# Index

**ABANDONMENT**  
Formalities, 6:45  
Licenses, 5:154, 5:155

**ABSORPTION**  
Monetary damages, 22:141

**ABSTRACTING AND INDEXING**  
Fair use defense, 10:24 to 10:27.50  
Noncopyrightable material, 4:10

**ABSTRACTION - FILTRATION - COMPARISON**  
Reproduction right, 9:93, 9:94  
Scenes a faire, 4:27

**ABUSE OF DISCRETION**  
Preliminary injunctions, 22:8

**ACCESS**  
Anti-circumvention. Technological Protection Measures and Copyright Rights Management Information (this index)  
Berne Implementation Act of 1988, 6:76  
Reproduction Right (this index)

**ACCOUNTING**  
Economic consequences of joint ownership, claims between co-owners, 5:9  
Limitation of actions, 20:42.60  
Preemption, 18:24, 18:35

**ACCRUAL OF CLAIM**  
Author and authorship, 5:41, 5:41.50  
Limitation of actions, 20:17 to 20:20, 20:33, 20:43  
Standing to sue, 21:22

**“A COPY”**  
Computer programs, 11:40

**ACQUISITION COSTS**  
Damages (this index)

**ACTUAL DAMAGES**  
Damages (this index)

**ACTUAL FAIR USE**  
Aggregate assessment, 10:157

**ADAPTATION**  
Derivative works, 3:48

**ADDISON - WESLEY PUBLISHING v. NEW YORK UNIVERSITY**  
Fair use defense, 10:104

**ADDITIONS**  
Derivative works, 12:10

**ADEQUACY OF REMEDY AT LAW**  
Preliminary injunctions, 22:35

**AD INTERIM ACT OF 1905**  
Copyright Act of 1790 revisions, formalities, 6:28  
First Copyright Act revisions, 1:43  
International copyright, U.S. protection of foreign authors, 23:7

**AD INTERIM PROTECTION DURING WORLD WAR II**  
Copyright Act of 1909 amendments, 1:58

**ADMINISTRATION IN LIBRARY OF CONGRESS**  
Copyright Act of 1790 revisions, formalities, 6:25
ADMINISTRATION RIGHTS
Licenses and licensing, 5:125
Standing to sue, exclusive rights, Section 501(b), 21:21

ADMINISTRATIVE PROVISIONS
Berne Convention Implementation Act of 1988, Article 22 through 38, 23:44

ADOBE SYSTEMS INC. v. CANUS PRODUCTIONS, INC.
Vicarious liability, 21:71

ADVERTISING AND ADVERTISEMENTS
Corrective advertising, 22:109.50
Derivative works, 12:17 to 12:19
Fair Use Defense (this index)
Online sales, fair use defense, 10:29.10
Personal jurisdiction, 17:175
Visual Artists’ Rights Act of 1990, 16:13.50

ADVICE
Infringement, advice from Register of Copyrights, 17:125.50
Monetary damages, advice of counsel, 22:182

AFFILIATE RELATIONSHIPS
Contributory infringement, Copyright Act of 1976, 21:48.60

AFFIRMATIVE DEFENSE
Author and authorship, 5:43.50
Distribution of copies of work, 13:16
Fair use defense, 10:9, 10:9.50
Licenses and licensing, 5:118
Limitation of actions, 20:1.50
Preemption, 18:8.50
Preliminary injunctions, 22:70
Reproduction right, 9:36
Standing to sue, 21:3
Work made for hire, 5:95.50

AFFIRMATIVE RIGHT
Fair use defense, 10:8.60

AFTER THE FACT TRANSFERS
Assignment, writing requirement, Section 204(a), 5:111

AGEE v. PARAMOUNT COMMUNICATIONS
Sound recordings, 11:18

AGENCY RIGHTS
Licenses and licensing, 5:125

AGGREGATE ASSESSMENT
Fair use defense, 10:157

AGGREGATE COPYING
Reproduction right, prima facie case of infringement, 9:66

AGRICULTURAL AND HORTICULTURAL FAIRS
Public performance, Section 110(6), 14:46

AIRCRAFT TECHNICAL PUBLISHERS v. CESSNA AIRCRAFT CORP.
Fair use defense, 10:115

ALIEN PROPERTY CUSTODIAN
Uruguay Round Agreements Act, 24:30

ALLARCOM PAY TELEVISION, LTD. v. GENERAL INSTRUMENT CORP.
Extraterritoriality, 25:94

ALTERATIONS
Modification or Change (this index)

“A MACHINE”
Computer programs, 11:39

AMENDMENTS AND REVISIONS
Cable television and other secondary transmissions, 14:53
INDEX

AMENDMENTS AND REVISIONS—Cont’d
Computer programs, 3:74, 3:76
Construction and interpretation, 2:4, 2:5
Copyright Act of 1790 (this index)
Copyright Act of 1909 (this index)
Copyright Act of 1976 (this index)
Ephemeral-recording exemption, 11:10
Exclusive rights, 8:20
First Copyright Act (this index)
Formalities (this index)
Government works, 4:65
International copyright, 23:12, 23:15
Limitation of actions, 20:14
Preemption, 18:5 to 18:7
Public Performance (this index)
Rental Rights (this index)
Revision bills
  cable television and other secondary transmissions, 14:53
Copyright Act of 1976, 7:31, 7:32
  monetary damages, 22:157
  1964 revision bill, 7:31, 18:5
  1965 revision bill, 7:32, 18:6
  preemption, 18:6
  Preemption, 18:5
Public Performance (this index)
  term, 7:31, 7:32
Sound recordings, 5:92, 8:20, 14:88
Term, 7:8, 7:9, 7:51
AMERICA INVENTS ACT
  Subject-matter jurisdiction, 17:6

AMERICAN GEOPHYSICAL UNION v. TEXACO
  Fair Use Defense (this index)

AMERICAN HOSPITAL SUPPLY CORP. v. HOSPITAL PRODUCTS LTD.
  Preliminary injunctions, 22:55

AMERICAN WELL WORKS CO. v. LAYNE BOWLER CO.
  Arising under jurisdiction, 17:37
  Subject-matter jurisdiction, 17:11, 17:12

AMNESTY ACT OF 1893
  First Copyright Act revisions, 1:39

A&M RECORDS, INC. v. NAPSTER, INC.
  Contributory infringement, 21:57
  Vicarious liability, 21:74

AMERICAN HOSPITAL SUPPLY CORP. v. HOSPITAL PRODUCTS LTD.
  Preliminary injunctions, 22:55

AMSINCK v. COLUMBIA PICTURES INDUSTRIES
  Fair use defense, 10:72

ANALOGICAL REASONING
  Noncopyrightable material, 4:22

ANCILLARY ISSUES
  Jurisdiction (this index)

ANDEAN TRADE PREFERENCE ACT
  International copyrights, 23:69

“AND” OR “OR”
  Construction and interpretation, 2:62
  Preliminary injunctions, 22:35

ANIMALS
  Pictorial, graphic, and sculptural works, 3:117.10

ANONYMOUS WORKS
  Copyright Act of 1976, 7:37
  Sonny Bono Copyright Term Extension Act, 7:55
  Term, 7:37
ANSEHL v. PURITAN PHARMACEUTICAL CO.
Substantial similarity, 9:226

ANTEDATED NOTICES
Copyright Act of 1790 revisions, 6:39

ANTI-ASSIGNMENT ACT
Standing to sue, 21:23

ANTI-DOCTRINE
Reproduction right, 9:38

ANTI-SLAPP LEGISLATION
Preemption, 18:21.50

ANTITRUST EXEMPTION
Sound recordings, Section 114(e), 14:96

APA REVIEW
Infringement, 17:95

APPARENT AUTHORITY
Vicarious liability, 21:82

APPEAL AND REVIEW
Abuse of discretion, 22:8
Arising under jurisdiction, 17:45
Extraterritoriality, 25:97
Fair use defense, 10:85, 10:160
First Copyright Act, 1:29
Infringement, 9:88, 17:95, 17:97
Preliminary injunctions, 22:8, 22:9
Reproduction right, 9:88
Subject-matter jurisdiction, 17:95, 17:97
Substantial similarity, 9:278
T.B. Harms case, 17:32
Temporary restraining orders, 22:9

APPENDIX
Berne Convention Implementation Act of 1988, Article 21, 23:43

APPLE COMPUTER, INC. v. MICROSOFT CORP.
Substantial similarity, 9:241

APPORTIONMENT
Damages (this index)

APPROPRIATION ART
Fair use defense, 10:35.20

ARAMCO
Extraterritoriality, 25:91

ARBITRATION
Generally, 17:194 to 17:196
Jurisdiction, 17:59
Motions to compel, 17:195
Remedies, 17:196

ARCHITECTURAL DRAWINGS
Generally, 3:103 to 3:105.50
Registration, 3:106

ARCHITECTURAL PLANS
Generally, 3:103 to 3:105.50
Fair use defense, 10:35.50
Infringement, 3:105
Limitations and restrictions, Section 113, 11:14
Monetary damages, 22:123
Originality, 3:105.50
Preliminary injunctions, 22:73
Registration, 3:106
Relationship between copyright in architectural work, 3:116

ARCHITECTURAL WORKS
Architectural plans, relationship, 3:105, 3:116
Architectural Works Copyright Protection Act of 1990
generally, 3:107 to 3:115
exclusionary rights, 3:111
exemption under section 120(a) and section 120(b), 3:111.10
preemption of state and local laws, 3:113
protected subject matter, 3:108
registration, 3:115
INDEX

ARCHITECTURAL WORKS
—Cont’d
Architectural Works Copyright Protection Act of 1990
—Cont’d
remedies, 3:112
retroactivity, 3:114
significance of classification of works in statute, 3:109
standard of infringement, 3:115.50
works of art incorporated in works, 3:110
Berne Convention Implementation Act of 1988, Article 4, 23:20
Derivative works, Section 120(b), 12:31
Display publicly, 15:16
Exemption under section 120(a) and section 120(b) of Architectural Works Copyright Protection Act of 1990, 3:111.10
Formalities, 6:31.50
Infringement standard, 3:115.50
Limitations and restrictions, Section 113, 11:14
Monetary damages, 22:123
Preemption, Section 301(b)(4), 18:53
Preliminary injunctions, 22:73
Publication, 6:31.50
Reproduction right, 9:28, 11:46
Standard of infringement, 3:115.50

ARCHITECTURAL WORKS COPYRIGHT PROTECTION ACT OF 1990
Architectural Works (this index)

ARCHIVES
Copyright Act of 1976, 1:103
Distribution of copies of work, exceptions, 13:14
Section 108 Study Group report, 11:8.50

ARC MUSIC CORP. v. LEE
Substantial similarity, 9:142

ARICA INSTITUTE v. PALMER
Fair use defense, 10:64

ARISING UNDER JURISDICTION
Subject Matter Jurisdiction (this index)

ARISTA RECORDING, INC. v. MP3BOARD, INC.
Contributory infringement, 21:59

ARMED FORCES
Public performance, 14:49

ARNSTEIN v. EDWARD B. MARKS MUSIC GROUP
Reproduction right, 9:35

ARNSTEIN v. PORTER
Reproduction right, 9:38, 9:118

ARRANGEMENT
Electronic databases, 3:67

ART ACT
Copyright Act of 1976 amendments, 1:113

ARTISTIC WORKS
Berne Convention Implementation Act of 1988, Article 14, 23:34

ASAHI METAL INDUSTRY CO. v. SUPERIOR COURT OF CALIFORNIA
Personal jurisdiction, 17:146

AS A PART OF
Copyright Act of 1976, government employees, 4:73

ASSESSMENT
Fair use defense, 10:157

ASSIGNMENT
Generally, 5:101 to 5:117
After-the-fact transfers, 5:111
Cause of action, 5:113

© 2019 Thomson Reuters, Rel. 24, 9/2019
ASSIGNMENT—Cont’d
Challenges, 5:114
Check endorsements, 5:110
Choice of Law (this index)
Construction and interpretation, 5:115
Copyright Act of 1909 general revision, 7:12
Corbello v. DeVito, 5:103
Derivative works, 5:117
Exploitation, 5:115
Fallacy of “one copyright,” 5:102
Futures, 5:115
Gardner v. Nike, 5:103
Government works, 4:76
Licensees, transfer of interest, 5:103
Licenses, 5:112, 5:129
Ninth circuit, 5:105
Operation of law, Section 201(e), 5:116
Preexisting causes of action, 5:113
Renewal, jurisdiction, 7:10.50
Retroactive licenses, 5:103, 5:112
Signature, 5:110
Silvers v. Sony Pictures Entertainment, 5:104
Standing to sue, 5:104, 21:5, 21:23
Structure of ownership, generally, 5:101 to 5:117
Sufficiency, 5:114
Sybersound Records, Inc. v. UAV Corporation, 5:103
Technologies, 5:115
Third parties, challenging sufficiency of transfer under Section 204(a), 5:114
Transfer of rights, generally, 5:101 to 5:117
Uruguay Round Agreements Act, 24:41
Work made for hire, 5:59
Writing requirement, Section 204(a) generally, 5:106 to 5:111

ASSIGNMENT—Cont’d
Writing requirement, Section 204(a)—Cont’d
after-the-fact transfers, 5:111
check endorsements, 5:110
content of transfer, 5:108
formalities of transfer, 5:109
form of transfers, 5:107

ASSISTANTS
Work made for hire, 5:62

ASSOCIATED PRESS v. MELTWATER U.S. HOLDINGS, INC.
Fair use defense, 10:80.70

ASSOCIATIONAL STANDING TO SUE
Generally, 21:28

ASSOCIATION OF AMERICAN MEDICAL COLLEGES v. CUOMO
Fair use defense, 10:107

ASSOCIATION OF AMERICAN MEDICAL COLLEGES v. MIKAELIAN
Fair use defense, 10:106

ASSUMPTIONS
Copyright Act of 1976 amendments, 1:105

ATARI, INC. v. AMUSEMENT WORLD
Substantial similarity, 9:178

ATARI, INC. v. NORTH AMERICAN PHILIPS CONSUMER ELECTRONICS CORP.
Substantial similarity, 9:217

ATHLETIC EVENTS
Noncopyrightable material, 4:21

ATHLETIC ROUTINES
Noncopyrightable material, 4:22
# Index

**ATKINS v. FISCHER**  
Substantial similarity, 9:277

**ATTACHMENT**  
Infringement, 17:94

**ATTIA v. SOCIETY OF THE NEW YORK HOSPITAL**  
Substantial similarity, 9:163

**ATTORNEYS**  
Monetary damages, 22:182

**ATTORNEYS’ FEES**  
Generally, 22:209 to 22:221  
Conflict of laws, 22:215  
Construction and interpretation, 22:217, 22:218  
Contracts, attorneys’ fees in, 22:210.50  
Definition of prevailing party, 22:211  
Final judgment, offer to relief obtained in, 22:220  
FRCP 68, generally, 22:214  
Joint and several liability, 22:222.50  
Judgment. Offer of judgment, Rule 68, above  
Marek v. Chesny, 22:216 to 22:218  
Nonelection of statutory damages, 22:212.50  
Offer of judgment, Rule 68, generally, 22:213 to 22:220  
Conflict of laws, 22:215  
Construction and interpretation, 22:217, 22:218  
Costs of action, 22:216 to 22:218  
Final judgment, offer to relief obtained in, 22:220  
FRCP 68, generally, 22:214  
Marek v. Chesny, 22:216 to 22:218

**ATTORNEYS’ FEES—Cont’d**  
Offer of judgment, Rule 68 —Cont’d  
“properly awardable,” construction and interpretation, 22:218  
Section 505 and FRCP 68, conflict of laws, 22:215  
Pleadings, 19:14  
Prevailing party defined, 22:211  
“Properly awardable,” construction and interpretation, 22:218  
Rule 68. Offer of judgment, Rule 68, above  
Section 412, 22:212  
Section 505 and FRCP 68, conflict of laws, 22:215  
Statutory damages nonelection, 22:212.50

**ATTRIBUTION**  
Burden of proof, 22:118  
Lack of, 22:107, 22:108  
Profits, 22:118  
Visual Artists Rights Act of 1990, 16:17

**AUCTIONS**  
Personal jurisdiction, 17:188

**AUDIENCE**  
Reproduction right, 9:70

**AUDIO HOME RECORDING ACT OF 1992**  
Exclusive rights, 8:26  
Parties, 21:84  
Reproduction right exceptions, 11:47

**AUDIOVISUAL WORKS**  
Motion Pictures and Other Audiovisual Works (this index)

**AUTHOR AND AUTHORSHIP**  
Generally, 5:3  
Accounting claims between co-owners, 5:9
AUTHOR AND AUTHORSHIP
—Cont’d
Accrual in ownership claims, 5:41, 5:41.50
Affirmative defense, 5:43.50
Authorial estoppel, 4:7, 4:8
Certificate of registration, 5:94
Childress case, 5:15, 5:16
Choice of Law (this index)
Collective works, 5:5
Computer programs, 3:80
Constitutional Law (this index)
Construction and interpretation, 5:15, 5:16
Contracts and agreements, 5:26
Contribution, 5:15, 5:17
Controlled composition clauses, 5:8
Copyright Act of 1909 general revision, 7:13, 7:14, 7:16
Copyright Act of 1976, 7:35, 7:36
Copyright Office, 5:27
Costs and expenses, 5:25
Covenants, 5:10, 5:11
Credit, 5:25
Definition of joint authorship, 5:4
Derivative works, 5:43, 12:16, 12:23
Discovery accrual, 5:41.50
Dominant author theory, 5:24
Economic consequences. Joint Authorship (this index)
Expression, 5:17, 5:18
Fiduciary relationship, 5:10, 5:11, 5:13
Foreign authors. International Copyright (this index)
History, 5:34
Implied negative covenants, 5:10, 5:11
Infringement, 5:39, 17:61
Intent. Joint Authorship (this index)

AUTHOR AND AUTHORSHIP
—Cont’d
Interdependent and inseparable joint works, 5:6
International Copyright (this index)
Interviews, 5:19
Joint Authorship (this index)
Joint ventures, 5:12
Joint works and collective works contrasted, 5:5
Kling v. Hallmark Cards, Inc., 5:40
Legislative history of Section 507(b), 5:34
Limitation of actions. Joint Authorship (this index)
Merchant v. Levy, 5:37, 5:38
Noncopyrightable material, 4:33
Obviousness of owners, Kling v. Hallmark Cards, Inc., 5:40
Originality, 3:45, 5:14 to 5:16
Ownership, generally, 5:3 to 5:95.50
Physical proximity, 5:30
Question of fact, 5:31
Registration, 5:27, 5:94
Section 507(b), 5:33, 5:34
Separation, 5:6
Sonny Bono Copyright Term Extension Act, 7:53, 7:54, 7:56
Sound recordings, 3:161
Title and ownership, generally, 5:3 to 5:95.50
Tolling, 5:42
Violation accrual, 5:41.50
Waste, 5:10, 5:11
Work Made for Hire (this index)
Work of an infringing derivative work, 12:16.10
Written agreement, 5:26
Zuill v. Shanahan, 5:36, 5:38
INDEX

AUTHORIAL ESTOPPEL
Noncopyrightable material, 4:7, 4:8

AUTOMATIC
Preliminary injunctions, 22:14

AUTOMATIC PROTECTION
Berne Convention Implementation Act of 1988, Article 5, 23:21

AUTOMATIC RENEWAL ACT OF 1992
Infringement, 17:117

AUTOMATIC RESTORATION
Uruguay Round Agreements Act, 24:29

AUTOSKILL INC. v. NATIONAL EDUCATIONAL SUPPORT SYSTEMS, INC.
Substantial similarity, 9:251

AVAILABILITY
Reproduction right, 9:26

AWARENESS
Preemption, 18:20

BACKPACKS
Useful articles, designs of, 3:152.60

BACKUP COPIES AND ADAPTATIONS EXEMPTION
Computer Programs (this index)

BACKWARDS - LOOKING REGISTRATIONS
Infringement, 17:89

BAKER v. SELDEN
Computer programs, 3:84
Noncopyrightable material, Section 102(b), 4:42, 4:43

“BALANCE” METAPHOR
History, generally, 1:1.50

BALLROOM LINE OF DECISIONS
Vicarious liability, 21:65

BANCROFT & MASTERS, INC. v. AUGUSTA NATIONAL, INC.
Personal jurisdiction, 17:164

BANKRUPTCY
Forfeiting statutory damages, 22:165.50
Licenses, Copyright Act of 1976, 5:149

BANKS v. MANCHESTER
Government works, noncopyrightable material, 4:55, 4:56

BARABAN v. TIME WARNER
Fair use defense, 10:63

BARBIE DOLL
Fair use defense, 10:97

BASIC BOOKS v. Gnomon Corp.
Fair use defense, 10:110

BASIC BOOKS v. KINKO’S GRAPHICS CORP.
Fair use defense, 10:117

BASSET v. MASHANTUCKET PEQUOT TRIBE
Arising under jurisdiction, 17:35

BATeman v. Mnemonics, Inc.
Substantial similarity, 9:263

BAXTER v. MCA, INC.
Substantial similarity, 9:237

BELLSOUTH ADVERTISING & PUBLISHING CORP. v. DONNELLEY INFORMATION PUBLISHING INC.
Substantial similarity, 9:261
BELT - AND - SUSPENDERS AGREEMENTS
Work made for hire, 5:51

BENCH AWARD
Monetary damages, 22:164

BENEFICIAL OWNERS
Licenses, 5:152
Standing to sue, 21:25 to 21:27

BENEFICIARY
Jukebox, 14:107

BENEFITS
Work made for hire, 5:65

BENSON v. COCA-COLA CO.
Substantial similarity, 9:262

BENTON v. DECOTEX, INC.
Substantial similarity, 9:202

BEQUESTS
Copyright Act of 1909 general revision, 7:14

BERNE CONVENTION IMPLEMENTATION ACT OF 1988—Cont’d
Article 6
moral rights, 23:23
retaliation against works of non-union authors, 23:22
Article 7, term of protection, 23:24
Article 8, right of translation, 23:25
Article 9, right of reproduction and exceptions to right, 23:26
Article 10 exceptions, 23:27
exceptions for press, 23:28
Article 11 broadcasting and communication to public, right of, 23:30
public performance, right of, 23:29
public recitation, right of, 23:31
Article 12, right to prepare adaptations, 23:32
Article 13, mechanical compulsory license, 23:33
Article 14 adaptation of literary and artistic works in cinematographic works, 23:34
droïte de suite, 23:36
protection of cinematographic works, 23:35
Article 15, presumption of authorship, 23:37
Article 16, seizure of infringing goods, 23:38
Article 17, government censorship, 23:39
Article 18, retroactive application of Convention, 23:40
Article 19, national legislation, 23:41
Article 20, bilateral agreements, 23:42
BLACKWELL PUBLISHING INC. v. EXCEL RESEARCH GROUP, LLC
Fair use defense, 10:118.50

BLANK FORMS “RULE”
Noncopyrightable material, Section 102(b), 4:52, 4:53

BLEHM v. JACOB
Substantial similarity, 9:257.70

BLIND PERSONS
Fair use defense, 10:52
Public performance, 14:48
Reproduction right, 11:49

BLUMCRAFT OF PITTSBURGH v. NEWMAN BROTHERS, INC.
Substantial similarity, 9:196

BOATS
Copyright Act of 1976 amendments, 1:106

BOPPS - MERRILL IN 1909 COPYRIGHT ACT
Distribution of copies of work, 13:19

BONDING INJUNCTION
Preliminary injunctions, 22:72

BONITO BOATS, INC. v. THUNDER CRAFT BOATS, INC.
Construction and interpretation, 2:51

BONNEVILLE v. PETERS
Sound recordings, 14:88

BONO
Sonny Bono Copyright Term Extension Act (this index)

BOOKSELLERS
Term, 7:4, 7:6

BOOK TRADE
England and Statute of Anne, 1:8

BOOFTLES OF LIVE MUSICAL PERFORMANCES
Uruguay Round Agreements Act (this index)

BOUCHAT v. BALTIMORE RAVENS, INC.
Substantial similarity, 9:185

BOWERS v. BAYSTATE TECHNOLOGIES, INC.
Preemption, 18:26

BRACKEN v. ROSENTHAL
Reproduction right, 9:108

BRADY v. DALY
Limitation of actions, 20:10

BRIDGEPORT MUSIC, INC. v. DIMENSION FILMS
Reproduction right, 9:61
Substantial similarity, 9:209

BRIDGEPORT MUSIC, INC. v. UMG RECORDINGS, INC.
Substantial similarity, 9:209.20

BRIEFS
Government works, 4:85

BROADCASTING ORGANIZATIONS
TRIPS, Article 14, 23:67

BROADCASTING STATIONS
Derivative works, 12:30

BROADCASTS AND BROADCASTING
Generally, 3:159
Berne Convention Implementation Act of 1988, Article 11, 23:30
Copyrightable material, generally, 3:159
Copyright Act of 1976 amendments, 1:102
Display publicly, 15:14
Ephemeral digital sound recordings exemption, 1:102

Index-12
INDEX

BROADCASTS AND BROADCASTING—Cont’d
Fair Use Defense (this index)
Jukebox, 14:104
Personal jurisdiction, 17:186.50
Public broadcasting compulsory license, Section 118, 11:45
Public performance, 14:35
Sound recordings, 11:19, 14:86

BROWN BAG SOFTWARE v. SYMANTEC CORP.
Substantial similarity, 9:240

BRUSSELS SATELLITE CONVENTION
International copyright, 23:14

BRUZZONE v. MILLER BREWING
Fair use defense, 10:81

BUENOS AIRES CONVENTION OF 1910
International copyright, 23:9

BUILDINGS, WORKS CONTAINED IN
Visual Artists Rights Act of 1990, 16:32 to 16:34

BURDEN OF PROOF
Damages (this index)
Foreign laws, 25:79
Jukebox, 14:117
Licenses, 5:133
Preliminary injunctions, 22:70

BUSINESS AGREEMENTS
Computer programs, 11:33

BUSINESS REPUTATION
Preemption, 18:38

BUSINESS TRENDS CASE
Monetary damages, 22:129

“BUT FOR” TEST
Personal jurisdiction, 17:153

CABLE NEWS NETWORK v. VIDEO MONITORING SERVICES OF AMERICA
Fair use defense, 10:76

CABLE TELEVISION AND OTHER SECONDARY TRANSMISSIONS
Generally, 14:50 to 14:80
Cable compulsory license, 14:73
Cable forms and rates, Section 111(d)(1)(B) and (D), 14:75
Cable systems, wireless included, definition, 14:65
Compulsory license, 14:73
Compulsory license fees, 14:74, 14:76 to 14:78
Conditions for and limitations on cable compulsory license, Section 111(c), 14:73
Consent, 14:80
Controlled groups, Section 111(b), 14:72
Copyright Act of 1976, 1:78
Definitions
cable systems, wireless included, 14:65
distant signal equivalents, 14:64
local service area of primary transmitter, 14:62
network station, 14:63
primary transmissions, 14:61
secondary transmissions, 14:61
Display publicly, 15:12, 15:15
Distant signal equivalents defined, 14:64
Distribution of compulsory license fees, Section 111(d)(2) to (4), 14:76 to 14:78
Earth stations, 14:70
Fees, 14:74, 14:76 to 14:78
Fortnightly decision, 14:54
Governmental bodies, 14:71
History
generally, 14:51 to 14:80
Fortnightly decision, 14:54

