

Problem Set 1

*We will discuss this problem set on the first day of class. **YOU DO NOT NEED TO TURN IN THE ANSWERS.** Please read pp. 3-33 of the Casebook before you start working on this problem set.*

1. Professor Newtona Newby recently joined the law faculty of University of Napstopian. As a scholar who has interest in both copyright law and professional responsibility, she offers a course on “How You Can Consult for the RIAA While Enjoying KaZaA at Home.” Although the course name is too long by almost anyone’s standard (except of course Professor Newby’s), her course has become an instant favorite, having more than 150 students registered in the class.

During the summer, Professor Newby put together a course pack of law review articles, statutes, and cases. When she went to Pringlo’s the night before the first class to duplicate the course packs for her students, the manager at the copy store told her that they could not reproduce the materials. As the manager explained, the store does not reproduce any copyrighted materials unless customers are the copyright holders or have their authorization. Desperate to finish the course packs before the 7:45 a.m. class, Professor Newby explained to the manager the basic concepts of copyright law. She even spent more than an hour explaining why society doesn’t need copyrights to create incentives for authors to write law review articles, for legislatures to draft laws, and courts to adjudicate cases. Is Professor Newby correct?

2. Copycat Improviser is a mysterious new brand artist who improvises on Renaissance paintings and auctions off those paintings via eBay. Nobody—including his customers—knows his actual name, although the *Global Enquirer* reported that the painter has also assumed the nickname Painter Formerly Known as Da Vinci. Copycat Improviser recently completed his parody of Leonard Da Vinci’s famous *Mona Lisa*, reproducing the classic painting and adding a moustache to the portrait. The painting was titled “Man Can Be Mysterious” and was sold to Wild Painting Clearinghouse, who bought both the painting and the copyright in the painting. Most recently, Wild Painting Clearinghouse was asked to design an ad for the Got Milk? Campaign and repainted the moustache in Copycat Improviser’s painting in white color. When Copycat Improviser saw the ad in *Newspeek*, he was distressed. Can you think of a legal theory that would allow him to sue Wild Painting Clearinghouse for damages?

3. In January 2003, the United States Supreme Court upheld the constitutionality of the Sonny Bono Copyright Term Extension Act, which extended the copyright term for twenty years. As a result of this decision, works that are supposed to fall into the public domain, like Disney’s Mickey Mouse, remain “locked up” for another twenty years. Disappointed by the decision, Mickey Mouse recently spoke out on his copyright holder in an interview published by *Reason*. As he noted, “For almost 70 years, I’ve only been allowed to do what the Disney people say I can do. . . . [T]hey won’t let me leave the reservation. If I do, they send out their lawyers to bring me home. . . . Do you have *any idea* what it’s like to have to greet kids at Disneyland

every single day, always smiling, never slipping off for a cigarette?” Can Disney prevent *Reason* from releasing this “interview”?

4. Igor Petrossian is a leading Russian writer who became fascinated by the Harry Potter series three years ago. He read all the five installments of the Potter series and saw the three movies. If that is not enough, he also read fan fictions on the Internet and purchased fake sequels that appeared in different parts of the world. Recently, he made a proposal to J.K. Rowling and her publisher about establishing a spin-off of the Harry Potter series, the Voldemort series, which will recreate events from the Potter series using Voldemort’s perspective. (Voldemort is Harry Potter’s nemesis.) After waiting for a few months for a response from the author and her publisher, Petrossian was convinced that he would never receive a response and decided to start the project. Last week, he just finished the first installment, *Voldemort and the Sorcerer’s Stone*, and sent the manuscript to your publishing house. As the general counsel of the firm, would you make him an offer (assuming that you enjoyed reading the manuscript and found the book to be of enormous market potential)? Petrossian had not received any response from Rowling or her publisher.

5. You decided to go abroad to study law in Litigantasia, the world’s most litigious country. You thought you could have learnt much more about the legal system by going to a place where people see more lawsuits than movies.

Earlier this year, the recording industry in Litigantasia launched a mass litigation campaign, filing high-profile lawsuits against illegal file traders across the country. In July alone, the industry has filed 200,000 lawsuits, seeking \$500 billion in total damages.

Last week, you received a cease-and-desist letter, alleging that you had illegally traded files that infringed upon the copyrights of Usher Raymond. You didn’t know who Usher Raymond (or Raymond Usher) is, but you were concerned about the letter. So, you cancelled all your classes, including your favorite copyright class, and scoured your computer and website.

After spending 15 hours browsing all the files on your computer, you found a small file called usher.mp3. That file came from the short mp3 introduction you recorded for an online interview for an usher position you did for Snobbish Theaters four summers ago. You still don’t understand why the interviewer asked for an mp3 recording, but you never got a chance to ask because you didn’t get the job. You complained to the recording industry about the error and they gladly sent you an Usher CD and T-shirt in appreciation of your understanding. You returned the CD and T-shirt and told the industry that the “gifts” would not compensate for your lost time and missed copyright class, not to mention that you are not into R&B music. You never heard back.

Yesterday, you received a surprised visit from a legislator, who was outreaching to her constituents for feedback on her lawmaking efforts. You were suspicious why this type of visits only happens during election year, but you chose to talk about the Usher incident instead. She responded by asking you what changes would you propose. What would be your response?