Mid-Winter meeting in Park City, Utah. The meeting, to be held during President's Weekend, February 16-18, 2006 is a significant departure for the Society. In past years we have tried to escape the cold winter for warmer, sunnier climes. Those of you who attended our meetings in Napa and Santa Barbara know that the theory sometimes is more impressive than the reality. So, in a bold attempt to go with the precipitation flow, we are trying to take advantage of the cold weather at a premier ski resort. Our educational sessions will be held early, during breakfast, and late (hopefully giving new meaning to the term "happy hour"). There will be plenty of time for skiing, snow sports and touring this beautiful area of our country.

The meeting, chaired by Simon Barsky, Andrew Bridges and Berne Broadbent, should be as stimulating and brisk as the mountain air. Topics include "Fair Use Beyond the Four Factors", "Limits of Contracts and Copyright: EULAS and License Restrictions; How Far May They Go?" and "What Now After Grokster, A Global Perspective".

In another break from the past, we will provide accommodations at two area hotels. One will book a three day package and the other will provide a five day package. For those of you with families and a President's Week Holiday, we encourage you to stay. I also hope that these arrangements will permit even more informal socializing amongst our members and guests. We expect to have many points of view represented at this meeting and look forward to both heated debates and rekindling of warm friendships.

See you on the slopes!

Best regards,

Barry Slotnick

NATIONAL EVENTS CALENDAR
(Further details are available on our web site: www.csusa.org)

THE BRACE LECTURE

November 8, 2005, 6:30 p.m.

David Nimmer, Of Counsel, Irell & Manella LLP and Co-Author of "Nimmer on Copyright"

"Patently Misguided? A Direct Analysis of Copyright's Indirect Liability"

Lecture Location: Tishman Auditorium, New York University School of Law, 40 Washington Square South

Cost: \$35/person (Free for students and faculty). R.S.V.P. by October 25, 2005.

Reception to Follow

The CSUSA is working on trying to make the Brace Lecture available online for the first time ever. Further details will be available soon.

THE MIDWINTER MEETING

February 16-18, 2006

Park City, Utah

Registration information available at www.csusa.org

Please see Committee Reports for full details

COPYRIGHT AWARENESS WEEK

March 6-10, 2006

Please see the Committee Report in this Newsletter for further information, and our web site www.csusa.org

THE ANNUAL MEETING

June 11-13, 2006 at The Sagamore Hotel, Bolton Landing, NY

REGIONAL CHAPTER EVENTS

ARIZONA CHAPTER:

For information on upcoming events, please contact Paul E. Burns, Steptoe & Johnson LLP, (602) 257-5271, email: pburns@steptoe.com.

MIDWEST CHAPTER:

The Midwest Chapter will be presenting a series of three lunchtime programs devoted to Chicago's local entertainment industry:

November 2, 2005

"Now Appearing on a Passport Near You: The Patriot Act and Visiting Performers"

Speakers: Gabrielle Buckley and Terry Freitag

March 1, 2006

"There Ain't No Sanity Clause: Film Contracts"

Speakers: E. Leonard Rubin and Robert Labate

April 5, 2006

"Star Light, Star Bright, Who Controls Your Work Tonight? Representing Artists in the Music Industry"

Speaker: Peter Strand

Location for all three programs: Mayer, Brown, Rowe & Maw LLP, 71 South Wacker Drive, Chicago, Illinois, 33rd Floor - Townhall B

Time: 12:00 noon to 2:00 p.m.

Cost for each program: \$20 (Members); \$25 (Non-Members); Free for Students

Early Bird: Sign up by October 31, 2005 and attend all three programs for only \$40 (Members); \$50 (Non-Members)

For more information on upcoming events, please contact Beverly A. Berneman, Querrey & Harrow, (312) 444-1996, email: bberneman@querrey.com.

MIDWEST CHAPTER NEWS:

The Midwest Chapter reports that its Copyright Outreach Program is in full swing. Last year, the chapter reached 800 high school students. This year, it hopes to reach over a thousand. The program puts attorneys in the classroom to talk to high school students about copyright law and plagiarism, and uses various formats to reach the students. Beth Fulkerson, the Vice-Chair for Copyright Awareness, has been instrumental in making all of the arrangements and deserves the highest praise for her generous contribution of time.