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-13
CABLE TELEVISION AND OTHER SECONDARY TRANSMISSIONS—Cont’d
History—Cont’d

1966 and 1967 revision bills, 14:53
1966 freeze, 14:52
1969-1971, 14:55
1972-1973, 14:56
1974, 14:58
1976 passage of Act, 14:59
pre-1966 era, 14:51
Teleprompter decision, 14:57
Hotel relaying, Section 111(a)(1), 14:67
Instructional secondary transmissions, Section 111(a)(2), 14:68
Internet streaming of television programming, 14:79.50

Jukebox (this index)
License, 14:73, 14:74
License fees, 14:76 to 14:78
Limitations and restrictions, 14:73
Local service area of primary transmitter, 14:62
Network station defined, 14:63
1966 and 1967 revision bills, 14:53
1969-1971, 14:55
1972-1973, 14:56
1974, 14:58
1976 passage of Act, 14:59
Nonprofit organizations, 14:71
Nonsimultaneous cable secondary transmissions, Section 111(e), 14:79

Operation of Section 111, generally, 14:60
Passive carriers, Section 111(a)(3), 14:69
Primary transmissions, 14:61
Publicly perform, right to, generally, 14:50 to 14:80
Rates, 14:75
Retransmission consent, 14:80

CABLE TELEVISION AND OTHER SECONDARY TRANSMISSIONS—Cont’d
Retransmission—Cont’d
Section 111(a), 14:70
Revision bills, 14:53
Right to publicly perform, generally, 14:50 to 14:80
Satellite, 14:70
Section 111(a)
generally, 14:66 to 14:71
hotel relaying, Section 111(a)(1), 14:67
instructional secondary transmissions, Section 111(a)(2), 14:68
noncable secondary transmissions by governmental bodies and nonprofit organizations, Section 111(a)(5), 14:71
passive carriers, Section 111(a)(3), 14:69
private home viewing by earth stations, retransmission by satellite carriers, 14:70
retransmission by satellite carriers for private home viewing by earth stations, Section 111(a)(4), 14:70
satellite carriers, 14:70
Section 111(b), 14:72
Section 111(c), 14:73
Section 111(d)(1), 14:74
Section 111(d)(1)(B) and (D), 14:75
Section 111(d)(2) to (4), 14:76 to 14:78
Section 111(e), 14:79
Section 111, generally, 14:50 to 14:80
Teleprompter decision, 14:57
Wireless cable, 14:65

CAFTA - DR
Generally, 23:70
<table>
<thead>
<tr>
<th>Index</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CALDER v. JONES</strong></td>
</tr>
<tr>
<td>Personal jurisdiction, 17:161</td>
</tr>
<tr>
<td><strong>CALLAGHAN v. MYERS</strong></td>
</tr>
<tr>
<td>Substantial similarity, 9:122</td>
</tr>
<tr>
<td><strong>CALLIGRAPHERS</strong></td>
</tr>
<tr>
<td>Fair use defense, 10:56</td>
</tr>
<tr>
<td><strong>CAMPBELL v. ACUFF - ROSE MUSIC, INC.</strong></td>
</tr>
<tr>
<td>Construction and interpretation, 2:56</td>
</tr>
<tr>
<td><strong>CANADA</strong></td>
</tr>
<tr>
<td>United States-Canada Free Trade Agreement (CFTA), 23:54</td>
</tr>
<tr>
<td><strong>CANCELLATION</strong></td>
</tr>
<tr>
<td>Infringement, 17:85, 17:108</td>
</tr>
<tr>
<td><strong>CAPITAL CITIES CABLE, INC. v. CRISP</strong></td>
</tr>
<tr>
<td>Construction and interpretation, 2:47</td>
</tr>
<tr>
<td><strong>CAPITAL RECORDS, INC. v. NAXOS AMERICA, INC.</strong></td>
</tr>
<tr>
<td>Preemption, 18:55</td>
</tr>
<tr>
<td><strong>CARIBBEAN BASIN ECONOMIC RECOVERY ACT (CBI)</strong></td>
</tr>
<tr>
<td>International copyrights, 23:50</td>
</tr>
<tr>
<td><strong>CARR v. NATIONAL CAPITAL PRESS, INC.</strong></td>
</tr>
<tr>
<td>Substantial similarity, 9:269</td>
</tr>
<tr>
<td><strong>CARTIER v. JACKSON</strong></td>
</tr>
<tr>
<td>Substantial similarity, 9:253</td>
</tr>
<tr>
<td><strong>CARTOON NETWORK LP, LLLP v. CSC HOLDINGS, INC.</strong></td>
</tr>
<tr>
<td>Reproduction rights, 9:63.50</td>
</tr>
<tr>
<td><strong>CASE OR CONTROVERSY</strong></td>
</tr>
<tr>
<td>Jurisdiction, 17:49, 17:49.50, 17:50</td>
</tr>
<tr>
<td><strong>CASS COUNTY TEST</strong></td>
</tr>
<tr>
<td>Public performance, 14:42</td>
</tr>
<tr>
<td><strong>CASTLE ROCK ENTERTAINMENT v. CAROL PUBLISHING GROUP</strong></td>
</tr>
<tr>
<td>Fair use defense, 10:66</td>
</tr>
<tr>
<td><strong>CASUAL LINK</strong></td>
</tr>
<tr>
<td>Monetary damages, 22:104</td>
</tr>
<tr>
<td><strong>CAUSE OF ACTION</strong></td>
</tr>
<tr>
<td>Assignment, 5:113</td>
</tr>
<tr>
<td><strong>C - BAND GRANDFATHER CLAUSE</strong></td>
</tr>
<tr>
<td>Jukebox, Section 119(a)(2)(b)(iii), 14:115</td>
</tr>
<tr>
<td><strong>CEASE AND DESIST LETTERS</strong></td>
</tr>
<tr>
<td>Personal jurisdiction, 17:176</td>
</tr>
<tr>
<td><strong>CENSORSHIP</strong></td>
</tr>
<tr>
<td><strong>CENTRAL AMERICAN - DOMINICAN REPUBLIC FREE TRADE AGREEMENT (CAFTA-DR)</strong></td>
</tr>
<tr>
<td>Generally, 23:70</td>
</tr>
<tr>
<td><strong>CERTIFICATE OF REGISTRATION</strong></td>
</tr>
<tr>
<td>Author and authorship, 5:94</td>
</tr>
<tr>
<td>Infringement (this index)</td>
</tr>
<tr>
<td>Reproduction right, 9:7, 9:13, 9:14</td>
</tr>
<tr>
<td><strong>CESSATION</strong></td>
</tr>
<tr>
<td>Preliminary injunctions, 22:65</td>
</tr>
<tr>
<td><strong>CHACE ACT</strong></td>
</tr>
<tr>
<td>U.S. protection of foreign authors, 23:4</td>
</tr>
<tr>
<td><strong>CHALLENGES</strong></td>
</tr>
<tr>
<td>Assignment, 5:114</td>
</tr>
<tr>
<td>Personal jurisdiction, 17:135, 17:136</td>
</tr>
<tr>
<td><strong>CHAMPERTY</strong></td>
</tr>
<tr>
<td>Licenses, 5:136</td>
</tr>
</tbody>
</table>
CHAMPION MAP CORP. v. TWIN PRINTING CO.
Substantial similarity, 9:177

CHANGE
Modification and Change (this index)

CHARACTERS
Generally, 3:164
Copyrightable material, generally, 3:164

CHARLES W. ROSS BUILDER, INC. v. OLSEN FINE HOME BUILDING, LLC
Substantial similarity, 9:185.50

CHARMING BETSY CANON OF CONSTRUCTION
Choice of law, 25:42, 25:43

CHATTLES
Preemption, 18:45, 18:46

CHECK ENDORSEMENT
Assignment, 5:110
Work made for hire, 5:77

CHEVRON CASE
Infringement, 17:99

CHICAGO BOARD OF EDUCATION v. SUBSTANCE, INC.
Fair use defense, 10:68

CHICAGO BUILDING DESIGN, P.C. v. MONGOLIAN HOUSE, INC.
Limitation of actions, ongoing infringement, 20:33.50

CHICAGO LAWYER v. FORTY - SIXTH WARD REGULAR DEMOCRATIC ORGANIZATION
Fair use defense, 10:129

CHICAGO RECORD - HERALD CO. v. TRIBUNE ASSOCIATION
Substantial similarity, 9:211

CHILDREN AND MINORS
Limitation of actions, 20:52
Renewal of term, 7:17

CHILDRESS CASE
Author and authorship, 5:15, 5:16

CHOICE OF LAW
Generally, 25:0.50 to 25:74, 25:80 to 25:85
Absence of choice of law within United States, 25:0.50
Arising under analysis, 25:67
Article 14(2)(a), 25:55
Assignment. Authorship, below Authorship generally, 25:29 to 25:68
assignment generally, 25:56 to 25:64
contracts and agreements, 25:60 to 25:64
domicile, 25:64
limitations and restrictions, 25:57
location of subject matter, 25:63
nationality, 25:64
operation of law, 25:59
place of contract, 25:61
place of performance, 25:62
residency, 25:64
CIL. Customary International Law (CIL), below this group
common law. Federal common law, below this group
Customary International Law (CIL) generally, 25:32 to 25:41
canon of construction, 25:34
CHOICE OF LAW—Cont’d
Authorship—Cont’d
Customary International Law (CIL)—Cont’d
extraterritoriality, 25:35
independent source of law, 25:33 to 25:35
international scope, 25:40
interpretative federal common law, as, 25:32
modern, 25:37, 25:38
origin, 25:36, 25:37
sources of authority, 25:39
traditional vs. modern, 25:37
duration of protection generally, 25:69 to 25:74
Copyright Act of 1909 work, death before vesting of renewal, assignment, 25:73
foreign author and assignee, contract between, 25:72
foreign country, public domain, failure to renew, 25:71
renewal, 25:70 to 25:73
termination of transfer, 25:74
federal common law generally, 25:31 to 25:68
arising under analysis, 25:67
Article 14(2)(a), 25:55
assignment, above this group
Berne Convention and Charming Betsy canon of construction, 25:43
characterization, 25:65 to 25:68
Charming Betsy canon of construction, 25:42, 25:43
CIL. Customary International Law (CIL), below
Cinematographic works, 25:54
Common law. Authorship, above this group
Computer servers location, 25:54
Connecting factors, 25:52, 25:53
Creation, place of, 25:50
development (applying law of more than one jurisdiction), 25:45
domicile vs. nationality, 25:48
duration of protection, above this group
married women’s contracts, 25:66
multiple authors, 25:51
ownership determined by country of origin, 25:46
place of first publication or first availability to public, 25:49
Renvoi, 25:68
statutory rules on ownership, 17 USCA 104A, 25:30
time and date. Duration of protection, above this group
Berne Convention, 25:29, 25:43
Characterization, 25:65 to 25:68
Charming Betsy canon of construction, 25:42, 25:43
CIL. Customary International Law (CIL), below
Cinematographic works, 25:54
Common law. Authorship, above this group
Connecting factors, 25:52, 25:53
Construction and interpretation Charming Betsy canon of construction, 25:42, 25:43
Customary International Law (CIL), 25:32, 25:34

© 2019 Thomson Reuters, Rel. 24, 9/2019
CHOICE OF LAW—Cont’d
Convention minima, 25:24
Copyright Act of 1909 work, death before vesting of renewal, assignment, 25:73
Country of origin, law of applies, transfers, 25:80.10
Customary International Law (CIL)
authorship, above infringement, 25:82
Death, 25:73
Definition of national treatment, 25:22
Discrimination, 25:25
Domicile, 25:48, 25:64
Duration of protection. Authorship, above Egyptians, 25:5
Enforcing foreign copyright judgments, 25:81.50
Evidence, prima facie case, elements of, generally, 25:14 to 25:74
Extraterritoriality, 25:35
Federal common law. Authorship, above
First availability, 25:49
First publication, 25:49
First Restatement of Conflict of Laws, 25:7
Foreign author and assignee, contract between, 25:72
Foreign claims, dismissing, 25:84
Foreign copyright judgments, 25:81.50
Foreign country, public domain, failure to renew, 25:71
Foreign work, 25:26
Hasbro-Bradley, 25:20
Historical theories
generally, 25:2 to 25:10
contemporary theories, 25:9

CHOICE OF LAW—Cont’d
Historical theories—Cont’d
Egyptians, 25:5
First Restatement of Conflict of Laws, 25:7
Savigny, 25:6
Second Restatement of Conflict of Laws, 25:8
statutes, 25:6
Talmud, 25:4
unilateral versus multilateral, 25:6
Independent source of law, 25:33 to 25:35
Infringement
generally, 25:80 to 25:85
country of origin, law of applies, transfers, 25:80.10
Customary International Law (CIL), 25:82
foreign claims, dismissing,
25:84
foreign law to foreign claims,
25:83
jurisdiction, retaining, 25:85
multinational infringements,
25:81
supranational copyright law
infringement, 25:82
transfers, law of country of origin applies, 25:80.10
United States laws, 25:80
U.S. claims, retaining, 25:84
U.S. laws, application of, 25:85
U.S. laws, application to originality and infringe-
ment in U.S., 25:80
Intangible property, 25:11
International law, 25:32 to 25:35
International scope, 25:40
Jurisdiction, retaining, 25:85
Limitations and restrictions, 25:57
Location and place, 25:49
Married women’s contracts, 25:66
CHOICE OF LAW—Cont’d
Multinational infringements, 25:81
Multiple authors, 25:51
National eligibility, 25:21
Nationality, 25:48, 25:64
National treatment generally, 25:19 to 25:28
claiming protection, 25:28
convention minima, 25:24
definition, 25:22
foreign work, 25:26
Hasbro-Bradley, 25:20
national eligibility, 25:21
nondiscrimination principle, 25:25
reciprocity, 25:23
rights subject to, 25:27
Number of copyrights, 25:17
Operation of law, 25:59
Originality, 25:15
Performance, 25:62
Place and location, 25:61 to 25:63
Prima facie case, elements of, generally, 25:14 to 25:74
Proposed unilateral methodology, generally, 25:13 to 25:74
Public, 25:49
Publication, 25:49
Public domain, 25:71
Reciprocity, 25:23
Renewal, 25:70 to 25:73
Renvoi, 25:68
Residency, 25:64
Russia, 25:31
Savigny, 25:6
Second Restatement of Conflict of Laws, 25:8
17 USCA, 25:30
Situs of intangible property, 25:11
Spouses, 25:66
Statutes, 25:6
Statutory rules on ownership, 17 USCA 104A, 25:30
Subject matter generally, 25:16 to 25:74

CHOICE OF LAW—Cont’d
Subject matter—Cont’d
authorship, above
duration of protection, above
national treatment, above
number of copyrights, 25:17
simultaneous publication on
Internet, 25:18.50
territorial copyrights, 25:18
Supranational copyright law infringement, 25:82
Talmud, 25:4
Termination of transfer, 25:74
Territorial copyrights, 25:18
time and date. Authorship, above
Title and ownership, 25:30, 25:46
Transfers generally, 25:74
law of country of origin applies, 25:80.10
Unilateral methodology, proposed, generally, 25:13 to 25:74
United States, absence of choice of law, 25:0.50
United States and foreign laws, conflicts between, 25:12
United States claims, retaining, 25:84
United States laws, generally, 25:80
Vesting, 25:73
Women, 25:66
CHOLVIN v. B. & F. MUSIC CO.
Substantial similarity, 9:215

CHOREOGRAPHY
Pantomimes and Choreographic Works (this index)

CHRISTIANSON v. COLT INDUSTRIES OPERATING CORP.
Subject-matter jurisdiction, 17:18

CIL
Choice of Law (this index)
INDEX

COMMISSIONED WORK
Work Made for Hire (this index)

COMMITTEE REPORTS
Pictorial, graphic, and sculptural works, 3:135

COMMON LAW
Choice of Law (this index)
Construction and interpretation, 2:1, 2:16
Exclusive rights, 8:9
Fair use defense, 10:8.50
Government works, 4:87
Preemption, 18:22.50

COMMONLY USED IN PRIVATE HOMES
Public performance, 14:43

COMMON SOURCES
Reproduction right, 9:67

COMMUNITY FOR CREATIVE NON-VIOLENCE v. REID
Construction and interpretation, 2:52
Work Made for Hire (this index)

COMPARATIVE ADVERTISING
Fair use defense, 10:30

COMPENSATION AND WAGES
Government works, 4:59
Work Made for Hire (this index)

COMPETITION
Infringement, 17:120
International copyrights, 23:53
Preemption, 18:47 to 18:50

COMPILATIONS
Derivative works distinguished, 3:47,50
Electronic Databases and Compilations (this index)
Infringement, 17:112
Monetary damages, 22:185
Sound recordings, 5:91
TRIPS, Article 10, 23:63

COMPLAINT
Subject-matter jurisdiction, 17:6

COMPLEMENT
Sound recordings, 14:93

COMPLETE PREEMPTION
Federal question jurisdiction, 17:23

COMPLETION
Visual Artists Rights Act of 1990, 16:27

COMPLIANCE
Infringement, 17:82.50

COMPOSITE WORKS
Term, 1909 general revision, 7:22

COMPULSORY LICENSES AND LICENSING
Berne Convention Implementation Act of 1988, Article 13, 23:33
Cable television and other secondary transmissions, 14:73
Derivative works, 12:28, 12:30
Distribution of copies of work, 13:23
Exclusive rights, 8:5
Fees, 14:74, 14:76 to 14:78, 14:118 to 14:120
Jukebox (this index)
Phonorecords of nondramatic musical works, 11:25
Public broadcasting compulsory license, Section 118, 11:45
Rates, sound recordings, 14:98
Sound recordings, 14:91 to 14:94, 14:97, 14:98

COMPUTER ASSOCIATES CASE
Computer programs, 3:87

COMPUTER FRAUD AND ABUSE ACT
Preemption, 18:45, 18:46
COMPUTER MAINTENANCE
AND REPAIR
Copyright Act of 1976 amendments, 1:101

COMPUTER PROGRAMS
Generally, 3:70 to 3:91, 11:29 to 11:44
“A copy,” 11:40
“A machine,” 11:39
Amendments, 3:74, 3:76
Author, 3:80
Backup copies and adaptations exemption generally, 11:29 to 11:44
“a copy,” 11:40
adaptation right, generally, 11:42
“a machine,” 11:39
business agreements, 11:33
consumer agreements, 11:34
CONTU report, 11:30
essential step in conjunction with machine, generally, 11:35 to 11:40
“in no other manner,” 11:38
input as making copy, 11:36
owner of copy, 11:32
right to make, 11:41
Section 117, generally, 11:29 to 11:44
Section 117(b), transfer of copies made under Section 117, 11:43
Section 117(c), computer maintenance or repair, 11:44
structure of Section 117, 11:31
Baker v. Selden, 3:84
Business agreements, 11:33
Case law, 3:76
Computer Associates case, 3:87
Consumer agreements, 11:34
Contracts and agreements, 11:33, 11:34
CONTU report, 11:30
Copyrightable material, generally, 3:70 to 3:91

COMPUTER PROGRAMS
—Cont’d
Copyright Act of 1909, 3:71
Copyright Act of 1976, 3:72
Copyright Office practices under Copyright Act of 1909, 3:71
Definitions, 3:81
Derivative works, 12:29
Distribution of copies of work, 13:25
Dun & Bradstreet Software Services case, 3:90
Entire work, 3:77
First circuit, Lotus Development Corp. case, 3:91
Idea-expression dichotomy, 3:82 to 3:85
Infringement, 17:130
“In no other manner,” 11:38
Input as making copy, 11:36
Lotus Development Corp. case, 3:91
Lower courts, 3:85
Maintenance and repair, 11:44
Merger doctrine, 3:83
National Commission on New Technological Uses of Copyrighted Works, 3:73
Nonliteral elements: structure, sequence, and organization, 3:78
Organization, 3:78
Original works of authorship, 3:80
Proper approach to determining copyrightability, 3:79 to 3:81
Registration for entire work, 3:77

Rental Rights (this index)
Report, 11:30
Scenes a faire, 4:26
Second circuit, 3:87, 3:89
Section 117, generally, 11:29 to 11:44
Section 117(b), transfer of copies made under Section 117, 11:43
Section 117(c), computer maintenance or repair, 11:44

Index-22
INDEX

COMPUTER PROGRAMS
—Cont’d
Sequence, 3:78
Softel, Inc. case, 3:89
Software amendments of 1980, 3:74
Statutory subject-matter definitions, 3:81
Structure, 3:78
Technology, 3:73
Tenth circuit, 3:88
Third circuit, 3:86, 3:90
Title and ownership, 11:32
Transfer of copies, 11:43
TRIPS, Article 10, 23:63
Typeface generation, 3:75
Uruguay Round Agreements Act, 24:20
Whelan Associates case, 3:86

COMPUTERS
Fair use defense, 10:57 to 10:60
Programs. Computer Programs (this index)

COMPUTER SERVERS
Choice of law, authorship, 25:49.50
Extraterritoriality, server location and display and making available rights, 25:87.50

COMPUTER SOFTWARE
Computer Programs (this index)

COMPUTER SOFTWARE AMENDMENTS OF 1990
Rental Rights (this index)

COMPUTING DEVICES
Noncopyrightable material, 4:9

CONCEALMENT
Limitation of actions, 20:50

CONCEPTUAL SEPARABILITY
Pictorial, graphic, and sculptural works, 3:139

CONCRETE MACHINERY CO. v. CLASSIC LAWN ORNAMENTS, INC.
Substantial similarity, 9:130

CONDITIONAL DISMISSALS
Forum non conveniens, 17:223

CONDITIONS
Cable television and other secondary transmissions, 14:73
Jurisdiction, 17:43
Licenses, 5:126

CONFEDERACY
First Copyright Act revisions, 1:30

CONFERENCES
Trade Shows and Conferences (this index)

CONFIDENCE
Preemption, 18:22

CONFLICTING TRANSFERS
Licenses, 5:146 to 5:148

CONFLICT OF LAWS
Attorneys’ fees, 22:215

CONFUSION
Derivative works, 12:14.50

CONFUSION IN MARKET
Preliminary injunctions, 22:41

CONGRESS
Copyright Act of 1976 (this index)
Uruguay Round Agreements Act (this index)

CONNECTING FACTORS
Choice of law, 25:52, 25:53

CONSENT
Cable television and other secondary transmissions, 14:80
Personal jurisdiction, 17:142
Uruguay Round Agreements Act, 24:8

© 2019 Thomson Reuters, Rel. 24, 9/2019
Index-23
CONSOLIDATIONS
Monetary damages, 22:166
CONSPIRACY
Preemption, 18:23
CONSTITUTIONAL LAW
Generally, 3:1 to 3:25
Article I, Section 8, Clause 8, 3:9
Authors and authorship
Exclusive Rights (this index)
fixation, 3:22
Basis and purpose of clause, 3:2
Clause, generally, 3:1 to 3:4
Copies, 3:23
Copyrightable material, generally, 3:1 to 3:25
Definitions
Exclusive Rights (this index)
progress, 3:6
promote, 3:5
science, 3:7
“to promote the progress of science,” below
Derivative works, 3:25
Exclusive Rights (this index)
Federal question jurisdiction, 17:27
Fixation
generally, 3:22 to 3:25
authorship, 3:22
copies, 3:23
derivative works, 3:25
infringement, 3:24
Formalities, 6:18
History, 1:18, 3:3
Infringement, 3:24
Limitations and restrictions
Article I, Section 8, Clause 8, 3:9
Exclusive Rights (this index)
Noncopyrightable material, 4:44
Original work, 3:16, 3:20, 3:20.50
Progress. “To promote the progress of science,” below
Promotion. “To promote the progress of science,” below

CONSTITUTIONAL LAW
—Cont’d
Purpose of clause, 3:2
Science. “To promote the progress of science,” below
“Securing for limited times, to authors the exclusive right to their respective writings.”
Exclusive Rights (this index)
Structure of clause, 3:4
Symbolic authorship defined, 3:21
Term, 7:6
“To promote the progress of science”
generally, 3:5 to 3:8
progress defined, 3:6
promote defined, 3:5
science defined, 3:7
Uruguay Round Agreements Act, 24:7, 24:51
Visual Artists Rights Act of 1990, 16:36
CONSTRUCTION AND INTERPRETATION
Generally, 2:1 to 2:63
Amendments, 2:4, 2:5
Anchoring problem with judicial supremacists’ tunnel vision, 2:61
“And” versus “or,” 2:62
Approaches to statutory construction, generally, 2:23 to 2:25
Assignment, 5:115
Attorneys’ fees, 22:217, 22:218
Author and authorship, 5:15, 5:16
Bonito Boats, Inc. v. Thunder Craft Boats, Inc., 2:51
Campbell v. Acuff-Rose Music, Inc., 2:56
Capital Cities Cable, Inc. v. Crisp, 2:47
Choice of Law (this index)
Common law, 2:16
Common law nature of Act, 2:1
Community for Creative Non-Violence v. Reid, 2:52
CONSTRUCTION AND
INTERPRETATION—Cont’d
Consultative legislating, 2:7
Copyright Act of 1790, 2:3
Copyright Act of 1909, 2:6
Copyright Act of 1976, 2:2, 2:7
Delegating statutes, 2:8
Dictionaries, use in connection with legislative history, 2:29 to 2:36
Display publicly, 15:3
Dowling v. United States, 2:50
Eldred v. Ashcroft, 2:59
Equity of statute, 2:13
Equity of statute and plain meaning, 2:14
Examination of statute’s purpose, generally, 2:11 to 2:20
Feist Publications, Inc. v. Rural Telephone Service Company, 2:54
Fogerty v. Fantasy, Inc., 2:55
Fortnightly Corporation v. United Artists Television, Inc., 2:44
Fred Fisher Music Co. v. M. Witmark & Sons, 2:41
Golan v. Holder, 2:59.50
Goldstein v. California, 2:45
History. Legislative history, below
Holistic approach to resolution of ambiguity, 2:21
Importation, 13:44
Jewell-LaSalle Realty Company v. Buck, 2:39
Kirtsaeng v. John Wiley & Sons, Inc., 2:59.20
L.A. Westermann Co. v. Dispatch Printing Company, 2:38
Legislative history generally, 2:26 to 2:60
accepted methodology for using dictionary definitions, lack of, 2:35
acontextual nature of dictionary definitions, 2:34

