#### ASPEN PUBLISHERS

MERGES MENELL LEVLEY

### INTELLECTUAL PROPERTY IN THE NEW TECHNOLOGICAL ÂGE

Fifth Edition



#### ASPEN PUBLISHERS

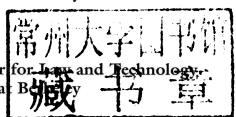
# Intellectual Property in the New Technological Age Fifth Edition

#### Robert P. Merges

Wilson, Sonsini, Goodrich, and Rosati Professor of Law and Technology Director, Berkeley Center for Law and Technology University of California at Berkeley

#### Peter S. Menell

Professor of Law
Director, Berkeley Center for Law and
University of California a Believy



#### Mark A. Lemley

William H. Neukom Professor of Law Director, Stanford Program in Law, Science and Technology Stanford University



© 2010 Aspen Publishers. All Rights Reserved. http://lawschool.aspenpublishers.com

No part of this publication may be reproduced or transmitted in any form or by any means, electronic or mechanical, including photocopy, recording, or any information storage and retrieval system, without permission in writing from the publisher. Requests for permission to make copies of any part of this publication should be mailed to:

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

To contact Customer Care, e-mail customer.care@aspenpublishers.com, call 1-800-234-1660, fax 1-800-901-9075, or mail correspondence to:

Aspen Publishers Attn: Order Department PO Box 990 Frederick, MD 21705

Printed in the United States of America.

1234567890

ISBN 978-0-7355-8913-1

Library of Congress Cataloging-in-Publication Data

Merges, Robert P.

Intellectual property in the new technological age/Robert P. Merges, Peter S. Menell, Mark A. Lemley.—5th ed.

p. cm.

Includes index.

ISBN 978-0-7355-8913-1

1. Intellectual property—United States. 2. Technological innovations—Law and legislation—United States. I. Menell, Peter Seth. II. Lemley, Mark A., 1966- III. Title.

KF2979.I432 2009 346.7304'8—dc22

2009046056

#### About Wolters Kluwer Law & Business

Wolters Kluwer Law & Business is a leading provider of research information and workflow solutions in key specialty areas. The strengths of the individual brands of Aspen Publishers, CCH, Kluwer Law International and Loislaw are aligned within Wolters Kluwer Law & Business to provide comprehensive, in-depth solutions and expert-authored content for the legal, professional and education markets.

CCH was founded in 1913 and has served more than four generations of business professionals and their clients. The CCH products in the Wolters Kluwer Law & Business group are highly regarded electronic and print resources for legal, securities, antitrust and trade regulation, government contracting, banking, pension, payroll, employment and labor, and healthcare reimbursement and compliance professionals.

Aspen Publishers is a leading information provider for attorneys, business professionals and law students. Written by preeminent authorities, Aspen products offer analytical and practical information in a range of specialty practice areas from securities law and intellectual property to mergers and acquisitions and pension/benefits. Aspen's trusted legal education resources provide professors and students with high-quality, up-to-date and effective resources for successful instruction and study in all areas of the law.

Kluwer Law International supplies the global business community with comprehensive English-language international legal information. Legal practitioners, corporate counsel and business executives around the world rely on the Kluwer Law International journals, loose-leafs, books and electronic products for authoritative information in many areas of international legal practice.

Loislaw is a premier provider of digitized legal content to small law firm practitioners of various specializations. Loislaw provides attorneys with the ability to quickly and efficiently find the necessary legal information they need, when and where they need it, by facilitating access to primary law as well as state-specific law, records, forms and treatises.

Wolters Kluwer Law & Business, a unit of Wolters Kluwer, is headquartered in New York and Riverwoods, Illinois. Wolters Kluwer is a leading multinational publisher and information services company.

For my brothers, Bruce, Paul, and Matt.

R.P.M.

For Claire, Dylan, and Noah.

P.S.M.

For Rose, as always.

M.A.L.

#### Preface

Rapid advances in digital and life sciences technology continue to spur the evolution of intellectual property law. As professors and practitioners in this field know all too well, Congress and the courts continue to develop intellectual property law and jurisprudence at a rapid pace. For that reason, we have significantly augmented and revised our text yet again.