NEW ENGLAND CHAPTER:

For information on upcoming events, please contact Lois Wasoff, (978) 287-5888, email: lois.wasoff@verizon.net.

NEW YORK CHAPTER:

October 26, 2005

"Grokster -- The Final Word? The Definitive Analysis of the Supreme Court Decision and Its Real World Aftermath"

In *MGM v. Grokster, et al.*, the United States Supreme Court's recent landmark copyright decision, the Court revisited the issue of secondary liability for copyright infringement and articulated a new, definitive standard for assessing liability. In so doing, the Court revisited its *Sony Betamax* decision, revived the ancient "inducement" theory as a "new" basis for secondary copyright liability, and remanded the case for further proceedings. Is the Court's decision the final word, either for the parties themselves, or for the greater online world? What does the decision auger for content owners and new software/hardware designers? Should both sides head back to their drawing boards before drafting new business plans, introducing new electronic devices, releasing new content, or devising new litigation strategy?

The program's two speakers -- opposing attorneys who helped guide the Grokster case through the lower courts and were part of the team that prepared the briefs and arguments made before the Supreme Court -- will answer these and other questions, while analyzing the three opinions issued by the Supreme Court, and explaining exactly what the Court held as it attempted to balance the interests of software innovators and content owners. This program will give the speakers their chance to square off again, and to give you their insights into the legal issues, their own legal strategies and arguments, and ultimately the Court decision and its implications for the future. Come hear analysis and insights on the digital content wars from two attorneys fighting in the front lines.

Panelists:

Stanley Pierre-Louis, Esq., Senior Vice President, Legal Affairs for the Recording Industry Association of America (RIAA). Mr. Pierre-Louis was a principal member of the recording industry's successful litigation team that coordinated the RIAA's brief and oral argument before the U.S. Supreme Court.

Fred von Lohmann, Esq., Senior Intellectual Property Attorney with the Electronic Frontier Foundation (EFF). Through his work with EFF, Mr. von Lohmann successfully argued the Grokster case in the U.S. Court of Appeals for the Ninth Circuit, representing defendant Streamcast Networks, and was a principal member of the team that prepared Streamcast's brief and oral argument before the U.S. Supreme Court.

Moderator: Joseph Salvo, Vice President, Law Department, Sony BMG Music Entertainment.

Date: Wednesday, October 26, 2005 (note this is a breakfast meeting)

Time: 8:15-8:30 a.m.: Registration; 8:30-9:00 a.m.: Breakfast; 9:00-10:15 a.m.: Program (will start and end promptly)

Place: The Princeton Club, 15 West 43rd Street, New York, NY

CLE: We are applying for 1.5 hours of NY substantive CLE credit.

Cost: \$50 (members); \$60 (non-members)

Registration forms: please contact CSUSA Executive Administrator, Amy Nickerson: amy@csusa.org.

New York Chapter tentative schedule of upcoming events (panelists to be announced):

Wednesday, November 16, 2005 (DINNER): "Copyright, Lanham Act, Right of Publicity and Contract Claims Arising from Use of Music in Jingles and Commercials"

Tuesday, December 13, 2005 (LUNCH): "Orphan Works Legislation"

Wednesday, January 18, 2006 (DINNER): "Latest Developments in the Law of Substantial Similarity"

Thursday, February 9, 2006 (LUNCH): "National Geographic Photography Cases and the Aftermath of Tasini"

Thursday, March 16, 2006 (LUNCH): "Protection of Pre-2/15/1972 Sound Recordings Under State Common Law and the Copyright Act (Restoration of Foreign Works)"

Tuesday, April 11, 2006 (LUNCH): "Investor Liability for Copyright Infringements"

Wednesday, May 17, 2006 (LUNCH): "There's a Whole Lotta Bloggin' Goin' On: a Look at the Blogging and Podcasting Phenomena, the Copyright, Defamation, Federal Election Law, and Other Legal Issues Facing Bloggers and Podcasters"

*All programs to be held at the Princeton Club, 15 West 43rd Street, New York, NY.

The New York Chapter is excited about its tentative topics, but it is open to changing them if an important copyright development or hot new idea comes along. If you have exciting ideas for topics, know of a dynamic speaker, or have a program to present yourself, please call or email John P. Luneau at (212) 320-3757 or john.luneau@palmictures.com, or contact any member of the Program Committee.