CONSTRUCTION AND
INTERPRETATION—Cont’d
Legislative history—Cont’d
bait and switch approach to use of legislative history, 2:60
Bonito Boats, Inc. v. Thunder Craft Boats, Inc., 2:51
Campbell v. Acuff-Rose Music, Inc., 2:56
Capital Cities Cable, Inc. v. Crisp, 2:47
cases, generally, 2:37 to 2:59
Community for Creative Non-Violence v. Reid, 2:52
dictionaries, use of, 2:29 to 2:36
Dowling v. United States, 2:50
Eldred v. Ashcroft, 2:59
English language general use dictionaries, history, 2:30
errors in relying on law dictionaries for word meaning in statutes, 2:32
Feist Publications, Inc. v. Rural Telephone Service Company, 2:54
Fogerty v. Fantasy, Inc., 2:55
Fortnightly Corporation v. United Artists Television, Inc., 2:44
Fred Fisher Music Co. v. M. Witmark & Sons, 2:41
Golan v. Holder, 2:59.50
Goldstein v. California, 2:45
history of legislative committees and generation of committee reports, 2:27
Jewell-LaSalle Realty Company v. Buck, 2:39
judicial supremacists’ dictionary shopping, 2:33
Kirtsaeng v. John Wiley & Sons, Inc., 2:59.20
law dictionaries, 2:31, 2:32
CONSTRUCTION AND INTERPRETATION—Cont’d
Legislative history—Cont’d
L.A. Westermann Co. v. Dispatch Printing Company, 2:38
Mazer v. Stein, 2:42
Miller Music Corp. v. Charles N. Daniels, Inc., 2:43
Mills Music, Inc. v. Snyder, 2:48
non-delegation argument, 2:28
prescriptive versus descriptive dictionaries, 2:36
Quality King Distributors, Inc. v. L’Anza Research International, Inc., 2:57
Stewart v. Abend, 2:53
Twentieth Century Music Corporation v. Aiken, 2:46
Washingtonian Publishing Co., Inc. v. Pearson, 2:40
Licenses and Licensing (this index)
Limitation of Actions (this index)
Literary criticism to approaches, 2:24
“May,” 2:63
Mazer v. Stein, 2:42
Micromanaging versus delegating statutes, 2:8
Miller Music Corp. v. Charles N. Daniels, Inc., 2:43
Mills Music, Inc. v. Snyder, 2:48
Motion pictures and other audiovisual works, 3:157
Nature of statutes, 2:10
Noncopyrightable material, 4:5
“Or,” 2:62
Order of interpretation and plain meaning, 2:15
Ordinary meaning canard, 2:22
Originality, 3:27

CONSTRUCTION AND
INTERPRETATION—Cont’d
Pictorial, Graphic, and Sculptural Works (this index)
Plain meaning disputes, 2:14 to 2:20
Preemption (this index)
Public Performance (this index)
Quality King Distributors, Inc. v. L’Anza Research International, Inc., 2:57
Revision of 1831, review of, 2:4
Revision of 1870, review of, 2:5
“Shall” versus “may,” 2:63
Statutory interpretation, generally, 2:1 to 2:63
Stewart v. Abend, 2:53
Structure of Copyright Act, 2:9
Supreme Court, plain meaning disputes, 2:18
Twentieth Century Music Corporation v. Aiken, 2:46
Washingtonian Publishing Co., Inc. v. Pearson, 2:40
Work made for hire, 5:68, 5:69

CONSTRUCTIVE TRUST
Licenses, 5:153
Preemption, 18:24

CONSUMER AGREEMENTS
Computer programs, 11:34

CONTINENTAL CASUALTY CO. v. BEARDSLEY
Substantial similarity, 9:139

CONTINENTAL CONGRESS
Exclusive rights, 8:11

CONTINUING INFRINGEMENT
Uruguay Round Agreements Act, 24:40

CONTINUING OBLIGATIONS
Standing to sue, 21:27
CONTINUING VIOLATIONS
Limitation of actions, 20:27 to 20:32

CONTINUING WRONG
THEORY OF THIRD PARTY
ACTS
Limitation of actions, 20:34

CONTRACTS AND
AGREEMENTS
Attorneys’ fees in, 22:210.50
Author and authorship, 5:26
Berne Convention, 23:42
Computer programs, 11:33, 11:34
Copyright Act of 1976, 1:105, 7:46
Distribution of copies of work, 13:24
Fair use defense, 10:152
Formalities, 6:70, 6:80
Government works, 4:75 to 4:78
International copyrights, 23:71
Jurisdiction, 17:40, 17:41, 17:46
Licenses, 5:125
Limitation of actions, 20:45
Personal jurisdiction, 17:177
Preemption (this index)
Preliminary injunctions, 22:59
Rental rights, 13:32
Standing to sue, 21:16, 21:20
Term, 7:51
Third party standing, work made for hire, 5:49.10
Vicarious liability, 21:80
Work made for hire, 5:44 to 5:95.50

CONTRIBUTIONS—Cont’d
Preemption, 18:31 to 18:33
Relative contributions of parties and decision-making authority over joint work, 5:23
Sound recordings, 5:90

CONTRIBUTORY
INFRINGEMENT
Generally, 21:42 to 21:61
Affiliate relationships, Copyright Act of 1976, 21:48.60
Arista Recording, Inc. v. MP3Board, Inc., 21:59
Commerce, 21:49 to 21:51
affiliate relationships, 21:48.60
knowledge, 21:47
material contribution, 21:48, 21:48.50
Enterprise liability, 21:44
Extraterritoriality, 25:87
Financial contribution, 21:48.50
History, 21:51
In re Aimster Copyright Litigation, 21:60
Internet generally, 21:55 to 21:61.50
Arista Recording, Inc. v. MP3Board, Inc., 21:59
In re Aimster Copyright Litigation, 21:60
LLC v. AT&T Mobility, LLC, 21:61.50
MGM Studios, Inc. v. Grokster, Ltd, 21:61
CONTRIBUTORY INFRINGEMENT—Cont’d
Internet—Cont’d
Volitional act requirement, generally, 21:55 to 21:61.50

LLC v. AT&T Mobility, LLC, 21:61.50
Material contribution, 21:48, 21:48.50
MGM Studios, Inc. v. Grokster, Ltd, 21:61
Notice and knowledge, 21:47, 21:53
Post-Sony case, 21:54
Pre-1976 Copyright Act case law, 21:45
Sony case, 21:49
Staple article of commerce doctrine, 21:49 to 21:51
Substantial noninfringing uses, 21:52, 21:53
Uruguay Round Agreements Act, 24:44
Volitional act requirement.
Internet, above

CONTROLLED COMPOSITION CLAUSES
Author and authorship, 5:8

CONTROLLED GROUPS
Cable television and other secondary transmissions, 14:72

CONTU REPORT
Computer programs, 11:30

CONVENTION MINIMA
Choice of law, 25:24

CONVERSION
Preemption, 18:34

COORDINATION
Electronic databases, 3:67

CO - OWNERS
Licensing, 21:38.50
Monetary damages, 22:205

COPELAND v. BIEBER
Substantial similarity, 9:185.60

COPY
Computer programs, reproduction right exception, 11:40

COPY CENTER PHOTOCOPYING
Fair use defense, 10:117, 10:118

COPYRIGHTABLE MATERIAL
Generally, 3:1 to 3:164
See also Noncopyrightable Material (this index)
Audiovisual works. Motion Pictures and Other Audiovisual Works (this index)
Broadcasts (this index)
Characteristics of subject matter, generally, 3:60
Characters (this index)
Choreography. Pantomimes and Choreographic Works (this index)
Compilations. Electronic Databases and Compilations (this index)
Computer Programs (this index)
Constitutional Law (this index)
Derivative Works (this index)
Dramatic Works (this index)
Electronic Databases and Compilations (this index)
Graphic works. Pictorial, Graphic, and Sculptural Works (this index)
Literary Works (this index)
Motion Pictures and Other Audiovisual Works (this index)
Musical Works (this index)
INDEX

COPYRIGHTABLE MATERIAL
—Cont’d
Noncopyrightable Material (this index)
Originality (this index)
Pantomimes and Choreographic Works (this index)
Pictorial, Graphic, and Sculptural Works (this index)
Sound Recordings (this index)

COPYRIGHT ACT
See also more specific topics in this index
Construction and interpretation, 2:9
DMCA. Digital Millennium Copyright Act of 1998 (this index)
Enactments, App A
Extraterritoriality, 25:86, 25:86.10, 25:86.20

COPYRIGHT ACT OF 1790
Construction and interpretation, 2:3
Distribution of copies of work, 13:6
Formalities (this index)
Infringement, subject-matter jurisdiction, 17:64.30
Limitation of actions, 20:7
Monetary damages, 22:89
Term, 7:7

COPYRIGHT ACT OF 1802
Derivative works, 12:4
Exclusive rights, 8:13
Formalities, 6:20
Monetary damages, 22:90

COPYRIGHT ACT OF 1831
Exclusive rights, 8:14
Limitation of actions, 20:8
Monetary damages, 22:91

COPYRIGHT ACT OF 1856
Derivative works, 12:5

COPYRIGHT ACT OF 1856
—Cont’d
Exclusive rights, 8:15
Monetary damages, 22:92

COPYRIGHT ACT OF 1870
Derivative works, 12:6
Exclusive rights, 8:16
Limitation of actions, 20:9, 20:10
Monetary damages, 22:93

COPYRIGHT ACT OF 1895
Monetary damages, 22:94

COPYRIGHT ACT OF 1897
Exclusive rights, 8:17

COPYRIGHT ACT OF 1909
Generally, 1:45 to 1:70, 26:2
Ad interim protection during WWII, 1:58
Amendments
generally, 1:46 to 1:70
ad interim protection during WWII, 1:58
codification of 1947, 1:59
Copyright Act of 1962, 1:67, 1:68
Fee Increase Act of 1928, 1:52
fee increase of 1948, 1:60
Housekeeping Amendment of 1913, 1:48
identifying material amendment of 1956, 1:64
importation, 1940 amendments, 1:57
international amendments of 1914, 1:49
1940 amendments, 1:55 to 1:57
nondramatic literary works amendment of 1952, 1:62
Postal Act of 1983, 1:53
Prints and Labels Act of 1939, 1:54
relaxation of manufacturing clause of 1949, 1:61

© 2019 Thomson Reuters, Rel. 24, 9/2019  Index-29
COPYRIGHT ACT OF 1909
—Cont’d
Amendments—Cont’d
renewal of contributions to collective works, 1940 amendments, 1:56
retroactive protection and ad interim amendment of 1919, 1:50
Sound Recording Act of 1971, 1:70
Standard Reference Data Act of 1968, 1:69
statute of limitations amendment of 1957, 1:65
Townsend Amendment of 1912, 1:47
Trading with the Enemy Act, 1962 Acts, 1:68
Universal Copyright Convention, adherence to, 1:63
University Professor’s Act of 1926, 1:51
U.S. government liability for infringement, 1:66
Choice of law, 25:73
Codification, 1:59
Collective works, 1:56
Computer programs, 3:71
Construction and interpretation, 2:6
Contributions, 1:56
Copyright Act of 1962 amendments, 1:67, 1:68
Derivative works, 12:7
Distribution of copies of work, 13:7, 13:19
Enemy, 1:68
Exclusive rights, 8:18
Fee, 1:52, 1:60
Formalities, 6:29, 6:36
Government works, 4:63
Housekeeping, 1:48
Identification, 1:64
Importation, 1:57, 13:41
COPYRIGHT ACT OF 1909
—Cont’d
Impoundment, seizure, and destruction, 22:82
Infringement, 1:66, 17:64.40, 17:115
Interim amendment, 1:50
International amendments, 1:49
International copyright, 23:8
Jukebox, 14:100
Labels, 1:54
Licenses, 5:120
Limitation of actions, 1:65, 20:11, 20:28
Literary works, 1:62
Manufacturing, 1:61
Nondramatic literary works, 1:62
Phonorecords of nondramatic musical works, 11:20
Postal act, 1:53
Prints, 1:54
Public Performance (this index)
Relaxation of manufacturing clause of 1949, 1:61
Remedies, 22:4
Renewal of contributions to collective works, 1940 amendments, 1:56
Renewal term, 1:67
Retroactive protection and ad interim amendment of 1919, 1:50
Retroactivity, 1:50
Sound recordings, 1:70, 5:84
Standard reference data act, 1:69
Subject matter jurisdiction, infringement, 17:64.40
Time, 1:65, 1:67
Townsend Amendment of 1912, 1:47
Trading with the Enemy Act, 1962 Acts, 1:68
Index-30
INDEX

COPYRIGHT ACT OF 1909
—Cont’d
Universal Copyright Convention, adherence to, 1:63
University Professor’s Act of
1926, 1:51
U.S. government liability for
infringement, 1:66
Vicarious liability, 21:63 to 21:65
Work made for hire, 5:45
WWII, 1:58

COPYRIGHT ACT OF 1952
Public performance, 14:10

COPYRIGHT ACT OF 1957
Limitation of actions, 20:12

COPYRIGHT ACT OF 1962
Copyright Act of 1909 amend-
ments, 1:67, 1:68

COPYRIGHT ACT OF 1976
Generally, 1:71 to 1:116, 26:3
Amendments and revisions
generally, 1:83 to 1:115
ART Act, 1:113
Berne Implementation Act of
1988, 100th Congress,
1:89
Courts Amendment of 2004,
1:112
Intellectual Property Protection
Amendment of 2004,
1:112
legislative phase of revision
effort, generally, 1:74 to
1:82
1964 revision effort, legislative
phase, 1:74
1965 revision effort, legislative
phase, 1:75
1966-1972 revision effort,
legislative phase, 1:78
1966 revision effort, legislative
phase, 1:76
1967 revision effort, legislative
phase, 1:77

COPYRIGHT ACT OF 1976
—Cont’d
Amendments and revisions
—Cont’d
1973 revision effort, legislative
phase, 1:79
1974 revision effort, legislative
phase, 1:80
1975 revision effort, legislative
phase, 1:81
1976 revision effort, legislative
phase, 1:82
1977-1978, 95th Congress, 1:83
1979-1980, 96th Congress, 1:84
1981-1982, 97th Congress, 1:85
1983-1984, 98th Congress, 1:86
1985-1986, 99th Congress, 1:87
1987-1988, 100th Congress,
1:88 to 1:90
1989-1990, 101st Congress,
1:91
1991-1992, 102d Congress,
1:92
1993-1994, 103d Congress,
1:93
1995-1996, 104th Congress,
1:94
1997-1998, 105th Congress
generally, 1:95 to 1:107
anti-circumvention measures,
1:99
assumption of contractual
obligations upon
transfers of rights in
motion pictures, 1:105
broadcasters’ ephemeral
digital sound recordings
exemption, 1:102
computer maintenance and
repair, 1:101
copyright management infor-
mation, chapter 12, 1:99
effective dates, 1:107
first session: 1997 “techni-
cal” amendments, 1:96
library and archives exempt-
tion, 1:103
## 1997-1998, 105th Congress

- MAI v. Peak, computer maintenance and repair, 1:101
- Online copyright infringement liability limitation, Section 512, 1:100
- Protecting boat hull designs, 1:106
- Second session: 1998, year of DMCA and term extension, 1:97 to 1:107
- Second session: 1998, year of DMCA and term extension, generally, 1:97 to 1:107
- Webcasting statutory license, 1:104
- WIPO Treaties and implementation legislation, 1:98
- WIPO treaties implementation legislation, 1:101

## 106th Congress, 1999-2000

- 1:109

## 107th Congress, 2001-2002

- 1:109

## 108th Congress, 2003-2004

- 1:110

## 109th Congress, 2005-2006

- 1:111 to 1:113

## 110th Congress, 2007-2008

- 1:114

## 111th Congress, 2009-2010

- 1:115

## 112th Congress, 2011-2012

- 1:116

## 113th Congress, 2013-2014

- 1:117

## 114th Congress, 2015-2016

- 1:118

## 115th Congress, 2017-2018

- 1:119
COPYRIGHT ACT OF 1976
—Cont’d
Cable television, legislative phase of revision effort, 1:78
Chapter 12, 1:99
Circumvention, 1:99
Computer maintenance and repair, 1:101
Computer programs, 3:72
Congress. Amendments and revisions, above
Construction and interpretation, 2:2, 2:7
Consultative legislating, 2:7
Contracts and agreements, 1:105, 7:46
Contrary agreements, termination of transfers and licenses, 7:46
Contributory Infringement (this index)
Copyright management information, chapter 12, 1:99
Courts Amendment of 2004, 1:112
Damages (this index)
Derivative Works (this index)
Design, 1:106
Digital sound, 1:102
Distribution of copies of work, 13:8
Distribution of Copies of Work (this index)
DMCA, 1:97 to 1:107
Effective dates, 1:107
Entitlement, 7:44
Ephemeral-recording exemption, 11:9
Exclusive rights, 8:21 to 8:24
Exemptions, 1:102, 1:103
Extension of term, 1:97 to 1:107, 7:28
Formalities (this index)
Future grants, 7:47
Government Works (this index)
Hearings, legislative phase of revision effort, 1:79
History. Term, below
Hull design, 1:106

COPYRIGHT ACT OF 1976
—Cont’d
Importation (this index)
Impoundment, seizure, and destruction, 22:84
Infringement, 1:100, 17:64.50, 17:116
Intellectual Property Protection Amendment of 2004, 1:112
Interim extensions, 7:28
International copyright, 23:15
Jukebox, 14:101 et seq.
Legislative history
infringement, subject matter jurisdiction, 17:64.50
term, below
Legislative phase of revision effort, generally, 1:74 to 1:82
Libraries, 1:103
Licenses and licensing
generally, 5:121 to 5:123, 5:145 to 5:151
bankruptcy, priority in cases, 5:149
exclusive license and nonexclusive license, conflict between, Section 205(d), 5:148
exclusive rights, conflicting transfers of, 5:147
IRS liens, 5:150
recordation as establishing priority between conflicting transfers, generally, 5:146 to 5:148
Section 205(d), exclusive rights, conflicting transfers of, 5:147
suit, recordation as prerequisite to, 5:151
termination of transfers and licenses, Sections 203 and 304(c). Term, below
Limitation of actions, 20:13, 20:14, 20:29 to 20:31
Limitations and restrictions, 1:100
Maintenance and repair, 1:101
COPYRIGHT ACT OF 1976
—Cont’d
MAI v. Peak, computer maintenance and repair, 1:101
Mills Music, Inc. v. Snyder, 7:44
“Moment of freedom” theory, 7:46.50
Monetary damages generally, 22:96 to 22:98
due process considerations, 22:208.50
profits, 22:116, 22:147
statutory damages, 22:161, 22:208
Motion pictures, 1:105, 3:156
Musical works, 3:93
Noncopyrightable material, 4:53
Notice, content of, 7:45
Online copyright infringement liability limitation, Section 512, 1:100
Originality, 3:26
Passage of Act, legislative phase of revision effort, 1:82
Phonorecords of nondramatic musical works, 11:21
Pictorial, Graphic, and Sculptural Works (this index)
Preliminary draft bill, 1:73, 7:30
Pseudonymous works, 7:37
Publication, 7:39, 7:40, 7:41
Public Performance (this index)
Register’s 1961 report and preparation of preliminary draft bill, 1:73, 5:142.50
Registration, 7:29, 7:38
Remedies, 22:5
Renewal of term, 7:25 to 7:27, 7:41
Reports and reporting, 1:73, 7:29
Royalties, 7:44
Section 203. Term, below
Section 302(b), 7:36
Section 302(c), 7:37
Section 303(a), 7:38
Section 304, 7:39, 7:40, 7:41

COPYRIGHT ACT OF 1976
—Cont’d
Section 304(c). Term, below
Section 305, generally, 7:34 to 7:41
Section 512, 1:100
Sound recordings, 5:85, 5:89
Statutory license, 1:104
Study phase of revision effort, 1:72
Subject-matter jurisdiction, 17:64.50
Technical amendments, 1:96
Television, 1:78
Term
duration of term, 7:33
end of year expiration of term, Section 305
generally, 7:34 to 7:41
January 1, 1978, unpublished and unregistered, Section 303(a), 7:38
January 1, 1978, works created on or after, individual authors, Section 302(a), 7:35
January 1, 1978, works created on or after, joint authors, Section 302(b), 7:36
January 1, 1978, works created on or after, works for hire, anonymous and pseudonymous works, Section 302(c), 7:37
January 1, 1978, works published before, Section 304, 7:39
January 1, 1978, works published before, Section 304, works in renewal term on January 1, 1978, Section 304(b), 7:41
January 1, 1978, works published before, Section 304, works in their first term of January 1,
COPYRIGHT ACT OF 1976—Cont’d
Term—Cont’d
end of year expiration of term, Section 305—Cont’d
1978, Section 304(a), 7:40
history. Legislative history, below this group
legislative history
generally, 7:28 to 7:32
interim extensions, 7:28
preliminary draft bill of 1963, 5:142.60, 7:30
register of copyrights’ 1961 report, 7:29
revision bill of 1964, 7:31
revision bill of 1965, 7:32
licenses. Termination of transfers and licenses, Sections 203 and 304(c), below this group
proper time to renew, 7:25
renewal, 7:25 to 7:27
rights of renewal, 7:26
Section 203. Termination of transfers and licenses, Sections 203 and 304(c), below this group
Section 304(c). Termination of transfers and licenses, Sections 203 and 304(c), below this group
Section 305. End of year expiration of term, Section 305, above this group
termination of transfers and licenses, Sections 203 and 304(c), generally, 7:42 to 7:49
contrary agreements, section 304(d), 7:46
derivative works, entitlement to royalties from, 7:44
distinctions between sections 203 and 304(c), 7:49

COPYRIGHT ACT OF 1976—Cont’d
Term—Cont’d
termination of transfers and licenses, Sections 203 and 304(c)—Cont’d
future grants, Section 304(c)(6)(D), 7:47
Mills Music, Inc. v. Snyder, 7:44
“moment of freedom” theory, 7:46.50
notice, content of, 7:45
statutory, 7:43 to 7:49
statutory Section 203, 7:48
statutory, Section 304(c), 7:43
transfers. Termination of transfers and licenses, Sections 203 and 304(c), above this group
vesting of renewal, 7:26
works first published overseas, 7:24.50
Termination of transfers and licenses, Sections 203 and 304(c). Term, above
Time and date, 1:107
Title and ownership, 5:98
Transfers. Term, above
Unpublished, 7:38
Unregistered, 7:38
Vesting of renewal, 7:26
Webcasting statutory license, 1:104
WIPO, 1:98, 1:101
Work Made for Hire (this index)

COPYRIGHT ACT OF 1992
Infringement, 17:118

COPYRIGHT OFFICE
Author and authorship, 5:27
Computer programs, 3:71
Deference to, interpretation of 1976 Copyright Act, 3:139.10

© 2019 Thomson Reuters, Rel. 24, 9/2019 Index-35
COPYRIGHT OFFICE—Cont’d
Disclosure of trade secret, 17:132.50
Infringement (this index)
Originality, 3:44
Origins, 26:1
Patent bar following registration, 17:132.60
Personal jurisdiction, 17:178
Pictorial, Graphic, and Sculptural Works (this index)
Pleading fraud on the copyright office, 19:2.50
Public performance, 14:12
Registering a claim, 17:133.75
Trade secret disclosure, 17:132.50
Uruguay Round Agreements Act (this index)
COPYRIGHT REFORM ACT OF 1993
Infringement, 17:80
COPYRIGHT RENEWAL ACT OF 1992
Term renewal, 7:50
COQUICO, INC. v. RODRIGUEZ - MIRANDA
Substantial similarity, 9:136.20
CORBELLO v. DEVITO
Transfer of interest of exclusive licensee, 5:103
CORPORATE BODY
Term, general revision of 1909, 7:23
CORPORATE PHOTOCOPYING
Fair Use Defense (this index)
CORPORATE RECEIPT DOCTRINE
Reproduction right, 9:30
CORPORATE VEIL, PIERCING
Personal jurisdiction, 17:183
CORPORATIONS
Reproduction right, 9:30
Standing to sue, 21:4.50
Vicarious liability, 21:83
CORRECTIVE ADVERTISING
Damages, 22:109.50
CORRESPONDENCE
Personal jurisdiction, 17:176
COSTELLO v. LOEW’S, INC.
Substantial similarity, 9:272
COSTS AND EXPENSES
Author and authorship, 5:25
Damages (this index)
Monetary damages, 22:109, 22:139 to 22:144
Noncopyrightable material, 4:35
Sound recordings, 5:87
Work made for hire, 5:70
COSTS OF ACTION
Attorneys’ fees, 22:216 to 22:218, 22:221
Joint and several liability, 22:222.50
COSTUMES
Pictorial, graphic, and sculptural works, 3:153
COUNTERCLAIM
Federal question jurisdiction, 17:25
COUNTERFEIT GOODS
TRIPs, Uruguay Round Agreement on Trade-Related Aspects of IP Rights, Including Trade in Counterfeit Goods, App 24-A
COUNTRY KIDS ‘N CITY SLICKS, INC. v. SHEEN
Substantial similarity, 9:254
COUNTRY OF ORIGIN
Berne Convention Implementation Act of 1988, 23:21

Index-36
INDEX

COUNTRY OF ORIGIN—Cont’d
Transfers, infringement, law of applies, 25:80.10

COURT OF APPEALS
Substantial similarity, 9:278

COURT REPORTER
TRANSCRIPTS
Government works, 4:88

COVENANTS
Author and authorship, 5:10, 5:11
Condition to license or independent covenant, 17:43

CREATIONS UNLIMITED, INC.
v. MCCLAIN
Substantial similarity, 9:192

CREATIVITY
Commentary: creativity and innovation, fair use is good for, 10:1.60
Originality (this index)

CREDIT
Author and authorship, 5:25

CRIMINAL PENALTIES
Remedies, 22:223

CRIMINAL PROVISIONS
Preemption, 18:43.10
Uruguay Round Agreements Act, 24:16

CRITICISM AND COMMENT
Fair Use Defense (this index)

CRUME v. PACIFIC MUTUAL LIFE INSURANCE CO.
Substantial similarity, 9:213

CURATIVE NOTICE
Formalities, 6:77

CUSTOMARY INTERNATIONAL LAW (CIL)
Choice of Law (this index)

CUSTOMS SERVICE
International copyright, 23:73, 23:74

CUTOFF
Uruguay Round Agreements Act, 24:42

CYBERSELL, INC. v.
CYBERSELL, INC.
Personal jurisdiction, 17:162

DALY v. PALMER
Reproduction right, 9:113

DAMAGES
Generally, 22:88 to 22:223
Absorption, incremental or full, 22:141
Acquisition costs. Profits, below
Actual damages generally, 22:101 to 22:114
attribution, lack of, 22:107, 22:108
Copyright Act of 1976, Sections 504(a) and (b), 22:96 to 22:98
corrective advertising, 22:109.50
costs of development, 22:109
deductions from plaintiff’s recovery, 22:110
destruction of market, 22:106
double recovery, 22:112, 22:113
evidence of casual link, 22:104
goodwill, lack of, 22:107, 22:108
joint and several liability, 22:114
lost licensing fees, 22:111
market, destruction of, 22:106
market saturation, 22:105
noninfringing acts, lack of, 22:107, 22:108
overlapping awards, 22:112
presumption, 22:102
registration requirement, 22:100.50

© 2019 Thomson Reuters, Rel. 24, 9/2019
DAMAGES—Cont’d
Actual damages—Cont’d
relation to infringement, 22:103
review, 22:101.50
speculation, 22:103
United States government,
recovery against,
22:101.25
Advertising, corrective, 22:109.50
Advice of counsel, 22:182
Apportionment
deductible expenses, 22:139 to 22:144
evidence of deductible expenses
and apportionment of noninfringing profits,
22:139 to 22:147
profits, generally, 22:198
Architectural plans, 22:123
Architectural works, 22:123
Attorneys, 22:182
Attorneys’ Fees (this index)
Attribution, lack of, 22:107, 22:108
Attribution of profits, 22:118
Bankruptcy, forfeiting statutory damages, 22:165.50
Bench award, 22:164
Bilzerian decision, 22:182
Burden of proof
generally, 22:117
attribution to infringement,
22:118
defendant’s burden, 22:121
plaintiff’s burden, generally,
22:117
profits, 22:118
resolution of doubts, 22:120
Business Trends case, 22:129
Casual link, 22:104