Here is a synopsis of the principal changes in this Fifth Edition:

- We have reorganized the book, integrating the material from Chapter 7 on computer software into the main substantive chapters. In the nearly 20 years since we began this project, the role of software law as a freestanding area of IP has receded, and most people who teach the material that was formerly in Chapter 7 teach it in an integrated fashion. We hope to make that easier by integrating that material into the main chapters
- We have included the Federal Circuit decision in *Bilski* in place of much historical material on patentable subject matter. This is an area in great flux; look for at least one and possibly more Supreme Court decisions on patentable subject matter in the next year.
- We have updated and expanded our coverage of Internet copyright law, including important developments concerning the treatment of online service providers under the DMCA and indirect copyright liability.
- We have substantially revised our treatment of the trademark use doctrine in light of the Second Circuit's *Rescuecom v. Google* case.
- We have coverage of new cases under the Trademark Dilution Revision Act of 2006.

• Finally, we have, with mixed emotions, removed Chapter 8 covering IP and antitrust. It was our impression that very few people taught that material in a survey class. We will make the chapter available online for adopters who wish to include it in their class.

Intellectual property continues to change, and so will the book. We hope this new, integrated edition will make teaching easier.

Rob Merges Peter Menell Berkeley, California

Mark Lemley Stanford, California

November 2009

#### Acknowledgments

We are indebted to a great many people who have helped us since this project began in 1991. We would like to thank our many colleagues who reviewed earlier drafts of the book and provided helpful guidance. While many of these reviews were anonymous, we have also benefitted from the advice of Lynn Baker, Paul Heald, Tom Jorde, and Pam Samuelson, each of whom read several different drafts of the book as it made its way through the editorial process. We gratefully acknowledge the research assistance of Evelyn Findeis, Edwin Flores, Ryan Garcia, Shari Heino, Toni Moore Knudson, Christopher Leslie, and Barbara Parvis. We would also like to thank Michele Co for exceptional secretarial and administrative assistance in completing this text.

We are grateful to many colleagues for providing suggestions for improving this book. In particular, we would like to thank Fred Abbott, John Allison, Ann Bartow, Julie Cohen, Ken Dam, Robin Feldman, Terry Fisher, Marshall Leaffer, Glynn Lunney, Ron Mann, David McGowan, Chuck McManis, Roberta Morris, David Nimmer, Ruth Okediji, Malla Pollack, Peggy Radin, Jerry Reichmann, Sharon Sandeen, Paul Schwartz, Lon Sobel, Mark Thurmon, and several anonymous reviewers for their comments and suggestions in preparing the second, third, fourth, and fifth editions. We have also benefitted greatly from the research assistance and proofreading of Adam Blankenheimer, Amber Burroff, Brian Carver, Colleen Chien, Sarah Craven, Will Devries, Tom Fletcher, Ryan Garcia, Ines Gonzalez, David Grady, Jade Jurdi, Victoria H. Kane, Jeffrey Kuhn, Michelle A. Marzahn, Selena R. Medlen, Roberta Morris, Pilar Ossorio, Ryan Owens, Stephanie N.-P. Pham-Quang, Laura Quilter, John Sasson, Michael Sawyer, Helaine Schweitzer, Shannon Scott, Laurence Trask, Allison Watkins, Joel Wallace, Emily Wohl, and Tarra Zynda.

Finally, we acknowledge the authors of the following images and excerpts used in this volume with their permission:

Radin, Margaret Jane, Property and Personhood (1982), as revised in Margaret Jane Radin, Reinterpreting Property (University of Chicago Press, 1993). Reprinted courtesy of Professor Radin.

Steinberg, Saul, A View of the World from 9th Avenue, 1976. © 2002 The Saul Steinberg Foundation/Artists Rights Society (ARS), New York. Cover reprinted with permission of The New Yorker. All rights reserved. Xerox advertisement courtesy of Xerox Corporation.

Note: We have selectively omitted citations and footnotes from cases without the uses of ellipses or other indications. All footnotes are numbered consecutively within each chapter, except that footnotes in cases and other excerpts correspond to the actual footnote numbers in the published reports.

