

COPYRIGHT
CASES AND MATERIALS
EIGHTH EDITION

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JANE C. GINSBURG
R. ANTHONY REESE

FOUNDATION PRESS

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EIGHTH EDITION

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*To Robert A. Gorman,
Kenneth Gemmill Professor of Law Emeritus, University of
Pennsylvania*

*A grand copyright scholar and superlative colleague whose
expertise and humanity mark his 30 years of co-authorship of
this casebook*

PREFACE TO THE EIGHTH EDITION

The five years elapsed since the previous edition have sharpened the trends noted there: incessant technological advances, the increasingly international exploitation of works of authorship, and the relentless polemicizing of scholarly and even public discourse about copyright. One goal of this edition is to enable participants in the debate, whatever their positions, to be rigorously well-informed about the legislative and judicial developments underlying the current controversies.

This casebook also hopes to capture these developments in a way that is comprehensive, stimulating, and teachable. We have aimed to preserve the same general approach as in earlier editions, and the same general mix of materials, including primary and secondary sources, textual notes and problems for class discussion and visual illustrations.

We wish to express our appreciation to casebook adopters Anuj Desai and Christopher M. Newman, and to students Brette Tannenbaum, Katie Ritcheske, and Yin Huang, for helpful criticisms and suggestions for improvement, and to I. Fred Koenigsberg, Esq., for helpful information regarding performance rights in musical compositions. We thank the staff of the UC Irvine Law Library for research assistance. We particularly wish to thank Professor Eva Subotnik and Eric J. Schwartz, Esq., for reviewing certain of the materials. We are exceptionally grateful to Mitchell Hendy and Mark Musico of the Columbia Law School Class of 2011, who contributed extensively, generously, and tirelessly to the preparation of this new edition.

July 15, 2011

Jane C. Ginsburg

R. Anthony Reese

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BIBLIOGRAPHIC NOTE

For general reference regarding domestic U.S. copyright law, the Copyright Office webpage, www.loc.copyright.gov, is a very useful starting point. The Copyright Office page includes recent legislative developments, Copyright Office documents, and links to a multitude of public and private sources concerning copyright law.

The standard multi-volume treatises are Paul Goldstein, *Copyright: Principles, Law and Practice* (3d ed. 2005, with updates), and Melville Nimmer & David Nimmer, *Nimmer on Copyright*. Shorter but comprehensive treatments can be found in Robert A. Gorman, *Copyright Law* (Fed. Judicial Center 2d ed. 2006), and Marshall Leaffer, *Understanding Copyright Law* (5th ed. 2010).

There has been a proliferation of specialized journals devoted to copyright and to allied fields (e.g., entertainment, computers, sports), and a manifold increase in the number of articles written in the field. Two of the leading journals in the field are the *Journal of the Copyright Society of the USA* and the *Columbia-VLA Journal of Law & the Arts*. Robert P. Merges and Jane C. Ginsburg, eds., *Foundations of Intellectual Property* (2004), offers a compendium of excerpts of historically significant articles, together with Notes and Questions based on more recent secondary sources.

The authors also recommend a number of readable and provocative books that explore many of the general issues of copyright and its history: Benjamin Kaplan, *An Unhurried View of Copyright* (1967) (republished by LexisNexis in 2005, with essays by several others); Paul Goldstein, *Copyright's Highway: From Gutenberg to the Celestial Jukebox* (2d ed. 2003); Edward Samuels, *The Illustrated Story of Copyright* (2000); Jessica Litman, *Digital Copyright* (2001); Jane C. Ginsburg and Rochelle Cooper Dreyfus, eds., *Intellectual Property Stories* (2005).

For general reference regarding international and comparative copyright law, the World Intellectual Property Organization's website, www.wipo.org, offers a helpful introduction. The leading treatises are: Sam Ricketson and Jane C. Ginsburg, *International Copyright and Neighbouring Rights: The Berne Convention and Beyond* (2006); Paul Goldstein & Bernt Hugenholtz, *International Copyright: Principles, Law, and Practice* (2d ed. 2010); Silke von Lewinski, *International Copyright Law and Policy* (2008); Jorg Reinbothe and Silke von Lewinski, *The WIPO Treaties 1996* (2002); Mihaly Ficsor, *The Law of Copyright and the Internet: The 1996 WIPO Treaties, Their Interpretation and Implementation* (2002); Stephen M. Stewart, *International Copyright and Neighboring Rights* (2d ed. 1989); and Paul Edward Geller & Melville B. Nimmer, *International Copyright Law and Practice* (1988) (with updates). Leading international and comparative copyright journals publishing articles in English include: RIDA, the *Revue Internationale du*

Droit d'Auteur (France); *IIC* (International Intellectual Property and Copyright) (Germany); and EIPR, the *European Intellectual Property Review* (UK).

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