DAMAGES—Cont’d
Collective work registration, 22:203
Compilations, 22:185
Consolidations, right to jury, Rule 65(a)(2), 22:166
Co-owners, Section 412, 22:205
Copyright Act of 1790, 22:89
Copyright Act of 1802, 22:90
Copyright Act of 1831, 22:91
Copyright Act of 1856, 22:92
Copyright Act of 1870, 22:93
Copyright Act of 1895, 22:94
Copyright Act of 1976 generally, 22:96 to 22:98 statutory damages, generally,
22:155 to 22:161
Corrective advertising, 22:109.50
Costs and expenses
actual damages, 22:109
deductible expenses, 22:139 to 22:144
profits, below
Davis case, 22:129
Deductions
actual damages, 22:110
expenses, 22:139 to 22:144
profits, 22:143, 22:198
taxes, 22:144
Defendant’s profits. Profits, below
Definition of gross revenue, 22:121.50
Derivative works, 22:185
Destruction of market, 22:106
Deterrence, 22:181
Direct expenses, 22:140
Discovery, 22:199
INDEX

DAMAGES—Cont’d
District court, Deltak, Inc. v.
Advanced Systems, Inc.,
22:126
Double recovery, 22:112, 22:113
Draft bill of 1963, register of,
22:156
Due process, 22:193.50,
22:208.50
Economic life theory, independent,
22:190
Educational works and training
materials, 22:187
Eighth circuit, indirect profits,
22:134
Election of damage. Statutory
damages, below
Embodyments, 22:186
Evidence
actual damages, 22:104
burden of proof, above
to 22:144
Fees, 22:111
Fifth circuit, indirect profits,
22:133
Fixed expenses, 22:141
Foreign revenues, 22:150
Forfeiting statutory damages in
bankruptcy action, 22:165.50
Formalities, 6:75, 6:78
Fourth circuit, indirect profits,
22:135
Graphic works, 22:188
Gross revenue, definition,
22:121.50
History, legislative, generally,
22:89 to 22:208.50
House Judiciary Committee report
of 1966, 22:159
Independent economic life theory,
22:190
Innocent infringers, 22:177,
22:178
Joint and several liability, 22:114,
22:194 to 22:197

DAMAGES—Cont’d
Joint or several recovery for statu-
tory damages, 22:198.50
Judgments, summary, 22:183
Jury trial, 22:149, 22:164 to
22:167
Legislative history, generally,
22:89 to 22:208.50
Licensing fees, 22:111
Limitation on remedies where
notice omitted, 22:99
Lost licensing fees, 22:111
Market, destruction of, 22:106
Market saturation, 22:105
Monetary damages, generally,
22:89 to 22:208.50
Multiple awards for different
violations by different
defendants, 22:193
Multiple defendants, 22:192.50
Multiple violations, 22:191
Multiple works, 22:185
Musical works and sound record-
ings embodied in phonorec-
ords, 22:186
Ninth circuit, indirect profits,
22:132
Noninfringing acts, lack of,
22:107, 22:108
Number of registrations, 22:189
One award for multiple violations
of single work, 22:191
One award for multiple works,
22:185
One work, one award, 22:184 to
22:188, 22:188
Ordinary infringers, 22:179
Original acts in U.S., extrater-
ritorality, 25:92.60
Overhead, 22:141, 22:143
Overlapping awards, 22:112
Phonorecords, 22:186
Pleadings, 19:14
Preemption, 18:21
Preliminary injunctions, 22:42

© 2019 Thomson Reuters, Rel. 24, 9/2019
DAMAGES—Cont’d
Presumption, 22:102
Prevailing defendants, Section 412, 22:204
Profits
generally, 22:115 to 22:150
acquisition costs. Value of use and saved acquisition costs, below this group actual damages and profits, 22:96 to 22:98
appeal and review, 22:152
apportionment, 22:145 to 22:147
architectural plans, 22:123
architectural works, 22:123
attribution of profits, 22:118
burden of proof
attribute of profits, 22:118
defendant’s burden, 22:121
plaintiff’s burden, 22:117
resolution of doubts, 22:120
Copyright Act of 1909, 22:115
Copyright Act of 1976, 22:147
costs and expenses. Value of use and saved acquisition costs, below this group
definition, 22:122
evidence of deductible expenses and apportionment of noninfringing profits
generally, 22:139 to 22:144
absorption, incremental or full, 22:141
deduction of taxes, 22:144
direct expenses, 22:140
overhead deductions and willful infringement, 22:143
unsold goods, 22:142
foreign revenues, 22:150
goodwill to defendant, 22:138
indirect profits
generally, 22:131 to 22:137
Eighth circuit, 22:134
Fifth circuit, 22:133

DAMAGES—Cont’d
Profits—Cont’d
indirect profits—Cont’d
Fourth circuit, 22:135
Ninth circuit, 22:132
Second circuit, 22:136
Sixth circuit, 22:137
indirect profit. Value of use and saved acquisition costs, below this group
jury trial, 22:149
plaintiff’s burden of proof, 22:117, 22:118
purposes for awarding, 22:100
saved acquisition costs. Value of use and saved acquisition costs, below this group
several liability, 22:148
speculation, 22:119
value of use and saved acquisition costs
generally, 22:124 to 22:130
Business Trends case, 22:129
Davis case, 22:129
origins of approach, 22:125
overhead and other fixed expenses, 22:141
post-Deltak decision, 22:128
Second circuit, 22:129
Seventh circuit, 22:128
Sheldon v. MGM Pictures Corp., 22:146
Publication, Section 412, 22:202
Punitive damages, 22:151
Registration, 22:100.50, 22:189, 22:203

Index-40
INDEX

DAMAGES—Cont’d

Reports
Copyright Act of 1976 Judiciary Committee reports, 22:161
House Judiciary Committee report of 1966, 22:159
legislative report, actual damages and profits, 1976
Copyright Act, 22:98
register of report and recommendation of 1961, 22:155
revision bill of 1965, 22:158
Review of actual damages, 22:101.50
Revision bills
1964, 22:157
1965, 22:158
1969, 22:160
Rule 65(a)(2), 22:166
Saved acquisition costs. Profits, above
Section 101, 22:154
Section 412, 22:201 to 22:202,
22:204, 22:205
Section 504(c), statutory damages, generally, 22:153 to
22:208.50
Seventh circuit, 22:128
Several liability, 22:148
Sheldon v. MGM Pictures Corp., 22:146
Single work, 22:191
Sixth circuit, indirect profits, 22:137
Sound recordings, 22:186
Speculation
actual damages, 22:103
profits, 22:119
Statutory damages
advice of counsel, 22:182
appeal and review, 22:207,
22:208
apportionment, 22:198
award factors, 22:174
bankruptcy, forfeiting statutory damages, 22:165.50

DAMAGES—Cont’d

Statutory damages—Cont’d
bench award, 22:164
Bilzerian decision, 22:182
categories of infringers, 22:175
to 22:183
collective work registration, 22:203
compilations, 22:185
consolidations, right to jury,
Rule 65(a)(2), 22:166
coop-owners, Section 412, 22:205
Copyright Act of 1909, 22:154,
22:207
Copyright Act of 1976, generally,
22:155 to 22:161
Copyright Act of 1976 Judiciary Committee reports, 22:161
deductions, 22:198
derivative works, 22:185
deterrence, 22:181
Digital Theft Deterrence and Copyright Damages Improvement Act of 1999,
22:163, 22:192.25
discovery, 22:199
draft bill of 1963, register of,
22:156
due process, 22:193.50,
22:208.50
educational works and training materials, 22:187
election of damages, generally,
22:168 to 22:173
failure to mitigate damages defense unavailable,
22:192.25
foreign works, 22:201.50
formalities, 6:78
graphic works, 22:188
history of 1976 Copyright Act,
generally, 22:155 to
22:161
House Judiciary Committee report of 1966, 22:159

© 2019 Thomson Reuters, Rel. 24, 9/2019
DAMAGES—Cont’d
Statutory damages—Cont’d
independent economic life theory, 22:190
innocent infringers, 22:177, 22:178
joint and several liability, 22:194 to 22:197, 22:201.25
joint or several recovery, 22:198.50
jury trial, 22:164 to 22:167
legislative history of 1976 Copyright Act, generally, 22:155 to 22:161
legislative history of joint and several liability, 22:195
liability, joint and several, 22:201.25
multiple awards for different violations by different defendants, 22:193
multiple defendants, 22:192.50, 22:193
musical works and sound recordings embodied in phonorecords, 22:186
no statutory damage award, 22:176
number of registrations, 22:189
omission of notice and innocent infringers, 22:178
one award for multiple violations of single work, 22:191
one award for multiple works, 22:185
one defendant as willful infringer, 22:197
one work, one award, 22:184 to 22:188, 22:188
ordinary infringers, 22:179
pleadings, 19:14
post-registration, 22:201.25
preclusion of other recovery, 22:171.50
preliminary injunctions, 22:42

DAMAGES—Cont’d
Statutory damages—Cont’d
prevailing defendants, Section 412, 22:204
profits, above
publication, Section 412, 22:202
report and recommendation of 1961, register of, 22:155
revision bill of 1964, 22:157
revision bill of 1965, 22:158
revision bill of 1969, 22:160
Section 412, 22:201 to 22:202
Section 504(c), generally, 22:153 to 22:208.50
statutory language, 22:153
summary judgment, 22:183
time period of infringement, 22:192
trial, generally, 22:200
unelection of damages, 22:173
United States, damages against, 22:206
Uruguay Round Agreements Act, 24:44
VARA actions, jury trial, 22:167
willful infringers, 22:180 to 22:183, 22:197
Statutory language, actual damages and profits, 1976 Copyright Act, 22:97
Summary judgment, 22:183
Supplementary report, 22:158
Taxation, 22:144
Time period of infringement, 22:192
Title and ownership, 22:205
Training materials, 22:187
Unsold goods, 22:142
Uruguay Round Agreements Act, 24:44
Value of use and saved acquisition costs. Profits, above
VARA actions, jury trial, 22:167
INDEX

DAMAGES—Cont’d

DASTAR CASE
Preemption, 18:50

DAVIDSON & ASSOCIATES v. JUNG
Preemption, 18:26

DAVIS CASE
Monetary damages, 22:129

DAWSON v. HINSHAW MUSIC, INC.
Substantial similarity, 9:181

DEATH
Choice of law, 25:73
Sonny Bono Copyright Term Extension Act, 7:56
Term, general revision of 1909, 7:18
executor as proper renewal claimant, 7:19
next of kin as proper renewal claimant, 7:19
posthumous works, 7:21
vesting of renewal, 7:13
widow, widower, or children as proper renewal claimant, 7:17

DECEPTIVE TRADE PRACTICES
Preemption, 18:36

DECLARATORY JUDGMENT
Discretionary nature, 17:50
Jurisdiction, 17:49, 17:49.50, 17:50
Limitation of actions, 20:42.50
Personal jurisdiction, 17:191 to 17:193

DEDUCTIONS
Damages (this index)

DEFENDANTS—Cont’d
See also more specific topics in this index

DEFENSES
Affirmative Defense (this index)
Berne Implementation Act of 1988, 6:75, 6:76
Failure to mitigate unavailable, statutory damages sought, 22:192.25
Fair Use Defense (this index)
Formalities, 6:75, 6:76
Limitation of actions, 20:42.50
Preliminary injunctions, 22:70
Standing to sue, 21:3

DEFENSIVE INDEPENDENT CREATION
Originality, 3:30

DEFERRAL AND ARBITRATION
Jurisdiction, 17:59

DEFINING MARKET
Preliminary injunctions, 22:51

DEFINITIONS
Access, 9:23
Cable systems, wireless included, 14:65
Copy, 9:62, 16:26
Derivative works, 3:47
Discovery, 20:20.50
Distant signal equivalents, 14:64
Distribution to public, 13:10
Employee, 4:70
Fair use defense, 10:89, 10:144
Fixed, 9:63
Formalities, 6:49
For-profit performances, 14:9
Gross revenue, 22:121.50
Importer, 13:43
Infringement, 12:12
Joint authorship, 5:4
Literary works, 3:61
Local service area of primary transmitter, 14:62

© 2019 Thomson Reuters, Rel. 24, 9/2019
DEFINITIONS—Cont’d
National treatment, 25:22
Network station, 14:63, 14:111
Not pervading the entirety of the work, 3:59
Officer, 4:70
Perform, 14:22
Performance, 14:6
Prevailing party, 22:211
Primary transmissions, 14:61
Profits, 22:122
Progress, 3:6
Promote, 3:5
Public performances, 14:8
Restored work, 24:32
Science, 3:7
Secondary transmissions, 14:61
Special orders and commissioned works, 5:73
Statutory subject-matter, 3:81
Striking similarity, 9:44
Within the subject matter of copyright, 18:13 to 18:15
Superstation, 14:111
Technological measure that controls access to protected work, 16A:2
United States, 4:72 to 4:74
“Work of the United States Government,” 4:69, 4:70
DELAY
Preliminary injunctions, 22:56
DELETIONS
Derivative works, 12:10
DELTAK, INC. v. ADVANCED SYSTEMS, INC.
Monetary damages, 22:126, 22:127
DELUSIONAL PLAINTIFFS
Reproduction right, 9:39
DE MINIMIS CONTRIBUTIONS
Noncopyrightable material, 4:2

DE MINIMIS USES
Fair use defense, 10:10
Reproduction right, 9:60
DEMOCRATIC POLITICAL THEORY
Government works, 4:61
DEPOSIT
First Copyright Act revisions
1846 deposit amendment, 1:25
1859 deposit amendment, 1:28
1865 photography and deposit amendments, 1:31
1867 Library of Congress deposit amendment, 1:32
Formalities, 6:6, 6:11
Infringement, 17:87, 17:119
Reproduction right, 9:9, 9:31
DEPOSIT AMENDMENT OF 1846
First Copyright Act revisions, 1:25
DEPOSIT AMENDMENT OF 1859
First Copyright Act revisions, 1:28
DERIVATIVE WORKS
Generally, 3:46 to 3:59.50, 12:1 to 12:31
Adapting, 3:48
Additions, 12:10
Advertisements, 12:17 to 12:19
Alterations, 3:56
Architectural works, Section 120(b), 12:31
Assignment, 5:117
Author and authorship, 5:43, 12:16, 12:23
Broadcasting stations, 12:30
Case law, 3:52 to 3:54, 12:3
Compilations distinguished, 3:47.50
Compulsory license exception, 12:28, 12:30
Computer programs, Section 117, 12:29
Confusion, 12:14.50
Index-44
DERIVATIVE WORKS—Cont’d
Constitutional law, 3:25
Copyrightable material, generally,
3:46 to 3:59.50
Copyright Act of 1802, 12:4
Copyright Act of 1856, 12:5
Copyright Act of 1870, 12:6
Copyright Act of 1909, 12:7
Copyright Act of 1976
generally, 12:8, 12:12 to 12:20
advertisements, 12:17 to 12:19
authorship of original, 12:16
confusion, 12:14.50
fixed, 12:14
framing, 12:17 to 12:19
infringement defined, 12:12
inline linking, 12:17 to 12:19
internet, 12:17 to 12:19
pop-ups, 12:17 to 12:19
preparation right, infringement,
12:14.50
reproduction, 12:15
substantially similar, 12:13
termination of transfers and
licenses, Sections 203 and
304(c), 7:44
three-dimensional versus two-
dimensional works, 12:20
Definitions
infringement, 12:12
not pervading the entirety of the
work, 3:59
statutory definition, 3:47
Deletions, 12:10
Distribution, 12:28
Early case law, 12:3
Entirety of work, 3:59
Ephemeral records, Section
112(e), 12:26
Examples, 12:9 to 12:11
Exceptions
generally, 12:24 to 12:31
architectural works, Section
120(b), 12:31
compulsory license for making
and distributing phonorec-
DERIVATIVE WORKS—Cont’d
Exceptions—Cont’d
ords of nondramatic musical
works, Section
115(a)(2), 12:28
compulsory license for public
broadcasting stations, Section
118(f), 12:30
computer programs, Section
117, 12:29
ephemeral records, Section
112(e), 12:26
fair use, Section 107, 12:25
sound recordings, Section
114(b), 12:27
Fair use, Section 107, 12:25
Fixed, 12:14
Formalities, 6:35, 6:55
Framing, 12:17 to 12:19
History, 3:51
Infringement
generally, 12:12
Copyright Act of 1976 defini-
tion, 12:12
ownership of rights in infring-
ing work, 3:59.50
preparation right, 12:14.50
Section 103 limitations, 3:58
subject-matter jurisdiction,
17:88, 17:112
Inline linking, 12:17 to 12:19
Internet, 12:17 to 12:19
Joint authors, 12:23
Legislative history, Section 103,
3:51
Limitations and restrictions, 3:58
Linking, inline, 12:17 to 12:19
Monetary damages, 22:185
Musical works, 12:28
Ninth circuit, 3:54.50
Nondramatic musical works,
12:28
“Not pervading the entirety of the
work” defined, 3:59
Object depicted in photographs,
12:11
Originality, generally, 3:50 to 3:56
© 2019 Thomson Reuters, Rel. 24, 9/2019
Index-45
<table>
<thead>
<tr>
<th>Topic</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>DERIVATIVE WORKS—Cont’d</td>
<td></td>
</tr>
<tr>
<td>Original work, relationship to,</td>
<td>12:21</td>
</tr>
<tr>
<td>Owner of copyright possessing rights in infringing derivative,</td>
<td>12:22</td>
</tr>
<tr>
<td>Phonorecords, 12:28</td>
<td></td>
</tr>
<tr>
<td>Photographs, 3:49, 3:119, 50, 12:11</td>
<td></td>
</tr>
<tr>
<td>Pop-ups, 12:17 to 12:19</td>
<td></td>
</tr>
<tr>
<td>Public broadcasting stations, 12:30</td>
<td></td>
</tr>
<tr>
<td>Recasting, 3:48</td>
<td></td>
</tr>
<tr>
<td>Records and recording, 12:26</td>
<td></td>
</tr>
<tr>
<td>Registration, 12:8.50</td>
<td></td>
</tr>
<tr>
<td>Reproduction right, 9:13, 12:15</td>
<td></td>
</tr>
<tr>
<td>Rights in infringing work, ownership, 3:59, 50</td>
<td></td>
</tr>
<tr>
<td>Second circuit, 3:53</td>
<td></td>
</tr>
<tr>
<td>Section 103, 3:51, 3:58</td>
<td></td>
</tr>
<tr>
<td>Section 106(2), 12:1</td>
<td></td>
</tr>
<tr>
<td>Section 107, 12:25</td>
<td></td>
</tr>
<tr>
<td>Section 112(e), 12:26</td>
<td></td>
</tr>
<tr>
<td>Section 114(b), 12:27</td>
<td></td>
</tr>
<tr>
<td>Section 115(a)(2), 12:28</td>
<td></td>
</tr>
<tr>
<td>Section 117, 12:29</td>
<td></td>
</tr>
<tr>
<td>Section 118(f), 12:30</td>
<td></td>
</tr>
<tr>
<td>Section 120(b), 12:31</td>
<td></td>
</tr>
<tr>
<td>Seventh circuit, 3:54</td>
<td></td>
</tr>
<tr>
<td>Sound recordings, 3:162, 12:27</td>
<td></td>
</tr>
<tr>
<td>Standing to sue, 21:12</td>
<td></td>
</tr>
<tr>
<td>Statutory definition, 3:47</td>
<td></td>
</tr>
<tr>
<td>Statutory language, 3:51, 12:2</td>
<td></td>
</tr>
<tr>
<td>Substantially similar, 12:13</td>
<td></td>
</tr>
<tr>
<td>Substitutions, 12:10</td>
<td></td>
</tr>
<tr>
<td>Technology-driven alternatives, 3:57</td>
<td></td>
</tr>
<tr>
<td>Three-dimensional versus two-dimensional works, 12:20</td>
<td></td>
</tr>
<tr>
<td>Title and ownership, 12:22</td>
<td></td>
</tr>
<tr>
<td>Transforming, 3:48</td>
<td></td>
</tr>
<tr>
<td>Two-dimensional works, 12:20</td>
<td></td>
</tr>
<tr>
<td>Uruguay Round Agreements Act, 24:43</td>
<td></td>
</tr>
<tr>
<td>Work of an infringing derivative work, 12:16.10</td>
<td></td>
</tr>
<tr>
<td>DESIGN</td>
<td></td>
</tr>
<tr>
<td>Copyright Act of 1976 amendments, 1:106</td>
<td></td>
</tr>
<tr>
<td>Originality, 3:38</td>
<td></td>
</tr>
<tr>
<td>Pictorial, Graphic, and Sculptural Works (this index)</td>
<td></td>
</tr>
<tr>
<td>Visual works, 4:17</td>
<td></td>
</tr>
<tr>
<td>DESIGN BASICS, LLC v. LEXINGTON HOMES, INC.</td>
<td></td>
</tr>
<tr>
<td>Substantial similarity, 9:223.70</td>
<td></td>
</tr>
<tr>
<td>DESTRUCTION</td>
<td></td>
</tr>
<tr>
<td>Visual Artists Rights Act of 1990, 16:24, 16:26</td>
<td></td>
</tr>
<tr>
<td>DESTRUCTION OF MARKET</td>
<td></td>
</tr>
<tr>
<td>Monetary damages, 22:106</td>
<td></td>
</tr>
<tr>
<td>DETERRENCE</td>
<td></td>
</tr>
<tr>
<td>Monetary damages, 22:181</td>
<td></td>
</tr>
<tr>
<td>DEVELOPING COUNTRIES</td>
<td></td>
</tr>
<tr>
<td>Berne Convention Implementation Act of 1988, Article 21, 23:43</td>
<td></td>
</tr>
<tr>
<td>DEVELOPMENT COSTS</td>
<td></td>
</tr>
<tr>
<td>Damages, 22:109</td>
<td></td>
</tr>
<tr>
<td>DICTIONARIES</td>
<td></td>
</tr>
<tr>
<td>Construction and interpretation of statutes, legislative history, 2:29 to 2:36</td>
<td></td>
</tr>
<tr>
<td>DIGITAL DISTRIBUTION</td>
<td></td>
</tr>
<tr>
<td>Distribution of copies of work, 13:11, 13:23</td>
<td></td>
</tr>
<tr>
<td>Section 108 Study Group report, 11:8.50</td>
<td></td>
</tr>
<tr>
<td>DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998</td>
<td></td>
</tr>
<tr>
<td>Copyright Act of 1976 amendments, 1:97 to 1:107</td>
<td></td>
</tr>
<tr>
<td>Ephemeral-recording exemption, 11:10</td>
<td></td>
</tr>
<tr>
<td>Exclusive rights, 8:29</td>
<td></td>
</tr>
<tr>
<td>Library photocopying, 11:6</td>
<td></td>
</tr>
<tr>
<td>Parties, 21:85, 21:85.10</td>
<td></td>
</tr>
</tbody>
</table>

Index-46
DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998 —Cont’d
Preemption of state law claims, 18:52.60
Preliminary injunctions, 22:58
Sound recordings, 14:88
Sovereign immunity, 21:87
Take down notices, preemption of state law claims, 18:52.60
Technological Protection Measures and Copyright Rights Management Information (this index)

DIGITAL PERFORMANCE RIGHT IN SOUND RECORDINGS ACT OF 1995
Exclusive rights, 8:28
Phonorecords of nondramatic musical works, 11:27
Reproduction right, 11:48

DIGITAL SOUND
Copyright Act of 1976 amendments, 1:102

DIGITAL THEFT
DETERRENCE AND COPYRIGHT DAMAGES IMPROVEMENT ACT OF 1999
Failure to mitigate damages defense unavailable, 22:192.25
Monetary damages, 22:163

DIRECT BROADCAST SATELLITES
Jukebox, 14:108

DIRECT EXPENSES
Monetary damages, 22:140

DIRECT INFRINGEMENT
Extraterritoriality, 25:87
Secondary liability, 21:40

DIRECT PROOF
Reproduction right, 9:21

DISCERNING OBSERVER
Reproduction right, 9:73, 9:74

DISCLOSURE
Infringement, 17:112
Trade secrets, filing with copyright office, 17:132.50

DISCOVERY
Authorship, 5:41.50
Definition, 20:20.50
Limitation of actions, 20:17 to 20:20, 20:43
Monetary damages, 22:199
Noncopyrightable material, 4:9

DISCRETION
Declaratory judgment, 17:50
Fair use defense, 10:90
Limitation of actions, 20:26
Title and Ownership (this index)
Work made for hire, 5:60

DISCRIMINATION
Choice of law, 25:25

DISMISSAL
Fair use defense, Rule 12(b)(6) motions, 10:159
Federal question jurisdiction, 17:25, 17:27
Forum non conveniens, 17:222.50, 17:223
Reproduction rights, 9:86.50

DISPLAY PUBLICLY
Generally, 15:1 to 15:18
Architectural works, 15:16
Broadcasting, 15:14
Case law, 15:5 to 15:7
Construction and interpretation, 15:3
Earth stations, 15:15
Exemptions, 15:18
Exhaustion doctrine, Section 109, 15:10
Fair use, Section 107, 15:8, 15:9
Formalities, 6:51
Framing, 15:7
DISPLAY PUBLICLY—Cont’d

History, 15:2
Infringement, 15:4 to 15:7
Instructional displays, Section 110, 15:11
Legislative history of Section 106(5), 15:2
Limitations and restrictions generally, 15:8 to 15:18
exhaustion doctrine, Section 109, 15:10
fair use, Section 107, 15:8, 15:9
instructional displays, Section 110, 15:11
online service providers, exemption for, Section 512, 15:18
pictorial, graphic, and sculptural works embodied in useful articles, Section 13, 15:13
public broadcasting stations, Section 118, 15:14
satellite retransmission of local signals, Section 122, 15:17
secondary transmissions, 15:12, 15:15
two-dimensional reproductions of architectural works, Section 120, 15:16
Linking and framing, 15:7
Local signals, 15:17
Network signals, 15:15
Online displays, 15:6
Online service providers, exemption for, Section 512, 15:18
Pictorial, graphic, and sculptural works embodied in useful articles, Section 13, 15:13
Private viewing, 15:15
Public broadcasting stations, Section 118, 15:14
Right to display publicly generally, 15:1 to 15:18
Satellite carrier, 15:15
Satellite retransmission of local signals, Section 122, 15:17

DISPLAY PUBLICLY—Cont’d

Secondary transmissions, 15:12, 15:15
Section 106, 15:2
Section 107, 15:8, 15:9
Section 109, 15:10
Section 110, 15:11
Section 111, 15:12
Section 113, 15:13
Section 118, 15:14
Section 119, 15:15
Section 120, 15:16
Section 122, 15:17
Section 512, 15:18
Statute, generally, 15:1
Superstations, 15:15
Two-dimensional reproductions of architectural works, Section 120, 15:16
Visual Artists Rights Act of 1990, 16:23