Many of the problems in this text are taken from actual cases. However, in many instances we have altered the facts of the case. In most cases we have also altered the names of the parties involved. In a few cases, however, particularly in the trademark and antitrust chapters, we felt that it was important to the problem to use the name of a product or company with which the reader would be familiar. Readers should understand that the problems are hypothetical in nature and that we do not intend them to represent the actual facts of any case or situation.

## Intellectual Property in the New Technological Age

#### Summary of Contents

Contents Preface		xi xxiii			
	cknowledgments			nents	xxı
Chapter 1	Introduction	1			
-	Trade Secret Protection	33			
Chapter 3	Patent Law	125			
Chapter 4	Copyright Law	411			
Chapter 5	Trademark Law	733			
Chapter 6	State Intellectual Property Law and Federal Preemption	963			
Table of Ci	uses	1075			
	Table of Statutes, Regulations, and Treaties				
Index					

#### Contents

	eface		XXIII
Ac	knov	pledgments	xxv
	-		
1		Introduction	1
A.	Ph	ilosophical Perspectives	2
	1.	The Natural Rights Perspective	2
		John Locke, Two Treatises on Government	2 2 2 5 6
		Problem	5
	2.	The Personhood Perspective	6
		Margaret Jane Radin, Property and Personhood	6
	3.	The Utilitarian/Economic Incentive Perspective	11
		a. Promoting Innovation and Creativity	11
		Problem	20
_	_	b. Ensuring Integrity of the Marketplace	21
В.		erview of Intellectual Property	24
	1.	Trade Secret	25
	2.	Patent	29
		Copyright	29
	4.	Trademark/Trade Dress	30
		Problem	31
2		Trade Secret Protection	33
A.	Int	roduction	33
	1.	History	33
	2.	Overview of Trade Secret Protection	35
	3.	Theory of Trade Secrets	37
В.	Sub	pject Matter	39
	1.	Defining Trade Secrets	39

хi

		Metallurgical Industries Inc. v. Fourtek, Inc.	39
		Problems	48
	2.	Reasonable Efforts to Maintain Secrecy	49
		Rockwell Graphic Systems, Inc. v. DEV Industries, Inc.	49
		Problems	57
	3.	Disclosure of Trade Secrets	58
		Data General Corp. v. Digital Computer Controls, Inc.	58
C.	Mis	appropriation of Trade Secrets	66
٠.		Improper Means	66
		E. I. duPont deNemours & Co. v. Rolfe	66
		Problem	70
	2.	Confidential Relationship	70
		Smith v. Dravo Corp.	71
		Problems	75
	3.	Reverse Engineering	78
		Kadant, Inc. v. Seeley Machine, Inc.	78
		Problems	83
	4.	The Special Case of Departing Employees	85
		a. Employee Trade Secrets	86
		Note on the Common Law Obligation to Assign Inventions	86
		Note on Contracts That Restrict the Use of Trade Secrets	87
		Problem	89
		Note on Trailer Clauses	90
		b. Noncompetition Agreements	91
		Edwards v. Arthur Andersen LLP	91
		Comprehensive Technologies Intl. v. Software Artisans, Inc.	96
		Note on the "Inevitable Disclosure" of Trade Secrets	100
		Note on Nonsolicitation Agreements	104
		Problem	105
D.	Ag	reements to Keep Secrets	107
- A	- 0	Warner-Lambert Pharmaceutical Co. v. John J. Reynolds, Inc.	107
E.	Rei	medies	111
		Winston Research Corp. v. 3M Corp.	112
		Note on Criminal Trade Secret Statutes	118
		Note on Federal Criminal Liability for Trade Secret	
		Misappropriation	119
_			
3		Patent Law	125
	- -	T 2 =	125
A.		roduction	125
	1.	Historical Background	130
	2.	An Overview of the Patent Laws	130
		a. Requirements for Patentability	
	~	b. Rights Conferred by a Patent	131
ъ	3.	Theories of Patent Law	133
В.	-	Elements of Patentability	134
	1.	Patentable Subject Matter	134
		a. Compositions of Matter	134
		Diamond v. Chakrabarty	134

