

# Copyright infringement



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Copyright Learning Team Weekly Reflection LAW/421 Learning Team D

Weekly Reflection Week three focused on copyright infringement, and the legal issues in cyberspace associated with copyright laws. Copyright infringement can be classified into three theories; direct, indirect, and vicarious. Direct is the most obvious form because the copyright owner can prove legal ownership of the work in question and that the infringer copied the work without permission. A facilitator in indirect theory of copyright infringement is liable for damages.

The copyright owner must identify the direct infringer, and the facilitator must have knowledge of the infringement. The copyright infringement case against Napster was a landmark case that forced Napster, once a free subscription service, to re-emerge as a paid subscription service. This case changed the way music was bought. Contributory infringement was used against Napster to force them to shut down and change their business model. Understanding the defense to infringement claims, specifically fair use can be complex. Fair use is the most common defense of copyright infringement.

Under the fair use defense, some infringement is permitted if the device can be used in a significant non-infringing way, such as a VCR. With the digital age and the growth of the Internet applying the copyright law has become more difficult for the courts. Photography, music, and software are the biggest areas affected by copyright infringement and issues dealing with cyberspace. Formats such as MP3 have made it easier for infringers' to record audio and data files much faster than before, which can make it harder to catch the infringer or facilitators.

Software has also become increasingly popular for unauthorized duplication. iTunes has stepped up to adhere to the laws protecting copyright by implementing safeguards to prevent illegal downloads. Digital photography and social networking have opened up new dimensions of copyright infringement issues for photographers. The Digital Millennium Copyright Act has made strides in protecting copyright holders in the digital age by holding third parties responsible and going after parties that illegally download copyrighted material. Given that technology is proceeding at a lightning pace, one can only imagine how the music and movie industries are grappling with keeping as much as the profits as possible from their creative works. Although challenging for lawmakers, the advancement of technology in recent years has led to the culmination of new laws and precedent in protection of intellectual property. The Computer Software Copyright Act of 1980 afforded protection to computer software programs.

Since then, appellate courts have suggested patents instead of copyrights provide the most appropriate form of intellectual property protection. Copyright infringement and protection is an important issue for all businesses small and large. Most large businesses started out as small businesses that had a good idea that changed everything. Many small businesses don't own patents or copyrights, but as information becomes more and more valuable parts of businesses they are becoming more of a concern. The most valuable part of most companies is their intellectual property.

The franchisor must give full disclosure and details that relate to any part of the franchise or company in question under certain terms and conditions. It's

also important to remember to check and see whether the franchiser has established another franchisee or any other promissory agreements. Patent and Trademark lawyers are familiar in these matters and should be consulted upon buying a company with valuable information or if your own company or if patents and copyrights get involved (Steingold, 2005).