DISSOLVED CORPORATIONS
Work made for hire, 5:80

DISTANT SIGNAL EQUIVALENTS
Cable television and other secondary transmissions, 14:64

DISTORTION
Visual Artists Rights Act of 1990, 16:20, 16:22

DISTRIBUTION
Generally, 13:1 to 13:54
Affirmative defense, existence of authorized first sale as, 13:16
Archives, Section 108, 13:14
Bobbs-Merrill in Copyright Act of 1909, 13:19
Cable television and other secondary transmissions, 14:76 to 14:78
Codification of Bobbs-Merrill in Copyright Act of 1909, 13:19
Compulsory license for making and distributing phonorecords, Section 115, 13:23
INDEX

DISTRIBUTION—Cont’d
Compulsory license under Section 115, 13:33
Computer programs, 13:25
Contracts and agreements, 13:24
Copies, generally, 13:1 to 13:54
Copyright Act of 1790, 13:6
Copyright Act of 1909, 13:7, 13:19
Copyright Act of 1976 generally, 13:8, 13:20 to 13:25
computer programs, 13:25
contractual restrictions, Section 109(d), 13:24
digital distribution, first sale doctrine, 13:23
first sale doctrine, 13:23
lawfully made under title, 13:22
legislative history, 13:20
passage, 13:21
place of sale, 13:22.50
relevance of place of sale, 13:22.50
Definition of distribution to public, 13:10
Derivative works, 12:28
Digital distribution, 13:11, 13:23
Elizabethan privileges, 13:3
English Statute of Anne, 13:4
Exceptions
   generally, 13:13 to 13:25
   archives, Section 108, 13:14
   fair use, Section 107, 13:13
   first sale/exhaustion doctrine, Section 109, below
   libraries, reproductions by, Section 108, 13:14
Exhaustion, First sale/exhaustion doctrine, Section 109, below
Fair use defense, electronic distribution, 10:143.50
Fair use, Section 107, 13:13
First sale/exhaustion doctrine, Section 109
generally, 13:15 to 13:19

DISTRIBUTION—Cont’d
First sale/exhaustion doctrine, Section 109—Cont’d
affirmative defense, existence of authorized first sale as, 13:16
Bobbs-Merrill in Copyright Act of 1909, 13:19
codification of Bobbs-Merrill in Copyright Act of 1909, 13:19
Copyright Act of 1909, 13:19
Copyright Act of 1976, 13:23
exceptions to distribution right, 13:24
importation, 13:46
judicial origins of doctrine, 13:18
just reward, 13:17
statute, generally, 13:15
Formalities, 6:54
Grant of right, generally, 13:2
History, 13:20
Importation, exhaustion of distribution right, 13:36.50
Importation (this index)
International Copyright Act of 1891, 13:6.50
Judicial origins of doctrine, 13:18
Jukebox, 14:109
Just reward, 13:17
Lawfully made under title, 13:22
Legislative history, 13:20
Libraries, reproductions by, Section 108, 13:14
Licenses, 13:23
License under Section 115, 13:33
Limitations and restrictions, 13:24, 13:54
“Make available” right, 13:11.50
Nature of right, generally, 13:9
On-line service providers, 13:54
Performance rights distinguished, 13:12
Phonorecords (this index)
Pictorial, graphic, and sculptural works, 3:111
DISTRIBUTION—Cont’d
Place of sale, 13:22.50
Pre-1790 state statutes, 13:5
Pre-1976 Copyright Act federal statutes, 13:6, 13:7
Privileges, 13:3
Public, distribution to, defined, 13:10
Public performance, 14:21
Relevance of place of sale, 13:22.50
Renaissance privileges, 13:3
Rental Rights (this index)
Right to distribute, Section 106(3), generally, 13:1 to 13:54
Sales
First sale/exhaustion doctrine, Section 109, above
place of sale, 13:22.50
Section 106(3), generally, 13:1 to 13:54
Section 107, 13:13
Section 108, 13:14, 13:46.40
Section 109. First sale/exhaustion doctrine, Section 109, above
Section 113, 13:48
Section 114, 13:49
Section 115, 13:23, 13:50
Section 115 license, 13:33
Section 117, 13:51
Section 118, 13:52
Section 120, 13:53
Section 512, 13:54
Standing to sue, 21:20
State statutes, 13:5
Statute, generally, 13:1
Statute of Anne, 13:4
Title and ownership, 13:22
Uruguay Round Agreements Act, 24:10

DISTRICT COURT
Sony Corp. of America v. Universal City Studios, 10:84
Substantial similarity, 9:250

DISTRICT OF COLUMBIA
CIRCUIT
Preliminary injunctions, 22:31
Reproduction right, 9:57
Substantial Similarity (this index)

DIVISIBILITY
Copyright Act of 1976, 5:121 to 5:123
Standing to sue, 21:9

DMCA
Digital Millennium Copyright Act of 1998 (this index)

DOING BUSINESS
Personal jurisdiction, 17:149

DOLE FOOD CO. v. WATTS
Personal jurisdiction, 17:165

DOLLS
Useful articles, designs of, 3:149

DOMICILE
Choice of law, 25:48, 25:64

DOMINANT AUTHOR THEORY
Intent, 5:24

DOMINICAN REPUBLIC
Central American-Dominican Republic Free Trade Agreement (CAFTA-DR), 23:70

DORSEY v. OLD SURETY LIFE INSURANCE CO.
Substantial similarity, 9:249

DOUBLE RECOVERY
Lanham Act, 22:113
Monetary damages, 22:112, 22:113

DOWLING v. UNITED STATES
Construction and interpretation, 2:50

DRAMATIC WORKS
Generally, 3:94
INDEX

DRAMATIC WORKS—Cont’d
   Copyrightable material, generally, 3:94
   Nondramatic vs. dramatic works, 3:62

DRAWINGS
   Architectural plans and drawings, 3:103 to 3:105.50

DROITE DE SUITE
   Berne Convention Implementation Act of 1988, Article 14, 23:36

DRURY v. EWING
   Reproduction right, 9:106

DSC COMMUNICATIONS CORP. v. DGI TECHNOLOGIES, INC.
   Substantial similarity, 9:191

DUE PROCESS
   Damages, 22:193.50, 22:208.50
   Government works, 4:62
   Statutory damage awards, 22:193.50

DUN & BRADSTREET SOFTWARE SERVICES, INC. v. GRACE CONSULTING, INC.
   Computer programs, 3:90
   Substantial similarity, 9:172

DURATION
   Time and Date (this index)

DURESS
   Limitation of actions, 20:52

EARTH STATIONS
   Cable television and other secondary transmissions, 14:70
   Display publicly, 15:15

EBAY
   Advertisements, online sales, 10:29.10

EBAY AND INTERNET AUCTIONS
   Personal jurisdiction, 17:188

ECONOMIC ADVANTAGE
   Preemption, 18:30

ECONOMIC CONSEQUENCES
   Joint authorship, 5:7 to 5:11

ECONOMIC LIFE THEORY
   Monetary damages, 22:190

ECONOMICS
   Fair use defense, 10:22

EDUCATIONAL BROADCASTING
   Public performance, 14:35

EDUCATIONAL PURPOSES
   Fair use defense, 10:18, 10:19

EDUCATIONAL TESTING SERVICES v. KATZMAN
   Substantial similarity, 9:169

EDUCATIONAL WORKS AND TRAINING MATERIALS
   Monetary damages, 22:187

EDWARDS & DEUTSCH LITHOGRAPHING CO. v. BOORMAN
   Substantial similarity, 9:212

EFFECTIVE DATE
   Copyright Act of 1976 amendments, 1:107
   TRIPS, 23:68
   Visual Artists Rights Act of 1990, 16:47

EFFECTS TEST
   Personal jurisdiction, 17:161

EGYPTIANS
   Choice of law, 25:5

EIGHTH CIRCUIT
   Monetary damages, 22:134
   Preliminary injunctions, 22:28
EIGHTH CIRCUIT—Cont’d
Reproduction right, 9:53
Substantial Similarity (this
index)
EISENSCHIML v. FAWCETT
PUBLICATIONS, INC.
Fair use defense, 10:38
Substantial similarity, 9:214
ELDRED v. ASHCROFT
Construction and interpretation,
2:59
ELECTION
Damages (this index)
Jurisdiction, 17:40
Preemption, 18:29
ELECTRONIC COPYING AND
DISTRIBUTION
Fair use defense, 10:143.50
ELECTRONIC DATABASES
AND COMPILATIONS
Generally, 3:64 to 3:69
Arrangement, 3:67
Coordination, 3:67
Copyrightable material, generally,
3:64 to 3:69
Feist case, 3:65 to 3:67
Infringement, 3:68
Selection, 3:66
ELEVENTH CIRCUIT
Pictorial, graphic, and sculptural
works, 3:144.40
Preliminary injunctions, 22:30
Reproduction right, 9:56
Substantial Similarity (this
index)
ELIZABETHAN PRIVILEGES
Distribution of copies of work,
13:3
ELLISON v. ROBERTSON
Vicarious liability, 21:75
ELLIS v. DIFFIE
Substantial similarity, 9:201
ELVIS PRESLEY ENTERPRISES
v. PASSPORT VIDEO
Fair use defense, 10:51
EMAIL TRANSMISSIONS
Personal jurisdiction, 17:187
Work made for hire, 5:77.50
EMBODIMENTS
Formalities, 6:34, 6:53
Monetary damages, 22:186
Pictorial, Graphic, and
Sculptural Works
Embodied in Useful Articles
(this index)
EMERSON v. DAVIES
Reproduction right, 9:103
EMPLOYEE
Definition, 4:70
EMPLOYMENT
General revision of 1909, 7:24
Sound recordings, 5:86
Standing to sue, 21:7.50
Vicarious liability, 21:81
Work Made for Hire (this index)
ENCYCLOPEDIA BRITANNICA
EDUCATIONAL CORP. v.
CROOKS
Fair use defense, 10:82
ENEMY
Trading with the Enemy Act of
1962, 1:68
ENFORCEMENT
Foreign copyright judgments,
25:81.50
Infringement, 17:82
ENFORCEMENT OF
INTELLECTUAL
PROPERTY RIGHTS ACT
OF 2008
Infringement, 17:125.50
Index-52
ENGINEERING DYNAMICS, INC. v. STRUCTURE SOFTWARES, INC.
Substantial similarity, 9:190

ENGLAND
Book trade, exercise and loss of control over, 1:8
Chancery decisions, 22:2
Copyright Act of 1976, history before, 6:16
Distribution of copies of work, 13:4
Engravings Act of 1735, 1:13
Exclusive rights, 8:10
Formalities, 6:16
Forum non conveniens, 17:212
History before 1976 Copyright Act, 6:16
Importation, rights of, Section 602, 13:36
Jeffrey v. Boosey, 1:10
Licensing Act of 1692, lapse of, 1:9
Musical works, 1:12 to 1:14
Stationers’ Company v. The Royal Patentees, 1:7, 1:8
Statute of Anne
generally, 1:5
book trade, exercise and loss of control over, 1:8
distribution of copies of work, 13:4
Engravings Act of 1735, 1:13
exclusive rights, 8:10
Jeffrey v. Boosey, 1:10
Licensing Act of 1692, lapse of, 1:9
musical works, 1:12 to 1:14
origin of printing in England and consequences for its regulation, generally, 1:6 to 1:9
Stationers’ Company v. The Royal Patentees, 1:7, 1:8
Talfourd Term Extension Act of 1842, 1:15

ENGLAND—Cont’d
Statute of Anne—Cont’d
unpublished works after Statute of Anne, status of, 1:11
visual works, 1:12 to 1:14
Talfourd Term Extension Act of 1842, 1:15
Unpublished works after Statute of Anne, status of, 1:11
Visual works, 1:12 to 1:14

ENGRAVINGS ACT OF 1735
England and Statute of Anne, 1:13

ENSEMBLE WORKS
Visual Artists Rights Act of 1990, 16:8

ENTERPRISE LIABILITY
Contributory infringement, 21:44

ENTERTAINMENT USES
Fair use defense, 10:20

ENTIRETY OF WORK
Computer programs, 3:77
Derivative works, 3:59
Fair use defense, 10:143

ENTITLEMENT
Copyright Act of 1976, 7:44
License, phonorecords of nondramatic musical works, 11:24

EPHEMERAL RECORDING EXEMPTION
Generally, 11:8 to 11:10
Copyright Act of 1976, 11:9
Derivative works, 12:26
DMCA amendment of 1998, 11:10
Section 108 Study Group report, 11:8.50

EQUITABLE DOCTRINE
Limitation of Actions (this index)

EQUITABLE ESTOPPEL
Limitation of actions, 20:51, 20:57, 20:58
EQUITABLE TRUST THEORY
Standing to sue, 21:26

EQUITY
Construction and interpretation, 2:13, 2:14
Fair use defense, 10:3

EQUIVALENT REMEDIES
Visual Artists Rights Act of 1990, 16:43

EQUIVALENT RIGHTS
Preemption (this index)

ERRANT STANDARDS AND TESTS
Reproduction Right (this index)

ESIGN ACT
Work made for hire, Copyright Act of 1976 writing requirement, 5:50

ESSENCE TEST
Jurisdiction, 17:35

ESTATE OF HEMINGWAY v. RANDOM HOUSE
Fair use defense, 10:42

ESTOPPEL
Limitation of actions, 20:51, 20:57, 20:58
Noncopyrightable material, 4:6 to 4:8

EUROPEAN UNION
Importation, rights of, Section 602, 13:38
International copyright, 23:76

EVEREADY BATTERY v. ADOLPH COORS
Fair use defense, 10:32

EVIDENCE
Choice of Law (this index)
Damages (this index)
Foreign law, 25:79
Infringement (this index)
Jukebox, 14:117

EVIDENCE—Cont’d
Licenses, 5:130
Noncopyrightable material, Section 102(b), 4:34
Preliminary injunctions, 22:68
Reproduction Right (this index)

EXAMINATION
Claims, generally, App B
Construction and interpretation, purpose of statute, generally, 2:11 to 2:20
Pictorial, graphic, and sculptural works, 3:129

EXCEPTIONS, EXCLUSIONS, AND EXEMPTIONS
Copyright Act of 1976, 1:102, 1:103
Derivative Works (this index)
Display publicly, 15:18
Distribution (this index)
Exclusive rights, 8:6
Formalities, 6:79
Forum selection, 25:77
Personal jurisdiction, 17:190
Public Performances (this index)
Rental rights, 13:29 to 13:31
Reproduction Right (this index)
Sound Recordings (this index)
TRIPS, 23:66
Uruguay Round Agreements Act, 24:30, 24:33
Visual Artists Rights Act of 1990 (this index)
Work made for hire, 5:71

EXCLUSIONS
Exceptions, Exclusions, and Exemptions (this index)

EXCLUSIVE LICENSE
Conditions on and use outside scope, 5:126
Copyright Act of 1976, 5:148
INDEX

EXCLUSIVE LICENSE—Cont’d
Revocation, 5:124

EXCLUSIVE RIGHTS
Generally, 8:1 to 8:29
Architecture of Copyright Act of 1976, 8:22
Audio Home Recording Act of 1992, 8:26
Common law, 8:9
Compulsory licenses, 8:5
Conditional relationship of rights, 8:24
Constitutional law generally, 8:12

EXCLUSIVE RIGHTS—Cont’d

own life story, status as author, 3:20.50
“securing for limited times, to authors the exclusive right to their respective writings”
generally, 3:10 to 3:21
authors defined, 3:17 to 3:20.50
constitutional origins of authorship, 3:18
enumerated categories of subject matter, 3:15
exclusive rights defined, 3:12
limited times defined, 3:11
original work, author as those who created, 3:20
original work of authorship defined, 3:16
secure defined, 3:10
status as author of self, 3:20.50
symbolic authorship defined, 3:21
writings defined, 3:14 to 3:16
writings of authors defined, generally, 3:13 to 3:21
Continental Congress, 8:11
Copyright Act of 1802, 8:13
Copyright Act of 1831, 8:14
Copyright Act of 1856, 8:15
Copyright Act of 1870, 8:16

Copyright Act of 1897, 8:17
Copyright Act of 1909, 8:18
Copyright Act of 1976, 8:21 to 8:24
Digital Millennium Copyright Act of 1998, 8:29
Digital Performance Right in Sound Recordings Act of 1995, 8:28
England, Statute of Anne, 8:10
Exemptions, 8:6
Fair-use privilege, 8:7
First Copyright Act, 8:12
Granting of rights, 8:8
Infringement, 17:63
Licenses, 5:103, 5:119 to 5:121, 5:147, 8:5
Limitations and restrictions generally, 8:4 to 8:7
“securing for limited times, to authors the exclusive right to their respective writings.” Constitutional law, above

Literary works, 8:19
New rights, purpose of, 8:3
New technologies, 8:2
Nondramatic literary works, 8:19
Performance, 8:19, 8:28
Pictorial, graphic, and sculptural works, 3:111
Pleadings, 19:7
Privilege, 8:7
Public performance right for nondramatic literary works, 8:19
Simultaneous violations, 8:23
Sound recording amendment of 1971, 8:20
Sound Recordings Act of 1995, Digital Performance Right in, 8:28

Standing to Sue (this index)
State statutes, 8:11
Statute of Anne, 8:10

© 2019 Thomson Reuters, Rel. 24, 9/2019
EXCLUSIVE RIGHTS—Cont’d

Statutes
- generally, 8:10 to 8:29
- architecture, 8:22
- Audio Home Recording Act of 1992, 8:26
- Constitutional law, 8:12
- Continental Congress, 8:11
- Copyright Act of 1802, 8:13
- Copyright Act of 1831, 8:14
- Copyright Act of 1856, 8:15
- Copyright Act of 1870, 8:16
- Copyright Act of 1897, 8:17
- Copyright Act of 1909, 8:18
- Copyright Act of 1976, 8:21 to 8:24
- Digital Millennium Copyright Act of 1998, 8:29
- Digital Performance Right in Sound Recordings Act of 1995, 8:28
- early statutes, generally, 8:10 to 8:17
- First Copyright Act, 8:12
- later statutes, generally, 8:18 to 8:29
- public performance right for nondramatic literary works, 8:19
- rights not conditionally related, 8:24
- sound recording amendment of 1971, 8:20
- state statutes, 8:11
- Statute of Anne, 8:10
- transmissions and simultaneous violation of one or more rights, 8:23
- Uruguay Round Agreements Act, 8:27
- Visual Artists’ Rights Act of 1990, 8:25
- Technologies, new, 8:2
- Transmissions, 8:23
- Uruguay Round Agreements Act, 8:27

EXCLUSIVE RIGHTS—Cont’d

Visual Artists’ Rights Act of 1990, 8:25

EXECUTOR
- General revision of 1909, 7:18

EXEMPTIONS
- Exceptions, Exclusions, and Exemptions (this index)

EXERCISE ROUTINES
- Noncopyrightable material, 4:22

EXHAUSTION
- Display publicly, 15:10
- Distribution of Copies of Work (this index)
- First sale/exhaustion doctrine, Section 109, Distribution of Copies of Work (this index)
- Importation, exhaustion of distribution right, 13:36.50, 13:37.50
- Public performance, 14:32
- TRIPS, Article 6, 23:60

EXHIBITION
- Fair use defense, 10:53 to 10:55
- Formalities, 6:32
- Visual Artists Rights Act of 1990, 16:9

EX PARTE RELIEF
- Impoundment, Seizure, and Destruction (this index)

EXPERT WITNESSES
- Reproduction Right (this index)

EXPIRATION OF TERM
- Uruguay Round Agreements Act, 24:33

EXPLOITATION
- Assignment, 5:115

EXPRESS AIMING
- Personal jurisdiction, 17:156

EXPRESSIVE WORKS
- Preemption, 18:9.50

Index-56
INDEX

EXPRESS PREEMPTION
   Generally, 18:2

EXTENSION OF TERM
   Copyright Act of 1909 amendment, 1:67
   Copyright Act of 1976, 1:97 to 1:107, 7:28
   Sonny Bono Copyright Term Extension Act (this index)

EXTRACTION OF DATA
   Fair use defense, 10:59

EXTRA - ELEMENTS TEST
   Preemption, 18:18

EXTRATERRITORIALITY
   Generally, 25:86 to 25:104
   Appeals court, 25:97
   Aramco, 25:91
   Choice of law, 25:35
   Computer servers, server location and display and making available rights, 25:87.50
   Contributory infringement, 25:87
   Copyright Act, 25:86, 25:86.10, 25:86.20
   Damage outside the U.S., original acts in U.S., 25:92.60
   Direct infringement, 25:87
   Fourth circuit, Tire Engineering & Distribution, LLC v. Shandong Linglong Rubber Company, Ltd., 25:92.50
   Importation, 13:44.10
   Infringement
      computer server location and display and making available rights, 25:87.50
      contributory infringement, 25:87
      direct infringement, 25:87
      Fourth circuit, Tire Engineering & Distribution, LLC v. Shandong Linglong Rubber Company, Ltd., 25:92.50
   National Football League v. PrimeTime 24 Joint Venture. Original acts in U.S., additional acts overseas facilitated by, below this group
   original acts in U.S., additional acts overseas facilitated by generally, 25:88 to 25:101
   Aramco, 25:91
   Los Angeles News Service v. Conus Communications Co. Ltd., 25:101
   generally, 25:95 to 25:100
   appeals court, 25:97
   public, 25:98
   receiving transmission, 25:99
   trial court, 25:96
   Twentieth Century Fox Film Corp. v. iCrave TV, 25:100
   Ninth circuit, one-complete-act theory, 25:92
   Predicate Act doctrine, 25:90
   Sheldon v. MGM Pictures, Corp., 25:89
   transmissions, generally, 25:93 to 25:101
   original acts in U.S., additional discrete acts overseas not dependent upon, 25:102
   original acts overseas, additional acts in U.S., 25:103
EXTRATERRITORIALITY
—Cont’d
Infringement—Cont’d
original acts overseas,
additional discrete acts in
U.S. not dependent upon,
server location and display and
making available rights,
transmissions. Original
infringement in U.S.,
additional acts overseas
facilitated by U.S.
infringement, above this
group
Jurisdiction, 17:48
Los Angeles News Service v. Conus Communications Co. Ltd., 25:101
Infringement, above
Ninth circuit, one-complete-act
theory, 25:92
One-complete-act theory, Ninth
circuit, 25:92
Original acts in U.S.
additional discrete acts overseas
not dependent upon,
damage outside the U.S.,
Original acts overseas
additional acts in U.S., 25:103
additional discrete acts in U.S.
not dependent upon,
Predicative Act doctrine, 25:90
Preliminary injunctions, 22:73.50
Public, 25:98
Receiving transmission, 25:99
Server location and display and
making available rights,
Sheldon v. MGM Pictures, Corp.,
25:89

EXTRATERRITORIALITY
—Cont’d
Tire Engineering & Distribution, LLC v. Shandong Linglong Rubber Company, Ltd., 25:92.50
Transmissions. Infringement, above
Trial court, 25:96
Twentieth Century Fox Film Corp. v. iCrave TV, 25:100

EXTRINSIC EVIDENCE
Licenses, 5:130
FABRIC DESIGNS
Originality, 3:38
Pictorial, graphic, and sculptural works, 3:151
FACE TO FACE INSTRUCTION
Public performance, 14:34
FACIAL CHALLENGES
Personal jurisdiction, 17:135
FACIAL VERSUS FACTUAL ATTACKS
Federal question jurisdiction,
FACTS
Noncopyrightable Material (this index)
FACTUAL CHALLENGES
Personal jurisdiction, 17:136
FACTUAL ESTOPPEL
Noncopyrightable material, 4:6, 4:8
FACTUAL WORKS
Reproduction right, 9:72
FAIR ABRIDGMENT
Reproduction right, 9:98
INDEX

FAIREY v. ASSOCIATED PRESS
Fair use defense, 10:132.60

FAIR USE
Defense. Fair Use Defense (this index)
Derivative works, 12:25
Display publicly, 15:8, 15:9
Distribution of copies of work, 13:13
Privilege, exclusive rights, 8:7
Public performance, 14:31
Visual Artists Rights Act of 1990, 16:35

FAIR USE DEFENSE
Generally, 10:1 to 10:160
Abstracting and indexing, 10:24 to 10:27.50
Actual fair use analysis, 10:157
Addison-Wesley Publishing v. New York University, 10:104
Advertisements, generally, 10:28 to 10:35
Affirmative defense, 10:9, 10:9.50
right, 10:8.60
Aggregate assessment, actual fair use analysis, 10:157
American Geophysical Union v. Texaco
amount and substantiality of portion used, 10:124
corporate photocopying, below nature of copyrighted work, 10:123
potential market for or value of copyrighted work, effect of, 10:125
purpose and character of use, 10:122
Amount and substantiality of taking
generally, 10:141
American Geophysical Union v. Texaco, 10:124

FAIR USE DEFENSE—Cont’d
Amount and substantiality of taking—Cont’d
definition of the “work,” 10:144
electronic copying and distribution, 10:143.50
entire work, copying, 10:143
transformative uses, 10:142
Amsinck v. Columbia Pictures Industries, 10:72
Appeal and review, 10:85, 10:160
Appropriation art, 10:35.20
Architectural plans, 10:35.50
Arica Institute v. Palmer, 10:64
Assessment, 10:157
Association of American Medical Colleges v. Cuomo, 10:107
Association of American Medical Colleges v. Mikaelian, 10:106
Baraban v. Time Warner, 10:63
Barbie doll, 10:97
Basic Books v. Gnomon Corp., 10:110
Biographies generally, 10:36 to 10:47
Eisenschiml v. Fawcett Publications, 10:38
Estate of Hemingway v. Random House, 10:42
Greenbie v. Noble, 10:39
Holdredge v. Knight Publishing, 10:40
Iowa State University Research Foundation v. American Broadcasting Cos., 10:45
Meeropol v. Nizer, 10:43
Rokeach v. Avco Embassy Pictures, 10:44