		Parke-Davis & Co. v. H. K. Mulford Co.	142
		Problem	146
	Ь.	Abstract Ideas	146
		In re Bilski	147
		Problem	163
		Note on Patenting "Abstract Ideas"	163
		Problems	165
2.	Ut	ility	166
		Brenner v. Manson	167
		In re Fisher	172
		Note on the Patent Office Utility Guidelines	175
		Note on Moral Utility	177
		Juicy Whip, Inc. v. Orange Bang, Inc.	178
	-	Problem	180
3.	De	scribing and Enabling the Invention	180
	a.	Procedures for Obtaining a Patent	181
	b.	Disclosure Doctrines: Enablement and Written Description	185
		i. Enablement	185
		The Incandescent Lamp Patent	186
		Note on "Analog" Claims in Chemical and Biotechnology	191
		Patents: An Exploration of Patent Breadth	191
		ii. The Written Description Requirement	195
		The Gentry Gallery, Inc. v. The Berkline Corp.	201
		Note on "Written Description" and Biotechnology	201
		iii. The Best Mode Requirement Note on Enablement of Software Claims	203
		Problem	207
4.	Nic	ovelty and Statutory Bars	209
┱.		The Nature of Novelty	210
	a.	Rosaire v. National Lead Co.	210
		Note on the Inherency Doctrine	214
		Problem	216
	b.	Statutory Bars: Publications	216
	υ.	In re Hall	216
		Problem	219
	c.	Statutory Bars: Public Use	220
	С.	Egbert v. Lippmann	220
		Problem	225
	d.		226
	ч.	City of Elizabeth v. Pavement Company	226
	e.	Priority Rules and the First to Invent	230
	٠.	Griffith v. Kanamaru	231
5.	No	onobviousness	235
	- 10.5	Graham v. John Deere Co.	235
	a.	Combining References	247
		KSR International Co. v. Teleflex Inc.	247
		In re Kubin	256
		Problems	262
	b.	"Secondary" Considerations	264

C.	Infringement		
	1.		267
		a. The Proper Role of Judge and Jury in Patent Cases and the	
		Standard of Appellate Review	268
		b. Standards for Construing Claims; Sources of Construction	270
		Phillips v. AWH Corporation	270
		c. Canons of Claim Interpretation	285
		i. Ordinary vs. Contextual or "Particular" Meaning	285
		ii. Contextual Meanings	286
		iii. "Lexicographer" Rule	287
		iv. Disclaimer of Subject Matter	289
		v. "Claim Differentiation": Contextual Meaning from	
		Other Claims	291
		vi. Purpose or Goal of the Invention	292
		vii. Construing Claims to Preserve Their Validity	293
		viii. Narrow Construction Preferred	293
	2.	Literal Infringement	294
	_	Larami Corp. v. Amron	295
	3.	The Doctrine of Equivalents	300
		a. Basic Issues	300
		b. Prosecution History Estoppel	305
		Festo Corp. v. Shoketsu Kinzoku Kogyo	305
		c. Subject Matter "Disclosed But Not Claimed"	318
		Johnson & Johnson Associates Inc. v. R.E. Service Co., Inc.	318
		d. After-Arising Technologies	322
	4	Problem The "Payerse" Destrine of Equivalents	325
	4. 5.	The "Reverse" Doctrine of Equivalents	327 330
	6.	Equivalents for Means-Plus-Function Claims Contributory Infringement	334
	Ο.	C.R. Bard, Inc. v. Advanced Cardiovascular Systems, Inc.	334
		Note on Inducement	337
		Problem	338
	7.		339
	8.	Infringement Involving Foreign Activities	340
D		fenses	343
ν.	1.	The "Experimental Use" Defense	343
	2.	Inequitable Conduct	347
		Kingsdown Medical Consultants, Ltd. v. Hollister Inc.	347
	3.	Exhaustion of Patent Rights	353
		Quanta Computer, Inc. v. LG Electronics, Inc.	353
		Problem	361
	4.	Patent Misuse	362
		Motion Picture Patents Company v. Universal Film	
		Manufacturing Company et al.	362
		Note on the Scope of the Patent Misuse Doctrine	367
E.	Inte	ernational Patent Law	371
	1.	Procedural Rules	372
		a. The Paris Convention	373
		b. The Patent Cooperation Treaty (PCT)	374