Recent Event:

September 20, 2005

"Ethical Problems in Intellectual Property License Negotiations"

Event held at the Princeton Club, New York

Speakers: John F. Delaney, Esq., Morrison & Foerster LLP; David Rabinowitz, Esq., Moses & Singer

Announcement from the Chair:

John Luneau wishes to welcome the return of nearly all members of last year's Program Committee, who have signed on for another year: Rose Auslander, Bob Clarida, John Delaney, David Donahue, Jay Flemma, Monica McCabe, Dave Rabinowitz, Joe Salvo, Aarti Tandon, Nancy Wolff and Marya Lenn Yee.

NORTHERN CALIFORNIA CHAPTER:

October 26, 2005

"Use and Abuse of Archival Music Performances"

Cydney A. Tune, Counsel at Pillsbury Winthrop Shaw Pittman LLP, will discuss the rights involved with using archival music performances as well as policing issues and strategies when such rights are used without authorization.

Date: October 26, 2005

Time: 12:00 noon

Location: Pillsbury Winthrop Shaw Pittman LLP, 50 Fremont Street, Room 624-628, San Francisco, CA

CLE: 1 hour MCLE credit

Cost: \$15 (members); \$20 (non-members)

Registration forms: please contact CSUSA Executive Administrator Amy Nickerson: amy@csusa.org.

For more information on upcoming events, please contact Naomi Gray, Paul, Hastings, Janofsky & Walker, (415) 856-7026, email: naomigray@paulhastings.com.

NORTHWEST CHAPTER:

For information on upcoming events, please contact Eric M. Stahl, Davis Wright Tremaine LLP, (206) 628-7762, email: ericstahl@dwt.com.

PHILADELPHIA CHAPTER:

For information on upcoming events, please contact M. Kelly Tillery, Pepper Hamilton LLP, (215) 981-4401, email: tilleryk@pepperlaw.com.

ROCKY MOUNTAIN CHAPTER:

For information on upcoming events, please contact Christopher P. Beall, Faegre & Benson LLP, (303) 607-3500, email: cbeall@faegre.com.

SOUTHEAST CHAPTER:

For information on upcoming events, please contact Stephen Dorvee, Arnall Golden & Gregory, (404) 873-8680, stephen.dorvee@agg.com.

WASHINGTON, D.C. CHAPTER:

October 24, 2005

"Google Print for Libraries: Fair or Foul"

The program will focus on the Print for Libraries project and the complaint filed by the Authors Guild against Google. Speakers will include Allan Adler, Jonathan Band, Siva Vaidyanathan, and a representative from Google and from the Authors Guild.

Date: October 24, 2005

Time: 12:00 noon

Location: Skadden Arps, 1440 New York Avenue, N.W., Washington, D.C.

Registration forms: please contact CSUSA Executive Administrator Amy Nickerson: amy@csusa.org.

November 10, 2005

The Sixth Annual Christopher A. Meyer Memorial Lecture: "Copyright Under Siege: Some Thoughts of a Publisher's Counsel"

Speaker: Henry Horbaczewski, Esq., Senior Vice President & General Counsel, Reed Elsevier, Inc.

Date: November 10, 2005

Time: 2:00 p.m. - 3:00 p.m.

Location: Motion Picture Association of America, 1600 Eye Street, N.W., Washington, D.C.

Reception immediately following. Seating is limited.

R.S.V.P. (202) 637-0850 or meyerklipper@verizon.net

Recent Events:

July 19, 2005

"The Copyright Office Speaks"

Event held at the City Club of Washington, Washington, D.C.

Speaker: the Honorable Marybeth Peters, Register of Copyrights, the Copyright Office

July 6, 2005

"File Sharing and Copyright Infringement after MGM Studios v. Grokster"

Event held at D.C. Bar Conference Center, Washington, D.C.

Speakers: Jonathan Band, Jonathan Band PLLC; David O. Carson, General Counsel, U.S. Copyright Office; Adam Eisgrau, Executive Director, P2P United; Michael P. O'Leary, Vice President and Senior Counsel, Motion Picture Association of America; Thomas J. Perrelli, Jenner & Block LLP; Gigi B. Sohn, President, Public Knowledge

Moderator: Preeta D. Bansal, Skadden, Arps, Slate, Meagher & Flom LLP

Sponsored by the Washington, D.C. Chapter of the CSUSA and the D.C. Bar Sections on Arts, Entertainment, Media and Sports Law and Intellectual Property Law and Washington Area Lawyers for the Arts

For more information on upcoming events, please contact Mary Rasenberger, U.S. Copyright Office, (202) 707-1660, email: mras@loc.gov, or Robert Kasunic, U.S. Copyright Office, (202) 707-0229, email: rkas@loc.gov.