© 2019 Thomson Reuters, Rel. 24, 9/2019
<table>
<thead>
<tr>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>FAIR USE DEFENSE—Cont’d</td>
<td></td>
</tr>
<tr>
<td>Biographies—Cont’d</td>
<td></td>
</tr>
<tr>
<td>Rosemont Enterprises v. Random House, 10:41</td>
<td></td>
</tr>
<tr>
<td>Salinger v. Random House, 10:46</td>
<td></td>
</tr>
<tr>
<td>Toksvig v. Bruce Publishing, 10:37</td>
<td></td>
</tr>
<tr>
<td>Blackwell Publishing Inc. v. Excel Research Group, LLC, 10:118.50</td>
<td></td>
</tr>
<tr>
<td>Blind persons, 10:52</td>
<td></td>
</tr>
<tr>
<td>Broadcasts and broadcasting generally, 10:53 to 10:55</td>
<td></td>
</tr>
<tr>
<td>news clipping services and rebroadcasts, below</td>
<td></td>
</tr>
<tr>
<td>Bruzzone v. Miller Brewing, 10:81</td>
<td></td>
</tr>
<tr>
<td>Cable News Network v. Video Monitoring Services of America, 10:76</td>
<td></td>
</tr>
<tr>
<td>Calligraphers, 10:56</td>
<td></td>
</tr>
<tr>
<td>Castle Rock Entertainment v. Carol Publishing Group, 10:66</td>
<td></td>
</tr>
<tr>
<td>Changing the original, requirements for purpose and character of use, 10:21.10</td>
<td></td>
</tr>
<tr>
<td>Chicago Board of Education v. Substance, Inc., 10:68</td>
<td></td>
</tr>
<tr>
<td>Chicago Lawyer v. Forty-Sixth Ward Regular Democratic Organization, 10:129</td>
<td></td>
</tr>
<tr>
<td>Circularity argument against licensing as market harm, 10:152</td>
<td></td>
</tr>
<tr>
<td>Codification versus statutory recognition, 10:8</td>
<td></td>
</tr>
<tr>
<td>College Entrance Examination Board v. Cuomo, 10:108</td>
<td></td>
</tr>
<tr>
<td>Commentary: creativity and innovation, fair use is good for, 10:1.60</td>
<td></td>
</tr>
<tr>
<td>Commercial uses, 10:14 to 10:16.50, 10:54</td>
<td></td>
</tr>
<tr>
<td>Common law analysis, 10:8.50</td>
<td></td>
</tr>
<tr>
<td>Common law copyright infringement actions, 10:8.25</td>
<td></td>
</tr>
<tr>
<td>FAIR USE DEFENSE—Cont’d</td>
<td></td>
</tr>
<tr>
<td>Comparative advertising, 10:30</td>
<td></td>
</tr>
<tr>
<td>Computers, 10:57 to 10:60</td>
<td></td>
</tr>
<tr>
<td>Contracts and agreements, 10:152</td>
<td></td>
</tr>
<tr>
<td>Copy center photocopying, 10:117, 10:118</td>
<td></td>
</tr>
<tr>
<td>Corporate photocopying generally, 10:110 to 10:116</td>
<td></td>
</tr>
<tr>
<td>American Geophysical Union v. Texaco generally, 10:121 to 10:126</td>
<td></td>
</tr>
<tr>
<td>amount and substantiality of portion used, 10:124</td>
<td></td>
</tr>
<tr>
<td>Judge Jacob’s dissent, 10:126</td>
<td></td>
</tr>
<tr>
<td>nature of copyrighted work, 10:123</td>
<td></td>
</tr>
<tr>
<td>potential market for or value of copyrighted work, effect of, 10:125</td>
<td></td>
</tr>
<tr>
<td>purpose and character of use, 10:122</td>
<td></td>
</tr>
<tr>
<td>Basic Books v. Gnomon Corp., 10:110</td>
<td></td>
</tr>
<tr>
<td>Harper &amp; Row v. Squibb Corp., 10:113</td>
<td></td>
</tr>
<tr>
<td>Harper &amp; Row v. Tyco Copy Service, 10:111</td>
<td></td>
</tr>
<tr>
<td>Pasha Publications v. Enmark Gas Corp., 10:119</td>
<td></td>
</tr>
<tr>
<td>Pfizer case, 10:114</td>
<td></td>
</tr>
<tr>
<td>Television Digest v. United States Telephone Association, 10:120</td>
<td></td>
</tr>
<tr>
<td>Criticism and comment generally, 10:61 to 10:68</td>
<td></td>
</tr>
<tr>
<td>Arica Institute v. Palmer, 10:64</td>
<td></td>
</tr>
<tr>
<td>Baraban v. Time Warner, 10:63</td>
<td></td>
</tr>
<tr>
<td>Castle Rock Entertainment v. Carol Publishing Group, 10:66</td>
<td></td>
</tr>
</tbody>
</table>
Government photocopying.
Educational and government photocopying, above
Greenbie v. Noble, 10:39
Harm, 10:100, 10:150, 10:150.20, 10:152
Harper & Row case, 10:149
Harper & Row v. Squibb Corp., 10:113
Harper & Row v. Tyco Copy Service, 10:111
Hill v. Public Advocate of the United States, 10:132.70
Historical uses, 10:69.50
History, 10:15, 10:18, 10:19
Holdredge v. Knight Publishing, 10:40
Homages, use in, 10:73.50
Hopper cases, off-air taping, 10:87
House of Bryant Publications, LLC v. A&E Television Network, 10:72.25
Identifying relevant potential, 10:151
Illustrative uses, preamble to Section 107, 10:12
Incidental, nonfortuitous uses, 10:70 to 10:72
Incidental reproduction, 10:69
Indexing, 10:24 to 10:27.50
Insurance claims, 10:73.40
Internet search engines, 10:27.50
Internet uses, 10:60
Iowa State University Research Foundation v. American Broadcasting Cos., 10:45
Judgment as a matter of law, Rule 50(a), 10:159
Judgment on the pleadings, 10:159
Judgment, summary, 10:159
Jury trial, right to, 10:3
Karaoke, 10:72.50

Keep Thomson Governor Committee v. Citizens for Gallen Committee, 10:128
Law vs equity, 10:3
Legislative history, 10:15, 10:18, 10:19
Legislative reports
fair use, generally, App 10-B
Section 118(f), App 10-F
Sections 108(f)(2) and (4), App 10-D
Sections 504(c)(2)(i) and (ii), App 10-H
unpublished works, App 10-L
Visual Artists’ Rights Act of 1990 (VARA), App 10-J
Leibovitz v. Paramount Pictures, 10:33
Licensing, 10:152
Litigation use, 10:73
Los Angeles News Service v. CBS Broadcasting, 10:80
Los Angeles News Service v. KCAL-TV Channel 9, 10:78
Los Angeles News Service v. Reuters Television International, 10:79
Los Angeles News Service v. Tullo, 10:77
Marcus v. Rowley, 10:105
Market
American Geophysical Union v. Texaco, 10:125
potential market for or value of copyrighted work, effect of, below usurp, 10:150.10
Maxtone-Graham v. Burtchaell, 10:62
Media neutrality, 10:157.20
Meeropol v. Nizer, 10:43
MGM v. American Honda Motor, 10:34
Index

FAIR USE DEFENSE—Cont’d
Mixed character, many uses, 10:16.50
Mura v. CBS, 10:71
Nash v. CBS, 10:50
National Association of Boards of Pharmacy v. Board of Regents of University System of Georgia, 10:109.50
“Nature and objects of selections made,” 10:5
Nature of copyrighted work generally, 10:138
American Geophysical Union v. Texaco, 10:123
corporate photocopying, 10:123
out-of-print works, 10:140
published works, 10:139.30
unpublished works, 10:139
Newport-Mesa Unified School District v. California, 10:109
News clipping services and rebroadcasts generally, 10:75 to 10:80
Cable News Network v. Video Monitoring Services of America, 10:76
Fox News Network v. TVEyes, Inc., 10:80.10
Los Angeles News Service v. CBS Broadcasting, 10:80
Los Angeles News Service v. KCAL-TV Channel 9, 10:78
Los Angeles News Service v. Reuters Television International, 10:79
Los Angeles News Service v. Tullo, 10:77
Pacific & Southern v. Duncan, 10:75

FAIR USE DEFENSE—Cont’d
News clipping services and rebroadcasts—Cont’d
Swatch Group Management Services Ltd. v. Bloomberg L.P., 10:80.30
News reporting, 10:74
New York Times v. Roxbury Data Interface, 10:26
Nihon Keizai Shimbun v. Comline Business Data, 10:27
Noncommercial broadcasts, 10:55
Noncommercial uses, 10:16.50 to 10:19
Nonfortuitous, 10:70 to 10:72
Nonprofit educational purposes, 10:18, 10:19
Norse v. Henry Holt & Co., 10:49
Notice and knowledge, 10:93
NRA v. Handgun Control Federation of Ohio, 10:131
Obscenity, 10:92
Off-air taping generally, 10:81 to 10:87
Bruzzone v. Miller Brewing, 10:81
Encyclopedia Britannica Educational Corp. v. Crooks, 10:82
Hopper cases, 10:87
Sony Corp. of America v. Universal City Studios, 10:83 to 10:86
Original, parody, 10:91
Original work, 10:7
Out-of-print works, nature of, 10:140
Pacific & Southern v. Duncan, 10:75
Parody generally, 10:88 to 10:100
appropriation extent, 10:99
Barbie doll, 10:97
definition, 10:89
discretion, 10:90

© 2019 Thomson Reuters, Rel. 24, 9/2019 Index-63
FAIR USE DEFENSE—Cont’d
Parody—Cont’d
disparaging, 10:95
funny, 10:95
harm calculation, 10:100
humor, 10:95
message, 10:94
obscenity, 10:92
original, 10:91
post-Campbell case, 10:96
second factor, 10:98
vulgarity, 10:92
well-known, 10:93
Pasha Publications v. Enmark Gas Corp., 10:119
Peterman v. Republican National Committee, 10:132.80
Pfizer case, 10:114
Phoenix Hill Enterprises v. Dickerson, 10:132
Photocopying, generally, 10:101 to 10:126
Pleadings, 10:157.50, 10:159
Political uses
generally, 10:127 to 10:132.80
Chicago Lawyer v. Forty-Sixth Ward Regular Democratic Organization, 10:129
Fairey v. Associated Press, 10:132.60
Hill v. Public Advocate of the United States, 10:132.70
Keep Thomson Governor Committee v. Citizens for Gal- len Committee, 10:128
NRA v. Handgun Control Federation of Ohio, 10:131

FAIR USE DEFENSE—Cont’d
Political uses—Cont’d
Peterman v. Republican National Committee, 10:132.80
Phoenix Hill Enterprises v. Dickerson, 10:132
Potential market for or value of copyrighted work, effect of generally, 10:145 to 10:155
American Geophysical Union v. Texaco, 10:125
circularity argument against licensing as market harm, 10:152
corporate photocopying, 10:125
favorable impact on market, 10:155
harm, type to be weighed, 10:150
Harper & Row case, 10:149
identifying relevant potential, 10:151
presumption, Sony case, 10:148
Sony case, 10:146 to 10:148
widespread harm from small uses, 10:154
Preamble to Section 107, 10:11, 10:12
Prejudice, 10:7
Preliminary injunction, 10:9.50
Presumption, Sony case, 10:148
Productive uses, 10:21
Profits, 10:7
Published works, nature of, 10:139.30
Purpose and character of use
generally, 10:13 to 10:137.50
abstracting and indexing, 10:24 to 10:27.50
advertisements, 10:28 to 10:35
advertisements, online sales, 10:29.10

Index-64
INDEX

FAIR USE DEFENSE—Cont’d
Purpose and character of use
—Cont’d
advertising parodies, 10:31 to 10:35
American Geophysical Union v. Texaco, 10:122
Amsinck v. Columbia Pictures Industries, 10:72
appropriation art, 10:35.20
architectural plans, 10:35.50
biographies, above
Blackwell Publishing Inc. v. Excel Research Group, LLC, 10:118.50
blind persons, 10:52
broadcasting and other forms of exhibition, 10:53 to 10:55
calligraphers, 10:56
changing the original, requirements, 10:21.10
commercial broadcasts, 10:54
commerciality not absolute principle, 10:16
commercial uses, 10:14 to 10:16.50
comparative advertising, 10:30
completing the structure, architectural plans, 10:35.50
computers, 10:57 to 10:60
copy center photocopying, 10:117, 10:118
corporate photocopying, above criticism and comment, above economics, 10:22
educational and government photocopying, above Elvis Presley Enterprises v. Passport Video, 10:51
entertainment uses, 10:20
Eveready Battery v. Adolph Coors, 10:32
extract data, copying to, 10:59
fortuitous and incidental reproduction, 10:69

FAIR USE DEFENSE—Cont’d
Purpose and character of use
—Cont’d
Freedom of Information Act requests, 10:73.25
governmental and litigation use, 10:73
government photocopying, Educational and government photocopying, above historical uses, 10:69.50
homages, 10:73.50
House of Bryant Publications, LLC v. A&E Television Network, 10:72.25
incidental, nonfortuitous uses, 10:70 to 10:72
indexing, 10:24 to 10:27.50
internet search engines, 10:27.50
internet uses, 10:60
legislative history of nonprofit educational purposes, 10:18, 10:19
legislative history of Section 107(1), 10:15
Leibovitz v. Paramount Pictures, 10:33
litigation use, 10:73
MasterCard International v. Nader 2000 Primary Committee, 10:35
MGM v. American Honda Motor, 10:34
mixed character, many uses, 10:16.50
Mura v. CBS, 10:71
Nash v. CBS, 10:50
news clipping services and rebroadcasts, above news reporting, 10:74
New York Times v. Roxbury Data Interface, 10:26
Nihon Keizai Shimbun v. Comline Business Data, 10:27
FAIR USE DEFENSE—Cont’d
Purpose and character of use
—Cont’d
noncommercial broadcasts, 10:55
noncommercial uses, 10:16.50
to 10:19
Norse v. Henry Holt & Co., 10:49
off-air taping, above
parody, above
photocopying, generally, 10:101
to 10:126
political uses, above
productive uses, 10:21
religious uses, below
reverse engineering, 10:58
sell products, advertisements
that, 10:29
specific types of uses, generally,
10:23 to 10:137
Tin Pan Apple v. Miller Brew-
ing, 10:32
transformative use, 10:13
transformative uses, 10:21
Wainwright Securities v. Wall
Street Transcript Corp., 10:25
Wright v. Warner Books, 10:48
Purpose and role of use, 10:1.50
“Quantity and value of materials
used,” 10:6
Rebroadcasts. News clipping ser-
vices and rebroadcasts, above
Religious uses
generally, 10:133 to 10:137
Christian Church of Full
Endeavor, 10:137
Robert Stigwood Group v.
O’Reilly, 10:135
Society of the Holy Transfigura-
tion Monastery, Inc. v.
Archbishop Gregory of
Denver, Colorado, 10:137.50
Wihtol v. Crow, 10:134, 10:137

FAIR USE DEFENSE—Cont’d
Religious uses—Cont’d
Worldwide Church of God v.
Philadelphia Church of
God, 10:136
Reports and reporting, 10:74
Reverse engineering, 10:58
Robert Stigwood Group v.
O’Reilly, 10:135
Rokeach v. Avco Embassy
Pictures, 10:44
Rosemont Enterprises v. Random
House, 10:41
Rule 12(b)(6) motions, 10:159
Rule 12(c) motions, 10:159
Sales, 10:7, 10:29
Salinger v. Random House, 10:46
Schuchart & Associates v. Solo
Serve Corp., 10:116
Section 107, 10:11, 10:12, 10:15,
App 10-A, App 10-B
Sections 108(f)(2) and (4), App
10-C, App 10-D
Section 118(f), App 10-E, App
10-F
Sections 504(c)(2)(i) and (ii), App
10-G, App 10-H
Small uses, 10:154
Society of the Holy Transfigura-
tion Monastery, Inc. v.
Archbishop Gregory of
Denver, Colorado, 10:137.50
Sony Corp. of America v. Universal
City Studios
court of appeals, 10:85
district court, 10:84
off-air taping, 10:83 to 10:86
potential market for or value of
coprighted work, effect
of, 10:146 to 10:148
Supreme Court, 10:86
Statutes, generally, 10:1, 10:8 to
10:10
Statutory evolution
Section 107, App 10-A
Section 118(f), App 10-E

Index-66
FAIR USE DEFENSE—Cont’d
Statutory evolution—Cont’d
Sections 108(f)(2) and (4), App 10-C
Sections 504(c)(2)(i) and (ii), App 10-G
Substantiality, 10:124
Summary judgment, 10:159
Supreme court, 10:86
Swatch Group Management Services Ltd. v. Bloomberg L.P., 10:80.30
Television Digest v. United States Telephone Association, 10:120
Third-party claims, 10:158
Tin Pan Apple v. Miller Brewing, 10:32
Toksvig v. Bruce Publishing, 10:37
Transformative use, 10:13
Transformative uses, 10:21, 10:142
Ty, Inc. v. Publications International, 10:67
Unpublished works
  fair use, generally, App 10-K
  legislative reports on fair use, App 10-L
  nature of, 10:139
Usurp of market, 10:150.10
U.S. v. American Soc. of Composers, Authors and Publishers and Previews, 10:35.10
Value
  generally, 10:125
  potential market for or value of copyrighted work, effect of, above
  “quantity and value of materials used,” 10:6
Visual Artists’ Rights Act of 1990 legislative reports, App 10-J
text of Act, App 10-I

FAIR USE DEFENSE—Cont’d
Vulgarity, 10:92
Wainwright Securities v. Wall Street Transcript Corp., 10:25
Weighing factors, 10:9.10
Well-known, 10:93
Widespread harm from small uses, 10:154
Wihtol v. Crow, 10:102, 10:134, 10:137
Williams & Wilkins v. United States, 10:103
Worldwide Church of God v. Philadelphia Church of God, 10:136
Wright v. Warner Books, 10:48

FALSE FACTS
Infringement, 17:113

FAMILIAR SYMBOLS AND DESIGNS
Visual works, 4:17

FEDERAL CIRCUIT
Substantial similarity, 9:278

FEDERAL CLAIMS
Venue, 17:203, 17:204

FEDERAL CLAIMS COURT
Preemption, 18:50
Substantial similarity, 9:278

FEDERAL COMMON LAW OF COPYRIGHT CONFLICTS
Choice of Law (this index)

FEDERAL LAWS
Limitation of actions, 20:42.60

FEDERAL QUESTION JURISDICTION
Generally, 17:22 to 17:28
Classification proposal, 17:28
Complete preemption, 17:23
Constitutional substantiality, 17:27
Counterclaim, 17:25
FEDERAL QUESTION
JURISDICTION—Cont’d
Dismissal of properly removed case and counterclaim arising under copyright is pled, 17:25
Facial versus factual attacks, 17:26, 17:27
Forum non conveniens, 17:221
FRCP 12(b)(1) and (6), 17:26, 17:27
Hagans v. Lavine, 17:27
Preemption, 17:23
Removal, generally, 17:22 to 17:28
Section 411(a), 17:24
FEDERAL RULES OF CIVIL PROCEDURE
Attorneys’ fees, Rule 68, 22:213 to 22:220
Damages, Rule 65(a)(2), 22:166
Federal question jurisdiction, 17:26, 17:27
Motion to dismiss, 9:86.50
Personal jurisdiction, 17:140, 17:141
Pleadings (this index)
Preliminary injunctions, 22:69
Standing to sue, 21:2
FEDERAL RULES OF EVIDENCE
Preliminary injunctions, 22:46, 22:47
FEDERAL - STATE PENDENT VENUE
Generally, 17:202
FEEDS
Sound recordings, 14:90
FEES—Cont’d
Compulsory licenses and licensing, 14:74, 14:76 to 14:78, 14:118 to 14:120
Copyright Act of 1909 amendments, 1:52, 1:60
Jukebox, 14:118 to 14:120
Monetary damages, 22:111
Rates (this index)
FEIST PUBLICATIONS, INC. v. RURAL TELEPHONE SERVICE CO.
Construction and interpretation, 2:54
Electronic databases, 3:65 to 3:67
Substantial similarity, 9:126
FERGUSON v. NATIONAL BROADCASTING CO.
Substantial similarity, 9:187
FICTITIOUS ENTRIES AND OTHER ANOMALIES
Reproduction right, 9:18
FIDUCIARY RELATIONSHIP
Author and authorship, 5:10, 5:11, 5:13
Preemption, 18:22
FIFTH CIRCUIT
Limitation of actions, 20:33
Monetary damages, 22:133
Pictorial, graphic, and sculptural works, 3:143
Preemption, 18:22
Substantial Similarity (this index)
FILTRATION
Reproduction right, 9:94
Scenes a faire, 4:27
FINAL JUDGMENT
Attorneys’ fees, 22:220
FINANCIAL BENEFIT
Direct, vicarious liability, 21:68
Index-68
INDEX

FINANCIAL CONTRIBUTION
Contributory infringement, 21:48.50

FINANCIAL RUIN
Preliminary injunctions, 22:40

FINE ART LIMITATION
Pictorial, graphic, and sculptural works, 3:126

FINISHING WORK
Visual Artists Rights Act of 1990, 16:27

FINLEY CASE
Jurisdiction, 17:56

FIRST AMENDMENT
Noncopyrightable material, 4:44
Visual Artists Rights Act of 1990, 16:36

FIRST AVAILABILITY
Choice of law, 25:49

FIRST CIRCUIT
Computer programs, 3:91
Preliminary injunctions, 22:22
Reproduction right, 9:46
Substantial Similarity (this index)

FIRST COPYRIGHT ACT
Generally, 1:19
Ad Interim Act of 1905 revisions, 1:43
Amendments and revisions generally, 1:20 to 1:44
Ad Interim Act of 1905, 1:43
Amnesty Act of 1893, 1:39
appeals amendment of 1861, 1:29
confederacy, 1:30
deposit amendment of 1846, 1:25
deposit amendment of 1859, 1:28
1897, 1:41
general revision of 1831, 1:23

FIRST COPYRIGHT ACT—Cont’d
Amendments and revisions—Cont’d
general revision of 1870, 1:33
government works and penalties amendments of 1895, 1:40
International Copyright Act of 1891, 1:38
jurisdictional amendment of 1819, 1:22
jurisdictional amendment of 1873, 1:34
Library of Congress deposit amendment of 1867, 1:32
Louisiana Purchase Exposition Act of 1904, 1:42
Mexico City Convention, 1:44
photography and deposit amendments of 1865, 1:31
postal amendment of 1855, 1:26
post office amendment of 1879, 1:36
print and notice amendments of 1874, 1:35
prints and notice amendment of 1802, 1:21
public performance amendment of 1856, 1:27
recordation amendment of 1834, 1:24
useful-articles notice amendment of 1882, 1:37
Amnesty Act of 1893, 1:39
Appeals amendment of 1861, 1:29
Confederacy, 1:30
Deposit revisions, 1:25, 1:28, 1:31, 1:32
Exclusive rights, 8:12
General revision of 1831, 1:23
General revision of 1870, 1:33
Government works, 1:40
Government works and penalties amendments of 1895, 1:40
International Copyright Act of 1891, 1:38

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-69
FIRST COPYRIGHT ACT—Cont’d
Jurisdictional amendment of 1819, 1:22
Jurisdictional amendment of 1873, 1:34
Library of Congress deposit amendment of 1867, 1:32
Louisiana Purchase Exposition Act of 1904, 1:42
Mexico City Convention, 1:44
Notice revisions, 1:21, 1:35, 1:37
Penalties, 1:40
Performance, 1:27
Photography and deposit amendments of 1865, 1:31
Postal amendment of 1855, 1:26
Post office amendment of 1879, 1:36
Print and notice amendments of 1874, 1:35
Prints and notice amendment of 1802, 1:21
Public performance amendment of 1856, 1:27
Recordation amendment of 1834, 1:24
Revisions. Amendments and revisions, above
Useful-articles notice amendment of 1882, 1:37

FIRST PUBLICATION
Choice of law, 25:49

FIRST REFUSAL
Licenses, 5:125
Standing to sue, 21:18

FIRST RESTATEMENT OF CONFLICT OF LAWS
Choice of law, 25:7

FIRST SALE
Distribution of Copies of Work (this index)

FIRST TO FILE RULE
Jurisdiction, 17:50

FISHER - PRICE, INC. v. WELLMADE TOY MANUFACTURING CORP.
Substantial similarity, 9:154

FISHER v. UNITED FEATURE SYNDICATE, INC.
Substantial similarity, 9:255

FIXATION
Constitutional Law (this index)
Preemption, 18:10, 18:11
Uruguay Round Agreements Act, 24:8

FIXED
Derivative works, 12:14
Reproduction right, 9:63

FIXED EXPENSES
Monetary damages, 22:141

FLEA MARKETS
Vicarious liability, 21:69 to 21:71

FLEETING FAME
Preliminary injunctions, 22:39

FOGERTY v. FANTASY, INC.
Construction and interpretation, 2:55

FOGERTY v. MGM GROUP HOLDINGS CORP., INC.
Substantial similarity, 9:206

FOLIO IMPRESSIONS, INC. v. BYER CALIFORNIA
Substantial similarity, 9:153

FOLSOM v. MARSH
Fair use defense, 10:4 to 10:7
Reproduction right, 9:102

FONOVISA, INC. v. CHERRY AUCTION INC.
Vicarious liability, 21:70

FONOVISA, INC. v. NAPSTER, INC.
Contributory infringement, 21:58
INDEX

FOOD
Noncopyrightable material, 4:23.50
Packaging, designs of useful articles, 3:151.50

FORD MOTOR CO. v. SUMMIT MOTOR PRODUCTS, INC.
Substantial similarity, 9:171

FOREIGN AUTHORS
Choice of law, 25:72
International Copyright (this index)
Visual Artists Rights Act of 1990, 16:5

FOREIGN CLAIMS
Choice of law, 25:84
Jurisdiction, 17:55

FOREIGN COUNTRIES
Choice of law, 25:71, 25:81.50
Formalities, 6:44
Personal jurisdiction, 17:145
Term of copyright, works first published overseas, 7:24.50

FOREIGN DEFENDANTS
Personal jurisdiction, 17:141

FOREIGN GOVERNMENTS
Government works, 4:86
Suits against, 21:90

FOREIGN JUDGMENTS
Res judicata, 17:39.10

FOREIGN LAWS
Evidence, 25:79
Extraterritoriality (this index)
Pleading and proof, 25:79

FOREIGN LITIGATION
Jurisdiction, 17:57 to 17:59, 17:58

FOREIGN REVENUES
Monetary damages, 22:150

FOREIGN TRANSFERS
Licenses, 5:135

FOREIGN WORKS
Choice of law, 25:26
Reproduction right, 9:10
Uruguay Round Agreements Act, 24:23

FORFEITURE
Bankruptcy, forfeiting statutory damages, 22:165.50
Licenses, 5:154, 5:156

FORMALITIES
Generally, 6:1 to 6:81
Abandonment, 6:45
Access to government works removes innocent infringer defense, 6:76
Ad interim protection, 6:28
Amendments. Copyright Act of 1790, below
Antedated notices, 6:39
Architectural works, 6:31.50
Berne Implementation Act of 1988 generally, 6:74 to 6:79
access to government works removes innocent infringer defense, 6:76
Copyright Act of 1976 notice provisions, impact on, 6:74 to 6:76
innocent infringement defense and mitigation of damages, 6:75
Section 405(a), curative notice provision, 6:77
Section 405(b), curative notice provision, 6:77
17 USCA 401(d) statutory damages, 6:78
visual artists’ exception, 6:79
Collective works, 6:43, 6:65
Constitutional law, 6:18
Contracts and agreements, 6:70, 6:80
Contributions, 6:43
FORMALITIES—Cont’d
Copyright Act, generally, 6:1 to 6:3
Copyright Act of 1790
generally, 6:19
amendments. Revisions, below this group
revisions
generally, 6:20 to 6:46
abandonment, 6:45
ad interim protection of 1905, 6:28
antedated notices, 6:39
centralization of copyright administration in Library of Congress of 1870, 6:25
Copyright Act of 1802, 6:20
Copyright Act of 1909, 6:29
1831 general revision, 6:21
1846, 6:22
1859, 6:23
1865, 6:24
1870, 6:25
1874, 6:26
1891 international copyright, 6:27
general revision of 1831, 6:21
international copyright of 1891, 6:27
limited versus general publication, 6:31
name of owner, 6:41
1905 ad interim protection, 6:28
1954 Universal Copyright Convention, 6:46
notice
collective works as covering individual contributions, 6:43
Copyright Act of 1909, under, 6:36
first published abroad, 6:44
form of, 6:37
position of, 6:42

