



**Patents, Copyrights,
and Trademarks**

Class 5

Compilations and Derivative Works - §103

- [Complete definitions can be found in §101]
- **Compilation** ("compile") = a work that's created by collecting (*compiling*), choosing, or arranging preexisting information or material which, when taken in its entirety, becomes a new work which itself can be protected.
- **Derivative work** ("derive") = a work that is adapted from a prior work, or a work that changes, transforms, or modifies a preexisting work to the point where a new, protectable work is created.
- **Exception:** If the person who made the compilation, or made the derivative work, **INFRINGED** on the rights of someone else in preparing this work, the new work will **NOT** be protected!



Compilations and Derivative Works - §103 (cont.)

- In addition, assuming that copyright protection is available for the new work (the compilation or the derivative work), that does NOT give the creator of the compilation or derivative work any rights whatsoever in the original, preexisting work.
- Note: In order for this new work of authorship to be protected, there must be some independent creation and distinguishable variation that sets it apart from the preexisting work.



Government Works

- The US government cannot receive copyright protection for its original work
- It may own a copyright however (ex: Buy it)
- A government worker cannot receive copyright protection for an original work prepared within the scope of duty (ex: EZ Pass)
- A government worker can receive copyright protection for an original work created outside his official duties



Work for Hire

- A work created at someone else's request
- Anything created for an employer, within the scope of employment, is a work for hire, and the employer owns all rights.
 - Differs from an independent contractor who will retain the rights in his creation.
 - Many cases hinge on whether the person who created the work was an employee (making the work a 'work for hire' and therefore the property of the employer) or an independent contractor (making the work the property of the creator).



Collective Works, §201(c) & Joint Works, §201(a)

- **Collective work** = a bunch of independent, separate works are assembled into one whole work.
 - Ex: Encyclopedia
- **Joint work** = a work prepared by two or more authors who intended that their contributions would be merged into an inseparable whole.
 - Ex: Song, where one person writes lyrics and another person writes music.



Collective Works, §201(c) & Joint Works, §201(a) (cont.)

- The multiple authors of a joint work are co-owners even if their contributions were unequal.
- More important than the actual number of people who created a work, is the *intention* of those people when creating the work. Spelling things out beforehand – in writing – can prevent many problems later on...



Questions?

- Questions, concerns, confusion about subject matter.
- Questions about the course.
- THANK YOU