YOUNG LAWYERS CHAPTER:

The Chapter is currently planning an event in January relating to music industry issues. Details TBD.

For more information on upcoming events, please contact Aroop Sanakkayala, email: aroop@tandonlaw.com, or Aarti Tandon, L/O Aarti Tandon, (212) 420-8515, email: aarti@tandonlaw.com.

OTHER RECENT EVENTS:

September 30, 2005

"Chipping in from the Fringe: Is Imitation in Golf Architecture the Best Form of Flattery?"

Event held at Fordham University School of Law, New York. Sponsored by the New York State Bar Association's Entertainment, Arts and Sports Law Section.

Speakers: Robert W. Clarida, Cowan, Liebowitz & Latman; Stephen Kay, golf course architect; Jay Flemma, Esq.

September 13, 2005

"Is Your Dogma Trashing My Karma? Copyright Protection for Yoga Sequences, Exercise Programs and Sports Plays"

Event held at Lawry's, Beverly Hills, CA. Sponsored by the Beverly Hills Bar Association's IP, Internet & New Media Section.

Speakers: F. Jay Dougherty, Professor, Loyola School of Law; Susan E. Hollander, Manatt, Phelps & Phillips, LLP.

June 21, 2005

"How to Get Your Stay Out of Court Free Card: Preventing and Resolving IP Disputes"

Event held Lawry's, Beverly Hills, CA. Sponsored by the Beverly Hills Bar Association's IP, Internet & New Media Section.

Speakers: Joel Grossman, ADR Services; Jeffrey Finn, Sidley & Austin; Andrew Serwin, Foley & Lardner; Mitchell Schwartz, Vice President, Motion Picture Association of America.

COMMITTEE REPORTS

COPYRIGHT AWARENESS WEEK

The Copyright Society of the USA is gearing up for its fifth annual Copyright Awareness Week (CAW) that will be held this year from March 6-10, 2006. The goal of the event is to teach students basic concepts about copyright. We hope that through this understanding, students will be more appreciative of the efforts of creative people and the protections the law affords them.

We have been working with the Scholastic Artists and Writers Awards to build an area on their website that will deal with the three areas that they feel are copyright-related and troublesome for their student

applicants. These include (1) plagiarism in the writing competition; (2) music clearances for video competition, and (3) derivative works in the art and photography competition. We have also been working with Scholastic's Internet/Magazine division and together will create an "essay" area, featuring copyright-related industry issues, on Scholastic's website called "WriteIt" (www.teacher.scholastic.com/writeit).

The Committee has been working to build alliances with teacher organizations such as the Music Educators National Conference (MENC) and the National Council of Teachers of English (NCTE), and CAW Chair Monica Corton will also be speaking at the National Arts Educators conference that will take place in March. In addition, in order to gain exposure for CAW 2006 and encourage teachers and students to participate, we plan on doing a radio PSA campaign.

Finally, the Committee will hire a teacher to completely overhaul and reorganize CAW materials to make the lessons more interesting and more teacher-friendly.

There will be several ways you, as a member of the Copyright Society, can get involved with Copyright Awareness Week. You will be able to volunteer to consult with teachers via email, or offer a visit to a classroom by invitation of a teacher. Please keep a look out for an email you will be receiving in the next few weeks with the specific details on all of the volunteer opportunities.

If your company or firm would like to donate money for the production of Copyright Awareness Week or if you have any questions about CAW, please email Monica Corton, Chair of Copyright Awareness Week 2006 at cawquestions@aol.com. We hope you will find a way to get involved in this monumental effort to educate America's young people and encourage a greater understanding of copyright.

