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COPYRIGHT IN A
GLOBAL INFORMATION
ECONOMY

*Second
Edition*

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*Copyright
in a
Global Information
Economy*

Second Edition

Julie E. Cohen

Professor of Law
Georgetown University Law Center

Lydia Pallas Loren

Professor of Law
Lewis and Clark Law School

Ruth L. Okediji

William L. Prosser Professor of Law
University of Minnesota Law School

Maureen A. O'Rourke

Dean *ad interim* and Professor of Law
Boston University School of Law

ASPEN
PUBLISHERS

76 Ninth Avenue, New York, NY 10011
<http://lawschool.aspenpublishers.com>

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Aspen Publishers
Attn: Permissions Department
76 Ninth Avenue, 7th Floor
New York, NY 10011-5201

Printed in the United States of America.

2 3 4 5 6 7 8 9 0

ISBN 0-7355-5612-1

Library of Congress Cataloging-in-Publication Data

Copyright in a global information economy / Julie E. Cohen . . . [et al.].—2nd ed.
p. cm.

Includes index.

ISBN 0-7355-5612-1 (hardcover : alk. paper) 1. Copyright—United States. 2. Copyright, International. 3. International and municipal law—United States. I. Cohen, Julie E.

KF2996.C67 2006
346.7304'82—dc22

2006004156

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For Andrew and Eli.

—J.E.C.

For Cassie, Alex, and Cameron.

—L.P.L.

For Tade, and in honor of Mom and Dad.

—R.L.O.

For Mom.

—M.A.O.



Preface

In the four years since the first edition of this text was published there have been important developments in copyright law. The relentless pace of technological innovation, particularly with respect to digital communication technologies, continues to challenge well-settled copyright doctrines, creating new opportunities to contest the nature and scope of the various interests implicated by copyright. This edition therefore continues to emphasize the evolving nature of copyright law, and the copyright system more generally, in response to technological change and the pressures of globalization. We provide students with not only a firm foundation in the traditional precepts of copyright law, but also a strong theoretical background with which to evaluate the public policy implications of the ongoing changes. We begin each chapter with an overview of the classical principles of the particular topic or subject matter, followed with material carefully selected and arranged to help students appreciate how the law has evolved over time and the complexities introduced by new technologies and/or new theoretical approaches.

As is expected of a second edition, we have updated all the materials to reflect new legislation and case law, including legislation and cases reflecting international trends. We also have redesigned our website at www.coolcopyright.com, which contains background materials (including pictures) for the cases in the book, as well as some alternative cases. We trust that students and teachers will find these materials useful to augment the text or to provide resources for deeper study of a particular topic.

The second edition maintains much of the structure, style, and approach of the first edition, and therefore still differs in important ways from the traditional copyright text.

First, we continue to hold strong to the belief that understanding the role of copyright law in the emerging information economy requires more than a study of the Copyright Act and copyright case law. To understand why copyright law is the way it is, and to develop an appreciation for what it might become, one must consider the history and evolution of technologies for creating and distributing copyrighted works;

the structure and political influence of the major copyright industries; and the availability of other legal regimes (such as contract law) to supplement or even supplant copyright protection. We include introductory materials on these topics and then give substantial consideration throughout the book to the historical, technological, political, and legal contexts within which copyright law operates.

Second, we have retained the use of secondary source materials by legal academics and other commentators seeking to understand and shape the evolution of copyright and information policy. To better aid students in comprehending the wealth of academic opinion and the importance of economic analysis which has become prevalent in judicial opinions, we have streamlined the use of secondary materials and asked questions designed to facilitate a firmer understanding of how theory and practice converge in assessing copyright claims and defenses.

Finally, we continue to emphasize the importance of international developments and show how international events constitute a significant source of U.S. copyright law and policy. We integrate both international and comparative materials throughout the text, rather than leaving these materials until the end of the book as is usual in many introductory copyright texts. For each chapter and topic, we consider relevant specific treaty provisions and, in many instances, we ask students to compare specific domestic copyright rules with the corresponding rules of other countries.

Our hope is that students who use this book and our supporting website will come to understand and appreciate the copyright system as a work-in-progress, and recognize that copyright is not simply a regime of private law, but rather one that implicates both private and public interests. We believe that we offer students a unique text that will help them develop the skills necessary to identify and think critically about both contested issues in particular cases and larger patterns of change within the copyright system as a whole. Our expectation is that students will emerge from this process of exploration well-informed and better equipped to practice copyright law in a world in which continual change is the norm.

Julie E. Cohen
Lydia P. Loren
Ruth L. Okediji
Maureen A. O'Rourke

February 2006



Acknowledgments

We gratefully acknowledge the assistance of many people who have helped us since we began work on this book. The first edition benefited greatly from the many helpful and generous suggestions offered by Richard Chused, Shubha Ghosh, Paul Goldstein, Dennis Karjala, David Lange, Mark Lemley, Jessica Litman, Michael Meurer, Harvey Perlman, Pamela Samuelson, and a number of anonymous colleagues. In addition, we acknowledge the research assistance of Teeshna Bahadur, Stacy Blasberg, Casey Caldwell, Mitzi Chang, Cyrus Christenson, Olivia Farrar-Wellman, Sally Garrison, Stephen Goldberg, Michael Green, Scott Katz, Anne Koch, Charles McLawhorn, Ilana Safer, Julie Short, Stephanie Smith, and Victor Wandres, and the secretarial and administrative assistance of Melissa Adamson, Suzan Benet, Sue Morrison, and Irene Welch. We would also like to thank John Showalter for his expert assistance in obtaining permission to reproduce excerpts from the various books, law review articles, and other secondary sources quoted in the text of the first edition; Andy Marion for word processing wizardry; and Lisa Bowles, Tracey Bridgman, Stephanie Burke, Raquel Ortiz, Russ Sweet, and Joel Wegemer for library services.

For their assistance with our preparation of the second edition, we would like to thank Robert Brauneis, Richard Chused, Wendy Gordon, Jessica Litman, Peter Maggs, James Speta, Rebecca Tushnet, Philip Weiser, and a number of anonymous colleagues who generously provided Aspen with detailed reviews based on their experiences teaching from the first edition. We also gratefully acknowledge the research assistance of Andrew Crouse, Robert Dowers, Tomas Felcman, Laura Hayes, David Hesford, Jon Putman, Duke Tufty, Kathryn Ward, Marci Windsheimer, and Matthew Windsor; the secretarial and administrative assistance of Melissa Adamson, Suzan Benet, Liz Cerrato, Tiowa Collier, Daphne Edwards, and Michael Mercurio; and the library assistance of Steve Donweber, Terri Gallego O'Rourke, Mary Rumsey, and David Zopfi-Jordan. In addition, we would like to extend special thanks to Matthew Windsor for the comprehensive redesign of the book's companion website, <http://www.coolcopyright.com/>.

Finally, we acknowledge the authors and/or copyright owners of the following excerpts and images, used in this book with their permission.

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