FORMALITIES—Cont’d
Copyright Act of 1790—Cont’d
revisions—Cont’d
notice—Cont’d
year date of, 6:38
postdated notices, 6:40
publication
Acts before 1976, 6:30
architectural works, 6:31.50
derivative works, 6:35
exhibition of works of art, 6:32
musical compositions embodied in phonorecords, 6:34
performance, 6:33
Universal Copyright Convention of 1954, 6:46
Copyright Act of 1802, 6:20
Copyright Act of 1909, 6:29, 6:36
Copyright Act of 1976
generally, 6:47 to 6:73
Berne Implementation Act of 1988, 6:74 to 6:76
derivative works, publication of, 6:55
display, publication by, 6:51
limited versus general publication, 6:50
musical compositions embodied in phonorecords, publication of, 6:53
notice, generally, 6:56 to 6:73
online and internet simultaneous publication, 6:55.40
performance, publication by, 6:52
publication, generally, 6:48
Section 401(a), general requirements, 6:57
Section 401(b)(1), symbol, 6:59
Section 401(b)(2), year date, 6:60
Section 401(b)(3), name, 6:61
Section 401(b), form of notice, 6:58

Index-72
FORMALITIES—Cont’d
Copyright Act of 1976—Cont’d
Section 401(c), position, 6:62
Section 402, phonorecords of sound recordings, 6:63
Section 403, government works, 6:64
Section 404, collective works, 6:65
Section 405(a)(1), omission of notice from “relatively small number of copies,” 6:68
Section 405(a)(2), registration of work within 5 years of publication without notice but with reasonable efforts to add notice after omission discovered, 6:69
Section 405(a)(3), notice omitted in violation of agreement, 6:70
Section 405(b), effect of omission on innocent infringers, 6:71
Section 405(c), removal of notice without authority of copyright owner, 6:72
Section 405, omission of notice, 6:67 to 6:71
Section 406, errors in name and/or date of notice, 6:73
Simultaneous publication, 6:55, 40
Sound recordings, publication and distribution of, 6:54
Statutory definition, 6:49
Unit of publication rule, 6:66
Curative notice, 6:77
Damages, 6:75, 6:78
Defenses, 6:75, 6:76
Definition, statutory, 6:49
Deposit, 6:6, 6:11
Derivative works, 6:35, 6:55
Display, publication by, 6:51
Distribution, 6:54
Embodiments, 6:34, 6:53

FORMALITIES—Cont’d
England, 6:16
Exceptions, 6:79
Exhibition, 6:32
Foreign countries, generally, 6:44
France, 6:16
General publication, 6:31, 6:50
General revision of 1831, 6:21
Government works, 6:64, 6:76
History before 1976 Copyright Act generally, 6:15 to 6:19
Constitutional law, 6:18
Copyright Act of 1790, 6:19
England, 6:16
France, 6:16
Italy, 6:16
Pre-1790 state statutes in U.S., 6:17
Infringement, 6:71, 6:75, 6:76, 17:64
Innocence, 6:71, 6:75, 6:76
International copyright, 6:27
International laws, 6:80, 6:81
Italy, 6:16
Library of Congress, 6:11, 6:25
Limited publication, 6:31, 6:50
Location and position, 6:62
Manufacturing clause, 6:14
Mistake and error, 6:73
Mitigation of damages, 6:75
Musical compositions embodied in phonorecords, publication of, 6:34, 6:53
Names
Copyright Act of 1790, revisions, 6:41
Copyright Act of 1976, Section 401(b)(3), 6:61
Copyright Act of 1976, Section 406, errors in name and/or date of notice, 6:73
Notice
Generally, 6:5, 6:10
Berne Implementation Act of 1988, above
Copyright Act of 1790, above

© 2019 Thomson Reuters, Rel. 24, 9/2019
FORMALITIES—Cont’d

Notice—Cont’d
Copyright Act of 1976, above
Number, 6:68
Omissions, Copyright Act of 1976,
6:67 to 6:71, 6:68
Online and Internet simultaneous
publication, 6:55.40
Performance, 6:33, 6:52, 6:81
Phonograms, 6:81
Phonorecords, 6:34, 6:53, 6:63
Publication
generally, 6:9
Copyright Act of 1790, above
Copyright Act of 1976, above
Reasonable efforts, 6:69
Recordation, 6:13
Registration, 6:7, 6:12, 6:69
Relatively small number of copies,
6:68
Removal, 6:72, 6:76
Revisions. Copyright Act of 1790, above
17 USCA 401(d) statutory dam-
age, 6:78
Simultaneous publication, 6:55.40
Sound recordings, 6:54, 6:63
State statutes, 6:17
Statutory damages, 6:78
Statutory definition, 6:49
Symbol, 6:59
Time and date
Copyright Act of 1790, 6:38,
6:40
Copyright Act of 1976, 6:60,
6:69, 6:73
Title and ownership, 6:41, 6:72
Unit of publication rule, 6:66
Universal Copyright Convention,
6:46
Uruguay Round Agreements Act,
U.S. implementing legisla-
tion, 6:80
U.S. formalities, 6:3
Visual artists’ exception, 6:79

FORMALITIES—Cont’d

Visual Artists Rights Act of 1990,
16:14, 16:15
WIPO Copyright and Perform-
ances and Phonograms
Treaties Implementation Act
of 1998, 6:81
Works of art, 6:32

FORMAT
Noncopyrightable material, 4:11,
4:11.50, 4:12

FOR PROFIT LIMITATION
Public performance, 14:9, 14:20

FORTNIGHTLY
CORPORATION v. UNITED
ARTISTS TELEVISION,
INC.
Cable television and other second-
ary transmissions, 14:54
Construction and interpretation,
2:44

FORTUITOUS AND
INCIDENTAL
REPRODUCTION
Fair use defense, 10:69

FORUM
Personal jurisdiction, 17:159,
17:168

FORUM NON CONVENIENS
Generally, 17:209 to 17:223
Alternate forum, existence of,
17:216 to 17:219
Conditional dismissals, 17:223
Copyright cases, 17:215, 17:222
Dismissals
conditional, 17:223
partial, 17:222.50
Dual rationales, 17:210
English history, 17:212
Federal question jurisdiction,
17:221
Gilbert case, 17:217
History, 17:212
History, Scotland, 17:211

Index-74
FORUM NON CONVENIENS
—Cont’d
Home town advantage, 17:219
Partial dismissals, 17:222.50
Private factors, 17:218, 17:219
Public factors, 17:220
Rationales, 17:210
Scotland, 17:211

FORUM SELECTION
Generally, 25:75 to 25:78
Clauses, 25:76
Exceptions, 25:77
Noncontractual disputes, 25:78
Personal jurisdiction, 17:179
Public policy exception, 25:77
Venue, 17:206

FORWARDS LOOKING REGISTRATIONS
Infringement, 17:90

FOURTH CIRCUIT
Monetary damages, 22:135
Pictorial, graphic, and sculptural works, 3:142
Preliminary injunctions, 22:24
Reproduction right, 9:49
Substantial Similarity (this index)

FOURTH ESTATE PUBLIC BENEFIT CORPORATION V. WALL-STREET.COM, LLC
Subject-matter jurisdiction, infringement, 17:83

FOX NEWS NETWORK v. TVEYES, INC.
Fair use defense, 10:80.10

FRAMING
Derivative works, 12:17 to 12:19
Display publicly, 15:7

FRANCE
Formalities, 6:16
Historical background, 1:3

FRANCHISE TAX BOARD v. CONSTRUCTION LABORERS VACATION TRUST FOR SOUTHERN CALIFORNIA
Subject-matter jurisdiction, 17:16

FRANKLIN v. NATIONAL WILDLIFE ART EXCHANGE, INC.
Substantial similarity, 9:167

FRATERNAL ORGANIZATIONS
Public performance, 14:49

FRAUD
Infringement, 17:121 to 17:126
Preemption, 18:37, 18:45, 18:46

FRAUD ON COPYRIGHT OFFICE
Infringement, 17:121 to 17:126

FRAUDULENT CONCEALMENT
Limitation of actions, 20:50

FRAUDULENT WORKS
Originality, 3:41

FRCP
Federal Rules of Civil Procedure
(this index)

FRE
Federal Rules of Evidence
(this index)

FRED FISHER, INC. v. DILLINGHAM
Reproduction right, 9:34

FRED FISHER MUSIC CO. v. M. WITMARK & SONS
Construction and interpretation, 2:41

FREEDOM OF INFORMATION ACT REQUESTS
Fair use defense, 10:73.25
FREELANCERS
Licenses, 5:140

FREE TRADE AGREEMENTS
Bilateral Agreements, 23:42, 23:71
Central American-Dominican Republic Free Trade Agreement (CAFTA-DR), 23:70
GATT, General Agreement on Tariffs and Trade (GATT) (this index), 23:69
Regional agreements, 23:69
United States-Canada Free Trade Agreement (CFTA), 23:54

FUNDS AND FUNDING
Contributory infringement, 21:48.50
Government works, 4:60 to 4:62

FUNKHOUSER v. LOEW'S INC.
Substantial similarity, 9:229

FUNNY
Fair use defense, 10:95

FURNITURE
Pictorial, graphic, and sculptural works, 3:154

FURTHER TRANSMISSIONS
Public performance, 14:41

FUTURE GRANTS
Copyright Act of 1976, 7:47

FUTURES
Assignment, 5:115

FUTURE WORKS
Permanent injunctions, 22:77
Section 411(a) injunctive relief, 22:6

GAMES
Noncopyrightable material, 4:20

GARDNER v. NIKE
Transfer of interest of exclusive licensee, 5:103

GASTE v. KAISERMAN
Substantial similarity, 9:152

GATES RUBBER CO. v. BANDO CHEMICAL INDUSTRIES, LTD.
Substantial similarity, 9:252

GATT
General Agreement on Tariffs and Trade (GATT) (this index)
Importation, international exhaustion, 13:37.50
International copyrights, 23:56
Rental rights, 13:32
Uruguay Round Agreements Act (this index)

GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

GENERALIZED SYSTEM OF PREFERENCES (GSP)
International copyrights, 23:51

GENERAL JURISDICTION
Personal jurisdiction, 17:145, 17:148 to 17:150

GENERAL PUBLICATION
Formalities, 6:31, 6:50

GENEVA PHONOGRAMS CONVENTION
International copyright, 23:13

GERMANY
Historical background, 1:4

GIBBS CASE
Jurisdiction, 17:54

GILBERT CASE
Forum non conveniens, 17:217
INDEX

GOLAN v. HOLDER
Construction and interpretation, 2:59.50

GOLDSTEIN v. CALIFORNIA
Construction and interpretation, 2:45

GOOD FAITH
Fair use defense, 10:156

GOODWILL
Preliminary injunctions, 22:41

GOODYEAR DUNLOP TIRES OPERATIONS v. S.A.
Personal jurisdiction, 17:146

GOVERNMENT AGENCIES
Government works, 4:82 to 4:84

GOVERNMENTAL BODIES
Cable television and other secondary transmissions, 14:71
Damages, recovery, 22:101.25
Fair use defense, 10:73

GOVERNMENT CENSORSHIP
Berne Convention Implementation Act of 1988, Article 17, 23:39

GOVERNMENT USE
Fair Use Defense (this index)

GOVERNMENT WORKS
Amendment, 4:65
“As a part” of official duties of officer or employee, 4:73
Assignments of copyright to U.S. Government by contractors, 4:76
Banks v. Manchester, 4:55, 4:56
Briefs, 4:85
Common law, 4:87
Compensation and wages, 4:59
Contractors, works by, 4:75 to 4:78, 17:46
Copies, 4:74, 4:87

GOVERNMENT WORKS — Cont’d
Copyright Act of 1909, 4:63
Copyright Act of 1976.
Noncopyrightable material, below
Court reporter transcripts, 4:88
Definitions
employee, 4:70
officer, 4:70
United States, 4:72 to 4:74
“work of the United States Government,” 4:69, 4:70
Democratic political theory, private works funded by U.S. government, 4:61
Due process, private works funded by U.S. government, 4:62
Employee defined, 4:70
First Copyright Act, 1:40
Foreign governments, 4:86
Formalities, 6:64, 6:76
Funds and funding, 4:60 to 4:62
Government agencies, 4:82 to 4:84
Incentives, 4:59
Joint works, 4:78
Limitation of actions, 20:45
Litigation material, 4:85, 17:46
Local government, 4:81
Noncopyrightable material generally, 4:54 to 4:88
Banks v. Manchester, 4:55, 4:56
Copyright Act of 1909, 4:63
Copyright Act of 1976 generally, 4:68 to 4:88
“as a part” of official duties of officer or employee, 4:73
Assignments of copyright to U.S. Government by contractors, 4:76
Briefs and litigation material, 4:85
Common-law right to copy public records, 4:87

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-77© 2019 Thomson Reuters, Rel. 24, 9/2019
GOVERNMENT WORKS
—Cont’d
Noncopyrightable material
—Cont’d
Copyright Act of 1976—Cont’d
contractors, works by, 4:75 to 4:78
court reporter transcripts, 4:88
defining “work of the United States Government,” 4:69, 4:70
employee defined, 4:70
filing with or adoption by government agencies, 4:82 to 4:84
joint works, 4:78
officer defined, 4:70
overseas assertions, 4:80
ownership of copies, 4:74
private contractor work for hire, 4:77
publications by foreign governments, 4:86
Smithsonian Institute, 4:71
state and local governmental publications, 4:81
United States defined, 4:72 to 4:74
U.S. Postal Service, 4:79
“work of the United States Government,” defining, 4:69, 4:70
democratic political theory, private works funded by U.S. government, 4:61
due process, private works funded by U.S. government, 4:62
1983 Post Office amendment, 4:65
payment of government salaries and incentives, 4:59
pre-Copyright Act of 1909 laws, 4:57
private works funded by U.S. government, 4:60 to 4:62

GOVERNMENT WORKS
—Cont’d
Noncopyrightable material
—Cont’d
public policy, 4:58
sovereign immunity, 29 USCA 1498(b), 4:66
Standard Reference Data Act of 1968, 4:67
unpublished U.S. government works, 4:64
Wheaton v. Peters, 4:55, 4:56
Officer defined, 4:70
Overseas assertions, 4:80
Payment of government salaries and incentives, 4:59
Politics, 4:61
Postal service, 4:79
Post Office, 4:65
Private contractor work for hire, 4:77
Private works funded by U.S. government, 4:60 to 4:62
Publications, 4:81, 4:86
Public policy, 4:58
Public records, 4:87
Records and recording, 4:82 to 4:84, 4:87
Reports, 4:88
Salaries, 4:59
Smithsonian Institute, 4:71
Sovereign immunity, 29 USCA 1498(b), 4:66
Standard Reference Data Act of 1968, 4:67
State government, 4:81
Subject-matter jurisdiction, 17:46
Title and ownership, 4:74
Transcripts, 4:88
29 USCA, 4:66
United States defined, 4:72 to 4:74
Unpublished U.S. government works, 4:64
U.S. Postal Service, 4:79
Wheaton v. Peters, 4:55, 4:56

Index-78
INDEX

GOVERNMENT WORKS
—Cont’d
Work for hire, 4:77, 5:78.50
“Work of the United States
Government,” defining, 4:69,
4:70

GRABLE & SONS METAL
PRODUCTS, INC. v. DARUE
ENGINEERING &
MANUFACTURING
Arising-matter jurisdiction, 17:21

GRAPHIC WORKS
Pictorial, Graphic, and
Sculptural Works
Embodied in Useful Articles
(this index)

GREENBERG v. NATIONAL
GEOGRAPHIC SOCIETY
Licenses and licensing, 5:142.95

GREENBIE v. NOBLE
Fair use defense, 10:39

GREEN v. HENDRICKSON
PUBLISHERS, INC.
Jurisdiction, 17:51

GROKSTAR CASE
Personal jurisdiction, 17:172

GROUP REGISTRATIONS
Infringement, 17:92

GRUBB v. KMS PATRIOTS, L.P.
Substantial similarity, 9:132

GULLY v. FIRST NATIONAL
BANK IN MERIDIAN
Subject-matter jurisdiction, 17:15

HAGANS v. LAVINE
Federal question jurisdiction,
17:27

HAM CASE
Personal jurisdiction, 17:192,
17:193

HAMIL AMERICA, INC. v. GFI
Substantial similarity, 9:161

HARDSHIPS, BALANCE OF
Preliminary injunctions, 22:62,
22:63

HARM
Fair use defense, 10:100, 10:150,
10:150.20, 10:152
Personal jurisdiction, 17:168
Visual Artists Rights Act of 1990,
16:21

HARPER & ROW,
PUBLISHERS, INC. v.
NATION ENTERPRISES
Construction and interpretation,
2:49
Fair use defense, 10:149
Substantial similarity, 9:125

HARPER & ROW v. AMERICAN
CYANAMID CO.
Fair use defense, 10:112

HARPER & ROW v. SQUIBB
CORP.
Fair use defense, 10:113

HARPER & ROW v. TYCO
COPY SERVICE
Fair use defense, 10:111

HARTMAN v. HALLMARK
CARDS, INC.
Substantial similarity, 9:231

HASBRO - BRADLEY
Choice of law, 25:20

HEADGEAR
Useful articles, designs of,
3:152.50

HEIM v. UNIVERSAL
PICTURES CO.
Reproduction right, 9:119

HEIN v. HARRIS
Reproduction right, 9:33

© 2019 Thomson Reuters, Rel. 24, 9/2019
### Index

<table>
<thead>
<tr>
<th>Topic</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>HELICOPTEROS NACIONALES DE COLOMBIA, S.A. v. HALL</td>
<td>17:145</td>
</tr>
<tr>
<td>HELMETS</td>
<td>3:152.50</td>
</tr>
<tr>
<td>HERBERT ROSENTHAL JEWELRY CORP. v. HONORA JEWELRY CO.</td>
<td>9:146</td>
</tr>
<tr>
<td>HILL v. PUBLIC ADVOCATE OF THE UNITED STATES</td>
<td>10:132.70</td>
</tr>
<tr>
<td>HISTORY</td>
<td>1:1 to 1:117</td>
</tr>
<tr>
<td>HOLISTIC APPROACH TO RESOLUTION OF AMBIGUITY</td>
<td>2:21</td>
</tr>
<tr>
<td>HOMAGES</td>
<td>10:73.50</td>
</tr>
<tr>
<td>HOME TOWN ADVANTAGE</td>
<td>17:219</td>
</tr>
</tbody>
</table>

### Subsections

<table>
<thead>
<tr>
<th>Subsection</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal jurisdiction</td>
<td>17:145</td>
</tr>
<tr>
<td>Useful articles, designs of</td>
<td>3:152.50</td>
</tr>
<tr>
<td>Substantial similarity</td>
<td>9:146</td>
</tr>
<tr>
<td>Fair use defense</td>
<td>10:132.70</td>
</tr>
<tr>
<td>Generally</td>
<td>1:1 to 1:117</td>
</tr>
<tr>
<td>Author and authorship</td>
<td>5:34</td>
</tr>
<tr>
<td>“Balance” metaphor</td>
<td>1:1.50</td>
</tr>
<tr>
<td>Choice of Law</td>
<td>1:16, 1:17</td>
</tr>
<tr>
<td>Constitutional law</td>
<td>1:18, 3:3</td>
</tr>
<tr>
<td>Construction and Interpretation</td>
<td>5:142 to 5:142.90</td>
</tr>
<tr>
<td>Contributory infringement</td>
<td>21:51</td>
</tr>
<tr>
<td>Copyright Act of 1976</td>
<td>5:51</td>
</tr>
<tr>
<td>Display publicly</td>
<td>15:2</td>
</tr>
<tr>
<td>Distribution of copies of work</td>
<td>13:20</td>
</tr>
<tr>
<td>England</td>
<td>10:15, 10:18, 10:19, 10:69.50</td>
</tr>
<tr>
<td>Formalities</td>
<td>17:211, 17:212</td>
</tr>
<tr>
<td>France</td>
<td>1:3</td>
</tr>
<tr>
<td>Germany</td>
<td>1:4</td>
</tr>
<tr>
<td>Impoundment, seizure, and destruction</td>
<td>22:82</td>
</tr>
<tr>
<td>Licenses</td>
<td>5:122</td>
</tr>
</tbody>
</table>

### Further Reading

<table>
<thead>
<tr>
<th>Topic</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limitation of Actions</td>
<td>22:115, 22:116</td>
</tr>
<tr>
<td>Noncopyrightable Material</td>
<td>3:26</td>
</tr>
<tr>
<td>Originality</td>
<td>3:98 to 3:101, 11:13</td>
</tr>
<tr>
<td>Preemption</td>
<td>18:3 to 18:8</td>
</tr>
<tr>
<td>Preliminary injunctions</td>
<td>22:45</td>
</tr>
<tr>
<td>Privileges</td>
<td>1:2</td>
</tr>
<tr>
<td>Public Performance</td>
<td>5:89</td>
</tr>
<tr>
<td>Sound recordings</td>
<td>1:16, 1:17</td>
</tr>
<tr>
<td>Statute of Anne</td>
<td>17:5</td>
</tr>
<tr>
<td>Venetian privileges and statutes</td>
<td>1:2</td>
</tr>
<tr>
<td>UNION CITY STUDIOS, INC.</td>
<td>9:149</td>
</tr>
<tr>
<td>Fair use defense</td>
<td>10:40</td>
</tr>
<tr>
<td>Substantial similarity</td>
<td>2:21</td>
</tr>
<tr>
<td>Subject-matter jurisdiction</td>
<td>17:19</td>
</tr>
<tr>
<td>Forum non conveniens</td>
<td>17:19</td>
</tr>
<tr>
<td>素材来源</td>
<td>17:219</td>
</tr>
</tbody>
</table>
IMPORTATION—Cont’d
Construction and interpretation, 13:44
Copyright Act of 1909, 1:57, 13:41
Copyright Act of 1976 generally, 13:42 to 13:47
construction and interpretation of Section 109(a) and Section 602(a)(1), 13:44
distribution within United States, 13:46.40
exportation right, 13:46.50
importer defined, 13:43
L’anza decision, 13:45
overseas copies, 13:46
Section 603, 13:47
Supreme Court, L’anza decision, 13:45
Definition of importer, 13:43
Distribution of copies of work, generally, 13:34 to 13:47
Distribution within United States, 13:46.40
England, 13:36
Exhaustion of distribution right, 13:36.50
Exportation right, 13:46.50
Extraterritoriality, 13:44.10
GA TT, international exhaustion, 13:37.50
Importer defined, 13:43
International exhaustion, 13:37.50
L’anza decision, 13:45
Modern European Union law, 13:38
Pre-Copyright Act of 1909, 13:40
Section 109(a), 13:44
Section 602, 13:39
Section 602(a)(1), 13:44
Section 602, generally, 13:34 to 13:47
Section 603, 13:47

IMPORTATION—Cont’d
Statutes, generally, 13:39 to 13:47
Supreme Court, L’anza decision, 13:45
TRIPS, international exhaustion, 13:37.50
U.S. law, 13:39, 13:40
U.S. law, generally, 13:39 to 13:47
WIPO treaties, 13:37

IMPORTER
Definition, 13:43

IMPOUNDMENT, SEIZURE, AND DESTRUCTION
Generally, 22:82 to 22:84
Copyright Act of 1909, 22:82
Copyright Act of 1976, 22:84
Destruction, generally, 22:87
Ex parte relief, seizure, generally, 22:85
History of statutory provisions, 22:82
Impoundment, generally, 22:86
Section 503, generally, 22:82 to 22:84
Section 509, generally, 22:82 to 22:84
Statutes, generally, 22:82
Supreme Court rules, 22:83

IMPROPER VENUE
Generally, 17:207

INCENTIVES
Government works, 4:59

INCIDENTAL FEEDS
Sound recordings, 14:90

INCIDENTAL, NONFORTUITOUS USES
Fair use defense, 10:70 to 10:72.25

INCIDENTAL REPRODUCTION
Fair use defense, 10:69
INDEX

INDEMNIFICATION
Preemption, 18:31, 18:33

INDEPENDENT COVENANT
Jurisdiction, 17:43

INDEPENDENT CREATION
Originality (this index)
Reproduction Right (this index)

INDEPENDENT ECONOMIC LIFE THEORY
Monetary damages, 22:190

INDEPENDENT LIABILITY
Vicarious liability, 21:80

INDEPENDENT SOURCE OF LAW
Choice of law, 25:33 to 25:35

INDEXES AND INDEXING
Fair use defense, 10:24 to 10:27.50
Noncopyrightable material, 4:10

INDIRECT PROFITS
Damages (this index)

INDISPENSABLE PARTIES
Joinder and Indispensable Parties (this index)

INDIVIDUAL LIABILITY
Vicarious liability, 21:81

INDIVISIBILITY
Licenses, 5:120

INDECUERCE
Vicarious liability, 21:79

INDUSTRY
Specific jurisdiction copyright cases, 17:170

INFERENCE
Reproduction right, 9:30

INFERENTIAL ACCESS
Reproduction right, 9:25

INFORMERCIALS
Motion pictures and other audiovisual works, 3:158

INFRINGEMENT
Advice of Register of Copyrights, 17:125.50
APA review, 17:95
Appeal and review, 17:95, 17:97
Architectural plans, 3:105
Attachment, 17:94
Author and authorship, 5:39, 17:61
Automatic Renewal Act of 1992, 17:117
Backwards-looking registrations, 17:89
Bad acts, defendant's, 17:82.50
Cancellation of registration after filing of suit, 17:85
Case law, 17:118
Certificate of registration. Subject-matter jurisdiction, below
Chevron case, 17:99
Choice of Law (this index)
Collective works, 17:91
Competing registrations, 17:120
Compilations, 17:112
Compliance, 17:82.50
Computer programs, 17:130
Constitutional law, 3:24
Contributory Infringement (this index)
Copies, 17:94, 17:119
Copyright Act of 1909, 1:66, 17:115
Copyright Act of 1976, 1:100, 17:116
Copyright Act of 1992, 17:118
Copyright Office
fraud on copyright office, 17:121 to 17:126
subject-matter jurisdiction, below
INFRINGEMENT—Cont’d
Copyright Reform Act of 1993, 17:80
Damages recovery against United States government, 22:101.25
Defendant’s bad acts, 17:82.50
Deposit copy, failure to supply correct, 17:87
Derivative works, 3:58, 12:12, 17:88, 17:112
Disclosure
derivative works and compilations, 17:112
trade secrets by filing with copyright office, 17:132.50
Display publicly, 15:4 to 15:7
Electronic databases, 3:68
Enforcement, 17:82
Evidence. Prima facie case, below
Exclusive rights in work, unauthorized exercise of, 17:63
Extraterritoriality, 25:87
Fair use defense, 10:8.25
False facts, 17:113
Formalities, 6:71, 6:75, 6:76, 17:64
Forwards-looking registrations, 17:90
Fraud, 17:121 to 17:126
Fraud on copyright office, 17:121 to 17:126
Group registrations, Section 408(c), 17:92
Images, works consisting of, Section 411(b), 17:86
Jurisdiction
arising under jurisdiction, 17:40
subject-matter jurisdiction, below
Jury determination, 17:124.50
Licenses, 5:143
Limitation of actions, ongoing infringement, 20:21 to 20:24
Mandamus, 17:95