F.A.C.E. COMMITTEE:

Friends of Active Copyright Education (F.A.C.E.) is an initiative of the Copyright Society of the USA designed to provide a broad range of resources to foster and support copyright awareness. For further information please contact the co-chairs, Mary Rasenberger, Email: mras@loc.gov; and Thomas Kjellberg, Email: txk@cill.com

WEB SITE COMMITTEE:

The Web Site Committee is currently planning a redesign of the web site. Any members interested in participating are invited to contact one of the chairs. We continue to update the site, posting current information about events, and working on logistics. Chairs: Nancy Mertz, Email: nmertz@brownraysman.com and Anne Atkinson, Email: anne.atkinson@aetn.com

THE JOURNAL OF THE COPYRIGHT SOCIETY OF THE U.S.A.

Joseph J. Beard, Editor-in-Chief, Email: beardj@stjohns.edu

REGIONAL CHAPTERS COMMITTEE:

The Chapters Committee coordinates the regional chapters, assisting with programming and membership. The Committee's goal is to further the development and quality of the programs for all of the Society's members. Any comments or suggestions for programs or events may be submitted to the chair. Chair: Corey Field, email: fieldc@ballardspahr.com.

YOUNG LAWYERS COMMITTEE:

The Young Lawyers Committee of the Copyright Society meets the third week of every month and sponsors special events. New and recently admitted lawyers need not be a current member of the Copyright Society in order to attend. For further information contact Aarti Tandon, Email: aarti@tandonlaw.com

PRESS AND PUBLICITY COMMITTEE:

The Press and Publicity Committee publishes this online newsletter, sends out official Copyright Society Press Releases for special events, and acts as a press liaison for the Copyright Society of the U.S.A. Chair: Eleanor M. Lackman, Email: copyrightnews@gmail.com.

MEMBER NEWS SUBMISSIONS:

Beverly Berneman's firm, Benjamin, Berneman & Brom, LLC merged last month into Querrey & Harrow, Ltd. As a shareholder of Querrey & Harrow, Ms. Berneman will be primarily responsible for developing the Intellectual Property business in the firm, and will continue to practice in the areas of commercial law and bankruptcy as well. Ms. Berneman can now be contacted at Querrey & Harrow, Ltd., 175 West Jackson Boulevard, Suite 1600, Chicago, IL 60604-2827, (312) 540-7000, email: bberneman@querrey.com.

Helene Blue Musique Ltd. has changed locations. New contact information for Helene Blue Musique Ltd., Blue Parasol and Anna Teresa Music Ltd. is: Helene Blue Musique Ltd., 421 Seventh Avenue, Suite 901, New York, NY 10001, Tel: (212) 724-5900, Fax: (212) 564-3113.

Elissa D. Hecker has opened the Law Office of Elissa D. Hecker, located at 90 Quail Close, Irvington, NY 10533, Tel: (914) 478-0457, email: echeckeresq@yahoo.com. Her practice focuses on copyright, trademark and business law.

Eleanor M. Lackman will be associated with the firm of Arnold & Porter LLP, where she will practice primarily in the area of intellectual property litigation, as of October 24, 2005. Her contact information will be 399 Park Avenue, New York, NY 10022-4690, Tel: (212) 715-1000, Fax: (212) 715-1399, email: eleanor.lackman@aporter.com.

Andrew Lurie has moved to Kirkpatrick & Lockhart, Nicholson Graham LLP, 10100 Santa Monica Boulevard, 7th Floor, Los Angeles, CA 90067, Tel: (310) 552-5000, Fax: (310) 552-5001. He will continue to practice law in the areas of entertainment, intellectual property and new technology.

Please submit your Member News via email to the Copyright Society office: amy@csusa.org

Please note the Copyright Society of the U.S.A. reserves the right to select and edit submissions received.

COPYRIGHT SOCIETY INFORMATION

The Copyright Society of the U.S.A. is a non-profit organization that was organized in 1953 to foster interest in and advance the study of copyright law and the rights in literature, music, art, the theatre, motion pictures, and other forms of intellectual property. Membership supports these goals and has many benefits, including participation in nationwide educational events, meetings, lectures, and educational initiatives, an

online newsletter, and a subscription to the prestigious Journal of the Copyright Society of the U.S.A., the leading peer-reviewed journal devoted exclusively to copyright law. For further information on membership, including forms, please see our web site: www.csusa.org

Please note our new Suite number:

The Copyright Society of the USA
352 Seventh Avenue, Suite 739
New York, NY 10001

Amy Nickerson, Executive Administrator

Telephone: 212.354.6401
Fax: 212.354.2847
email: amy@csusa.org
Web site: www.csusa.org

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