Contents =	_	xv
------------	---	----

	2.	Substantive Harmonization and GAAT-TRIPs	375
F.	Rei	nedies	377
	1.	Injunctions	380
		eBay, Inc. v. MercExchange, LLC	380
	2.	Damages	385
		a. Lost Profits	385
		Note on the Outer Boundaries of Patent Damages	387
		b. Reasonable Royalty	390
	3.	Willful Infringement	393
		In re Seagate Technology, LLC	393
G.	Des	sign and Plant Patents	399
	1.	Design Patents	399
		a. Introduction	400
		b. Requirements for Patentability	400
		i. Novelty	400
		ii. Nonobviousness	401
		iii. Ornamentality	402
		iv. Functionality	402
		c. Claim Requirements and Procedure	403
	~	d. Infringement	404
	2.	Plant Patents	405
		a. The Plant Patent Act	405 406
		b. The Plant Variety Protection Act	400
4		Copyright Law	411
<b>4</b> A.	Int		
4 A.		roduction	411 411 412
<b>4</b> A.	Int 1. 2.	roduction Brief History of Copyright Protection	411
<b>4</b> A.	1.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime	411 412
<b>4</b> A. B.	1. 2. 3.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection	411 412 416
	1. 2. 3. Rec	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements	411 412 416 418
	1. 2. 3.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship	411 412 416 418 420
	1. 2. 3. Rec	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements	411 412 416 418 420 420
	1. 2. 3. Rec	roduction  Brief History of Copyright Protection  An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements  Original Works of Authorship  Feist Publications v. Rural Telephone Service Problems	411 412 416 418 420 420 422
	1. 2. 3. Red 1.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service	411 412 416 418 420 420 422 430
	1. 2. 3. Red 1.	roduction  Brief History of Copyright Protection  An Overview of the Copyright Regime  Philosophical Perspectives on Copyright Protection quirements  Original Works of Authorship  Feist Publications v. Rural Telephone Service  Problems  Fixation in a Tangible Medium of Expression	411 412 416 418 420 420 422 430 431
	1. 2. 3. Red 1.	roduction  Brief History of Copyright Protection  An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements  Original Works of Authorship  Feist Publications v. Rural Telephone Service Problems  Fixation in a Tangible Medium of Expression  H.R. Rep. No. 94-1476	411 412 416 418 420 420 422 430 431 431
	1. 2. 3. Red 1.	roduction  Brief History of Copyright Protection  An Overview of the Copyright Regime  Philosophical Perspectives on Copyright Protection quirements  Original Works of Authorship  Feist Publications v. Rural Telephone Service  Problems  Fixation in a Tangible Medium of Expression  H.R. Rep. No. 94-1476  Formalities	411 412 416 418 420 420 422 430 431 431 435
	1. 2. 3. Red 1.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service Problems Fixation in a Tangible Medium of Expression H.R. Rep. No. 94-1476 Formalities a. Notice	411 412 416 418 420 420 422 430 431 431 435 435
	1. 2. 3. Red 1.	roduction  Brief History of Copyright Protection  An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements  Original Works of Authorship  Feist Publications v. Rural Telephone Service Problems  Fixation in a Tangible Medium of Expression  H.R. Rep. No. 94-1476  Formalities  a. Notice  b. Publication	411 412 416 418 420 420 422 430 431 431 435 435
	1. 2. 3. Red 1.	roduction  Brief History of Copyright Protection  An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements  Original Works of Authorship  Feist Publications v. Rural Telephone Service Problems  Fixation in a Tangible Medium of Expression  H.R. Rep. No. 94-1476  Formalities  a. Notice  b. Publication  Problem	411 412 416 418 420 420 422 430 431 431 435 436 438
	1. 2. 3. Red 1.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service Problems Fixation in a Tangible Medium of Expression H.R. Rep. No. 94-1476 Formalities a. Notice b. Publication Problem c. Registration	411 412 416 418 420 420 422 430 431 435 435 436 438 438 439 440
В.	1. 2. 3. Recc 1. 2.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service Problems Fixation in a Tangible Medium of Expression H.R. Rep. No. 94-1476 Formalities a. Notice b. Publication Problem c. Registration d. Deposit Note on the Restoration of Foreign Copyrighted Works pyrightable Subject Matter	411 412 416 418 420 420 422 430 431 435 435 436 438 438 439
В.	1. 2. 3. Recc 1. 2.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service Problems Fixation in a Tangible Medium of Expression H.R. Rep. No. 94-1476 Formalities a. Notice b. Publication Problem c. Registration d. Deposit Note on the Restoration of Foreign Copyrighted Works pyrightable Subject Matter Limitations on Copyrightability: Distinguishing Function and	411 412 416 418 420 420 422 430 431 435 435 436 438 438 439 440
В.	1. 2. 3. Reco 1. 2.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service Problems Fixation in a Tangible Medium of Expression H.R. Rep. No. 94-1476 Formalities a. Notice b. Publication Problem c. Registration d. Deposit Note on the Restoration of Foreign Copyrighted Works pyrightable Subject Matter Limitations on Copyrightability: Distinguishing Function and Expression	411 412 416 418 420 420 422 430 431 435 435 436 438 438 440 441
В.	1. 2. 3. Reco 1. 2.	roduction Brief History of Copyright Protection An Overview of the Copyright Regime Philosophical Perspectives on Copyright Protection quirements Original Works of Authorship Feist Publications v. Rural Telephone Service Problems Fixation in a Tangible Medium of Expression H.R. Rep. No. 94-1476 Formalities a. Notice b. Publication Problem c. Registration d. Deposit Note on the Restoration of Foreign Copyrighted Works pyrightable Subject Matter Limitations on Copyrightability: Distinguishing Function and	411 412 416 418 420 420 422 430 431 435 435 436 438 438 439 440 441

#### xvi = Contents

			Problem	447
			Lotus Development Corp. v. Borland International	448
			Morrissey v. Procter & Gamble	460
			Problem	463
		b.		463
			H.R. Rep. No. 94-1476	463
			Brandir International, Inc. v. Cascade Pacific Lumber Co.	464
			Problems	473
		c.	Government Works	473
		.=	Problems	477
	2.	The	e Domain and Scope of Copyright Protection	478
			H.R. Rep. No. 94-1476	479
		a.	Literary Works	479
		b.	Pictorial, Graphic, and Sculptural Works	480
			Problem	481
		c.	Architectural Works	481
		d.	Musical Works and Sound Recordings	483
		e.	Dramatic, Pantomime, and Choreographic Works	484
			Problem	484
		f.	Motion Pictures and Other Audiovisual Works	484
		g.	Semiconductor Chips Designs (Mask Works)	485
		h.	Vessel Hull Designs	485
		i.	Derivative Works and Compilations	486
			Problems	487
D.	Ov	vners	ship and Duration	487
	1.	Init	tial Ownership of Copyrights	488
		a.	Works Made for Hire	488
			Community for Creative Non-Violence et al. v. Reid	489
			Problem	496
		b.	Joint Works	497
			Aalmuhammed v. Lee	497
		c.	Collection Works	504
			Note on the Rights of Authors and Publishers in	
			Electronic Compilations	504
			Problems	505
	2.	Du	ration and Renewal	508
			Problems	512
	3.	Div	vision, Transfer, and Reclaiming of Copyrights	513
		a.	Division and Transfer of Copyright Interests	
			Under the 1909 Act	514
		Ь.	Division and Transfer of Copyright Interests	
			Under the 1976 Act	515
		c.	Reclaiming Copyrights	515
E.	Tra	ditio	onal Rights of Copyright Owners	518
	1.		e Right to Make Copies	519
		a.	Copying	520
			Arnstein v. Porter	520
			Problem	526
		Ь.	Improper Appropriation	527