INFRINGEMENT—Cont’d
Materiality, 17:123 to 17:125
Mead case, 17:101
Mistake and error, 17:121 to 17:125
Misuse, 17:121 to 17:125, 17:128
Multiple classes, 17:93.50
Notice, 17:91.50, 17:130
Permanent Injunctions (this index)
Personal jurisdiction, 17:158, 17:160
Pictorial, graphic, and sculptural works, 3:115.50
Pleading registration number, attachment of copy of, 17:94
Pleadings, 19:10
Post Reed Elsevier, Inc. v. Muchnick, recent subject-matter jurisdiction decisions, 17:83.60
Post-registration damages, 22:201.25
Preliminary Injunctions (this index)
Preparation of derivative works, infringement of right, 12:14.50
Preregistration, 17:81
Prima facie case
Reproduction Rights (this index)
subject-matter jurisdiction, 17:114 to 17:118
Records and recording. Subject-matter jurisdiction, below
Reed Elsevier, Inc. v. Muchnick, recent subject-matter jurisdiction decision, 17:83.50
Register of Copyrights, advice from, 17:125.50
Registration. Subject-matter jurisdiction, below
Renewal certificates. Subject-matter jurisdiction, below
Reproduction Rights (this index)
## INDEX

### INFRINGEMENT—Cont’d

- Rule-of-doubt registrations, 17:129 to 17:131
- Scenes a faire, 4:25
- Scope determinations, 17:106
- Scope of registration, 17:110
- Secondary liability, 21:40
- Section 408(a), 17:93
- Section 408(c), 17:92
- Section 410(c). Subject-matter jurisdiction, below
- Separability cases, 17:104
- Single work registrations, Section 408(a), 17:93
- Skidmore case, 17:100
- Sound recordings, 3:163, 11:17
- Sounds, works consisting of, Section 411(b), 17:86
- Standing to sue, 21:22
- Statutory formalities, compliance with, 17:64
- Subject-matter jurisdiction generally, 17:60 to 17:132.50
- authorship, protected work of, 17:61
- cancellation of registration after filing of suit, 17:85
- certificate of registration. Renewal certificates, below this group
- competing registrations, 17:120
- Copyright Act of 1790, 17:64.30
- Copyright Act of 1909, 17:64.40
- Copyright Act of 1976, legislative history, 17:64.50
- Copyright Office actions, standard of deference due generally, 17:98 to 17:106
- Chevron case, 17:99
- explanation of Office decision, 17:105
- general deference, 17:102
- Mead case, 17:101
- registration determinations, 17:103

### INFRINGEMENT—Cont’d

- Subject-matter jurisdiction —Cont’d
- Copyright Office actions, standard of deference due —Cont’d
- scope determinations, 17:106
- separability cases, 17:104
- Skidmore case, 17:100
- Supreme Court opinions, 17:98 to 17:101
- exclusive rights in work, unauthorized exercise of, 17:63
- before filing suit, Section 411(a), generally, 17:77 to 17:82.50
- Fourth Estate Public Benefit Corporation v. Wall-Street.com, LLC, 17:83
- jury trial, 17:124.50
- notification of filing of action, 17:91.50
- ownership of right sued upon, 17:62
- post Reed Elsevier, Inc. v. Muchnick, 17:83.60
- preConstitutional state statutes, 17:64.20
- recent jurisprudence, 17:83.50, 17:83.60
- records and recording, before filing suit, Section 411(a), generally, 17:77 to 17:82.50
- records and recording. Registration, below this group
- Reed Elsevier, Inc. v. Muchnick, 17:83.50
- registration generally, 17:77 to 17:82.50
- accuracy of public record, 17:122
- action to cancel, 17:108
- actual registration or rejection requirement, 17:78
- APA review, 17:95

© 2019 Thomson Reuters, Rel. 24, 9/2019
INFRINGEMENT—Cont’d
Subject-matter jurisdiction—Cont’d
registration—Cont’d
appeal and review, 17:95, 17:97
backwards-looking registrations, 17:89
Berne Convention Implementation Act, 17:79
cancellation of registration after filing of suit, 17:85
certificate of registration, attachment of copy of, 17:94
certificate of registration, subsequently obtaining, 17:84
collective works, 17:91
competing registrations, 17:120
compliance, 17:82.50
computer programs, 17:130
deposit copy, failure to supply correct, 17:87
derivative works, 17:88
enforcement, 17:82
forwards-looking registrations, 17:90
fraud on Copyright Office, 17:121 to 17:126
group registrations, Section 408(c), 17:92
historical requirements, generally, 17:64.10
images, works consisting of, Section 411(b), 17:86
immaterial errors, 17:123, 17:125
jury trial, 17:124.50
mandamus, 17:95
material errors, 17:124, 17:125

INFRINGEMENT—Cont’d
Subject-matter jurisdiction—Cont’d
registration—Cont’d
mistake and error, 17:121 to 17:125
misuse, 17:128
1983 notice of inquiry, 17:130
1993 Copyright Reform Act, 17:80
notification of filing of action, 17:91.50
patent bar, 17:132.60
pleading registration number, attachment of copy of, 17:94
preregistration, 17:81
refusal to register, 17:95 to 17:97
renewal certificates, below this group requirement from 1710-1909, 17:64.10
rule-of-doubt registrations, 17:129 to 17:131
single work registrations, Section 408(a), 17:93
sounds, works consisting of, Section 411(b), 17:86
statutory formality, 17:64
supplementary registration, 17:132
trade secret disclosure, 17:132.50
unclean hands, 17:125, 17:127
unclean hands, and misuse, 17:121 to 17:125
validity, 17:107
validity of copyright and facts stated in certificate, Section 410(c), below this group registration determinations, 17:103
INDEX

INFRINGEMENT—Cont’d
Subject-matter jurisdiction
—Cont’d
registration requirement from
1710-1909, generally,
17:64.10
renewal certificates
generally, 17:114 to 17:118
Automatic Renewal Act of
1992, 17:117
case law, 17:118
Copyright Act of 1909,
17:115
Copyright Act of 1976,
17:116
Copyright Act of 1992,
17:118
prima facie status, 17:114 to
17:118
Section 411(a), before filing
suit, generally, 17:77 to
17:82.50
1710-1909 registration require-
ment, generally, 17:64.10
state statutes before Constitu-
tion, 17:64.20
statutory formalities, compli-
ance with, 17:64
validity of copyright and facts
stated in certificate, Section
410(c)
generally, 17:109 to 17:113
compilations, 17:112
derivative works, 17:112
disclosure of derivative
works and compilations,
17:112
facts, 17:111
false facts, 17:113
scope of registration, 17:110
Supplementary registration,
17:132
Supreme Court opinions, 17:98 to
17:101
Technological protection measures
and copyright rights manage-
ment information, 16A:4.50

INFRINGEMENT—Cont’d
Title and ownership, 17:62
Trade secrets, disclosure by filing
with copyright office,
17:132.50
Unclean hands, 17:121 to 17:125,
17:127
Uruguay Round Agreements Act,
24:40, 24:44
Validity. Subject-matter jurisdis-
tion, above
Work of an infringing derivative
work, 12:16.10

IN RE AIMSTER COPYRIGHT
LITIGATION
Contributory infringement, 21:60
Vicarious liability, 21:76

INJUNCTIVE RELIEF
Permanent Injunctions (this
index)
Pre-1976 Copyright Acts, 22:3,
22:4
Preliminary Injunctions (this
index)
Remedies, 22:6
Section 411(a), 22:6
Visual Artists Rights Act of 1990,
16:46

INLINE LINKING
Derivative works, 12:17 to 12:19

INNOCENCE
Formalities, 6:71, 6:75, 6:76
Monetary damages, 22:177,
22:178

“IN NO OTHER MANNER”
Computer programs, 11:38

INPUT AS MAKING COPY
Computer programs, 11:36

INSOLVENCY
Preliminary injunctions, 22:40

INSTANCE AND EXPENSE
TEST
Work made for hire, 5:70, 5:87
INSTRUCTION
Public Performance (this index)

INSTRUCTIONAL DISPLAYS
Display publicly, 15:11

INSTRUCTIONAL SECONDARY TRANSMISSIONS
Section 111(a), 14:68

INSTRUMENTALITIES
Work made for hire, 5:56

INSURANCE
Fair use defense and insurance claims, 10:73.40

INTANGIBLE PROPERTY
Choice of law, 25:11
Title and ownership, 5:97

INTEGRITY
Visual Artists Rights Act of 1990 (this index)

INTELLECTUAL PROPERTY PROTECTION
AMENDMENT OF 2004
Generally, 1:112

INTELLECTUAL PROPERTY TORTS
Personal jurisdiction, 17:167

INTENDED AUDIENCE
Reproduction right, 9:70

INTENT
Joint Authorship (this index)
Personal jurisdiction, 17:160, 17:167
Preemption, 18:20
Reproduction right, 9:5, 9:100
Uruguay Round Agreements Act, 24:42, 24:45, 24:49, App 24-B
Visual Artists Rights Act of 1990, 16:19, 16:22

INTERACTIVE SERVICES
Sound recordings, 14:92, 14:95

INTERDEPENDENT AND INSEPARABLE JOINT WORKS
Author and authorship, 5:6

INTERFERENCE
Preemption, 18:30

INTERIM AMENDMENT
Copyright Act of 1909, 1:50

INTERIM EXTENSIONS
Copyright Act of 1976, 7:28

INTERIM INJUNCTION
Generally, 22:7

INTERNAL REVENUE SERVICE
Liens, Copyright Act of 1976, 5:150

INTERNATIONAL ACTS AND MATTERS
See also index topics beginning Foreign
Choice of law, 25:32 to 25:35
Copyright Act of 1909 amendments, 1:49
First Copyright Act revisions, 1:38
International amendments of 1914, 1:49
International Copyright (this index)
Personal jurisdiction, 17:143 to 17:146
TRIPS (this index)
Uruguay Round Agreements Act (this index)
WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998, 6:81

INTERNATIONAL COPYRIGHT
Generally, 23:1 to 23:76
Ad Interim Act of 1905, 23:7
Amendments, 23:12, 23:15
Andean Trade Preference Act, 23:69
INTERNATIONAL COPYRIGHT
—Cont’d
Berne Convention Implementation Act of 1988 (this index)
Bilateral agreements, 23:71
Brussels Satellite Convention, 23:14
Buenos Aires Convention of 1910, 23:9
CAFTA-DR, 23:70
Canada, 23:54
Caribbean Basin Economic Recovery Act (CBI), 23:50
Chace Act, 23:4
Competition, 23:53
Contracts and agreements, 23:71
Copyright Act of 1909, 23:8
Copyright Act of 1976 as amended, 23:15
Customs service and Section 603, 23:73, 23:74
European Union, 23:76
Foreign authors. U.S. protection of foreign authors, below
Formalities, 6:27
General Agreement on Tariffs and Trade (GATT), 23:56
Generalized System of Preferences (GSP), 23:51
Geneva Phonograms Convention, 23:13
International Copyright Act of 1891, 1:38
International Trade and Investment Act of 1984, 23:52
International trade commission, 23:75
Investments, 23:52
Louisiana Purchase Exposition Act of 1904, 23:6
Manufacturing clause, 23:72
Mexico City Copyright Convention of 1902, 23:5
North American Free Trade Agreement (NAFTA), 23:55
Omnibus Trade and Competitiveness Act of 1988, 23:53

INTERNATIONAL COPYRIGHT
—Cont’d
Phonograms, 23:13
Regional trade agreements, 23:69 to 23:71
Section 337 actions, 23:75
Section 603, 23:73, 23:74
Self-executing, 23:1.50
Tariffs, 23:56
Trade legislation generally, 23:49 to 23:68
international agreements generally, 23:49 to 23:56
Caribbean Basin Economic Recovery Act (CBI), 23:50
General Agreement on Tariffs and Trade (GATT), 23:56
Generalized System of Preferences (GSP), 23:51
International Trade and Investment Act of 1984, 23:52
Omnibus Trade and Competitiveness Act of 1988, 23:53
United States-Canada Free Trade Agreement (CFTA), 23:54

TRIPS (this index)
TRIPS (this index)
United States-Canada Free Trade Agreement (CFTA), 23:54
Universal copyright convention, 23:11, 23:12
U.S. International Trade Commission, Section 337 actions, 23:75
U.S. protection of foreign authors generally, 23:1 to 23:15
Ad Interim Act of 1905, 23:7
Berne Convention, 23:10
INTERNATIONAL COPYRIGHT
—Cont’d
U.S. protection of foreign authors
—Cont’d
Brussels Satellite Convention,
23:14
Buenos Aires Convention of 1910, 23:9
Chace Act, 23:4
Copyright Act of 1909, 23:8
Copyright Act of 1976 as amended, 23:15
1837-1891, 23:3
Geneva Phonograms Convention, 23:13
Louisiana Purchase Exposition Act of 1904, 23:6
Mexico City Copyright Convention of 1902, 23:5
revision to universal copyright convention, 1971, 23:12
universal copyright convention, 23:11, 23:12
WIPO Treaties (this index)
INTERNATIONAL COPYRIGHT
ACT OF 1891
Distribution of copies of work, 13:6.50
First Copyright Act revisions, 1:38
INTERNATIONAL SCOPE
Choice of law, 25:40
INTERNATIONAL TORTS AND EFFECTS TEST
Specific jurisdiction, 17:161
INTERNATIONAL TRADE AND INVESTMENT ACT OF 1984
International copyrights, 23:52
INTERNATIONAL TRADE COMMISSION
International copyright, 23:75
INTERNET
Cable television and other secondary transmissions, streaming
INTERNET—Cont’d
of television programming, 14:79.50
Choice of law, simultaneous publication on Internet, 25:18.50
Contributory Infringement (this index)
Derivative works, 12:17 to 12:19
Fair use defense, 10:27.50, 10:60
Formalities, simultaneous publication, 6:55.40
Personal Jurisdiction (this index)
Public performance, Internet streaming, 14:79.50
Simultaneous publication on Internet, 6:55.40, 25:18.50
Sound recordings, webcasting rates, 14:89.50
Strict liability, 21:39
Vicarious Liability (this index)
INTERNET SEARCH ENGINES
Fair use defense, 10:27.50
INTERPLEADER
Generally, 17:197
INTERVENTION
Joinder and indispensable parties, 21:35
INTERVIEWS
Author and authorship, 5:19
INVERSE RATIO THEORY
Reproduction rights, 9:91
INVESTMENTS
International copyrights, 23:52
IOWA STATE UNIVERSITY RESEARCH FOUNDATION v. AMERICAN BROADCASTING COS.
Fair use defense, 10:45
IRREPARABLE HARM
Preliminary Injunctions (this index)
ITALY
Formalities, 6:16

ITAR - TASS RUSSIAN NEWS AGENCY v. RUSSIAN KURIER, INC.
Choice of law, 25:31, 25:44

JACOBSEN v. DESERET BOOK CO.
Substantial similarity, 9:257

JANMARK CASE
Personal jurisdiction, 17:169

JCW INVESTMENT, INC. v. NOVELTY, INC.
Substantial similarity, 9:223.50

JEFFREY v. BOOSEY
England and Statute of Anne, 1:10

JEWEL - LASALLE REALTY COMPANY v. BUCK
Construction and interpretation, 2:39

JEWELRY
Generally, 3:148

J. MCINTYRE MACHINERY, LTD. v. NICASTRO
Personal jurisdiction over nonresidents, 17:146.50

JOHNS & JOHNS PRINTING CO. v. PAULL - PIONEER V. MUSIC CORP.
Substantial similarity, 9:227

JOHNSON v. AUTOMOTIVE VENTURES
Substantial similarity, 9:183

JOHNSON v. GORDON
Substantial similarity, 9:136

JOINDER AND INDISPENSABLE PARTIES
Generally, 21:32 to 21:36
Defendants, 21:36
FRCP 19, 21:34

JOINDER AND INDISPENSABLE PARTIES — Cont’d
FRCP 24, 21:35
FRCP Section 501(b), 21:33 to 21:35
Intervention, FRCP 24, 21:35
Section 501(b), generally, 21:33 to 21:35

JOINT AND SEVERAL LIABILITY
Costs of action, 22:222.50

JOINT AUTHORSHIP
Generally, 5:4 to 5:43.50
Affirmative defense, 5:43.50
Childress case, 5:15, 5:16
Contribution as independently copyrightable, 5:15
Definitions, 5:4
Derivative works, 5:43, 12:23
Discovery accrual, 5:41.50
Economic consequences generally, 5:7 to 5:11
accounting claims, 5:9
controlled composition clauses, 5:8
waste, implied negative covenants, and fiduciary relation, 5:10, 5:11
Fiduciary relationship, 5:13
Intent generally, 5:20 to 5:31
billing, 5:25
credit, 5:25
dominant author theory, 5:24
nature of requirement, 5:21
objective criteria, generally, 5:22 to 5:27
physical proximity, 5:30
proper approach to determining, 5:29
question of fact, 5:31

© 2019 Thomson Reuters, Rel. 24, 9/2019
Index-91
JOINT AUTHORSHIP—Cont’d
Intent—Cont’d
registration with Copyright Office, 5:27
relative contributions of parties and decision-making authority over work, 5:23
subjective intent, 5:28
written agreements, 5:26
Interdependent and inseparable joint works, 5:6
Interviews, 5:19
Joint ventures, 5:12
Joint works and collective works contrasted, 5:5
Limitation of actions generally, 5:32 to 5:42
accretion in ownership claims, 5:41
case law, generally, 5:35 to 5:40
infringement, 5:39
Kling v. Hallmark Cards, Inc., 5:40
legislative history of Section 507(b), 5:34
Merchant v. Levy, 5:37, 5:38
obviousness of owners, Kling v. Hallmark Cards, Inc., 5:40
Section 507(b), 5:33, 5:34
tolling and ownership claims, 5:42
Zuill v. Shanahan, 5:36, 5:38
Motion pictures, 5:18.10
Nature of requisite expression, 5:18
Non-joint authors who contribute expression, 5:17
Originality, 5:14 to 5:16
Relative contributions of parties and decision-making authority over work, 5:23
Sonny Bono Copyright Term Extension Act, 7:54
Violation accrual, 5:41.50

JOINT OR SEVERAL RECOVERY
Monetary damages, 22:198.50

JOINT OWNERSHIP
Pictorial, graphic, and sculptural works, 3:119

JOINT VENTURES
Author and authorship, 5:12

JOINT WORKS
Author and authorship, 5:5
Government works, 4:78

JOLLIE v. JAQUES
Reproduction right, 9:112

JONES v. BLIGE
Substantial similarity, 9:209.50

JONES v. R.R. DONNELLY & SONS CO.
Subject-matter jurisdiction, 17:20

JORGENSEN v. EPIC/SONY RECORDS
Substantial similarity, 9:164

JUDGE NEWMAN’S LITERARY WORK v. GRAPHIC WORK DISTINCTION
Noncopyrightable material, 4:38

JUDGMENT
Attorneys’ Fees (this index)
Fair use defense, 10:159
Jurisdiction, 17:49, 17:49.50, 17:50
Limitation of actions, 20:56
Monetary damages, 22:183
Personal jurisdiction, 17:191 to 17:193
Preliminary injunctions, 22:40
Reproduction right, 9:40, 9:87

JUDGMENT AS A MATTER OF LAW
Fair use defense, 10:159
INDEX

JUDGMENT ON THE PLEADINGS
Fair use defense, 10:159

JUDICIAL INTERPRETATIONS
Motion pictures and other audiovisual works, 3:157

JUDICIAL ORIGINS OF DOCTRINE
Distribution of copies of work, 13:18

JUKEBOX—Cont’d
Private home viewing, 14:105 to 14:121
Public broadcasting, Section 118, 14:104
Publicly perform, right to, generally, 14:99 to 14:121
Rates, 14:119, 14:120
Recreational vehicles, Section 119(d)(11), 14:114
Reduction in rates, 1999, 14:119
Right to publicly perform, generally, 14:99 to 14:121
Satellite carriers, 14:105 to 14:121
Secondary transmissions of superstations and network stations by satellite carriers to public for private home viewing, generally, 14:105 to 14:121
Section 118, 14:104
Section 119, 14:115
Section 119(a)(5), 14:121
Section 119(d)(11), 14:114
Section 119(e), 14:113
Superstations, 14:105 to 14:121
Terminated service, 14:113
Territorial restrictions, violation of, Section 119(a)(5), 14:121
Transmissions, 14:105 to 14:121
Trucks, Section 119(d)(11), 14:114
2004 negotiated rate, 14:120
Unserved household limitation, 14:112
Unserved household status, determination of, 14:116, 14:117

JURISDICTION
Generally, 17:1 to 17:223
Ancillary issues. Pendent and ancillary issues, below
Arbitration, 17:59
Arising under jurisdiction.

Subject Matter Jurisdiction
(this index)
JURISDICTION—Cont’d
Article III, 17:49, 17:50
Case or controversy, 17:49,
17:49.50, 17:50
Choice of law, 25:85
Colorado River case, 17:57 to
17:59
Declaratory judgment, 17:49,
17:49.50, 17:50
Deferral and arbitration, 17:59
Federal Question Jurisdiction
(this index)
Finley case, 17:56
First Copyright Act revision of
1819, 1:22
First Copyright Act revision of
1873, 1:34
First-to-file rule, 17:50
Foreign claims, 17:55
Foreign litigation, 17:57 to 17:59
Gibbs case, supplemental jurisdic-
tion, 17:54
Green v. Hendrickson Publishers,
Inc. state court jurisdiction,
17:51
Hierarchy of jurisdictional analy-
sis, 17:3
Hypothetical jurisdiction, 17:2
Judgment, 17:49, 17:49.50, 17:50
Native American tribal decision,
17:57.50
Party jurisdiction, 17:56
Pendent and ancillary issues
generally, 17:52 to 17:56
pendent foreign claims, 28
USCA 1367(c)(3), 17:55
pendent party jurisdiction,
Finley case, 17:56
supplemental jurisdiction, 17:53
to 17:54.50
Pendent foreign claims, 28 USCA
1367(c)(3), 17:55
Pendent party jurisdiction, Finley
case, 17:56
Pending acts and matters, 17:57 to
17:59
Personal Jurisdiction (this index)

JURY TRIAL
Fair use defense, 10:3
Infringement, subject-matter juris-
diction, 17:124.50
Monetary damages, 22:149,
22:164 to 22:167

JUST REWARD
Distribution of copies of work,
13:17

KARAOKE
Fair use defense, 10:72.50
KAY BERRY, INC. v. TAYLOR
GIFTS, INC.
Substantial similarity, 9:173
KEELE BRASS CO. v.
CONTINENTAL BRASS CO.
Substantial similarity, 9:180
KEENE v. WHEATLEY
Reproduction right, 9:110
KEEP THOMSON GOVERNOR
COMMITTEE v. CITIZENS
FOR GALLEN
COMMITTEE
Fair use defense, 10:128
INDEX

KEPNER - TREGOE, INC. v. LEADERSHIP SOFTWARE, INC.
Substantial similarity, 9:189

KIRTSANG v. JOHN WILEY & SONS, INC.
Construction and interpretation, 2:59.20

KLING v. HALLMARK CARDS, INC.
Joint authorship, 5:40
Limitation of actions, 5:40, 20:42

KNITWAVES, INC. v. LOLLYTOGS, LTD.
Substantial similarity, 9:155

KOHUS v. MARIOL
Substantial similarity, 9:203

KROFFT DECISION
Substantial similarity, 9:236

LABELS
Copyright Act of 1909 amendments, 1:54
Pictorial, graphic, and sculptural works, 3:120
Preemption, 18:17
Prints and Labels Act of 1939, 1:54

LABOR RELATIONS

LACHES
Limitation of Actions (this index)

LAMPS
Pictorial, graphic, and sculptural works, 3:154

LANDLORD - TENANT LINE OF DECISIONS
Vicarious liability, 21:64

LANGMAN FABRICS v. GRAFF CALIFORNIAWEAR
Substantial similarity, 9:159

LANHAM ACT
Double recovery, 22:113
Preemption, 18:50

L'ANZA DECISION
Importation, 13:45

L.A. PRINTEX INDUSTRIES, INC. v. AEROPOSTALE, INC.
Substantial similarity, 9:247.20

LAPSLEY v. AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS
Substantial similarity, 9:273

LA RESOLANA ARCHITECTS, PA v. RENO, INC.
Substantial similarity, 9:257.60

L.A. WESTERMANN CO. v. DISPATCH PRINTING COMPANY
Construction and interpretation, 2:38

LAWRENCE v. DANA
Reproduction right, 9:109

LAW VS EQUITY
Fair use defense, 10:3

LAYOUT
Noncopyrightable material, 4:11, 4:11.50, 4:13

LEASES
Vicarious liability, 21:64

LEGISLATIVE HISTORY
History (this index)

LEGISLATIVE REPORTS
Actual damages and profits, 1976
Copyright Act, 22:98
Fair Use Defense (this index)

LEIBOVITZ v. PARAMOUNT PICTURES
Fair use defense, 10:33

© 2019 Thomson Reuters, Rel. 24, 9/2019
LEIGH v. WARNER BROS., INC.
Substantial similarity, 9:264

LEWIS v. KROGER CO.
Substantial similarity, 9:176

LIBRARIES
Generally, 11:2 to 11:7
Case law, 11:7
Copyright Act of 1976 amendments, 1:103
Digital Millennium Copyright Act, 11:6
Distribution of copies of work, 13:14
Library of Congress (this index)
1983 Report of Register of Copyrights, 11:4
1988 Report of Register of Copyrights, 11:5
Photocopying, generally, 11:2 to 11:7
Register of Copyrights, reports of, 11:4, 11:5
Reports of Register of Copyrights, 11:4, 11:5
Reproduction right, 9:31
Section 107, relation with Section 108, 11:3
Section 108, generally, 11:2 to 11:7
Section 108 Study Group report, 11:8.50

LIBRARY OF CONGRESS
Copyright Act of 1790 revisions, 6:25
Deposit amendment of 1867, 1:32
1867 Library of Congress deposit amendment, 1:32
First Copyright Act revisions, 1:32
Formalities, 6:11, 6:25
Section 108 Study Group report, 11:8.50
Statement by Librarian relating to Section 1201 rulemaking, App 16A-A

LICENSE FEES
Cable television and other secondary transmissions, 14:76 to 14:78

LICENSES AND LICENSING
Generally, 5:118 to 5:157
Abandonment, 5:154, 5:155
Administration rights, 5:125
Affirmative defense, 5:118
Agency rights, 5:125
Assignment, 5:112, 5:129
Bankruptcy, priority in cases, 5:149
Beneficial ownership, 5:152
Cable television and other secondary transmissions, 14:73, 14:74
Champerty, 5:136
Collective works. Contribution to collective works, below
Compulsory Licenses and Licensing (this index)
Conditions on and use outside scope of exclusive license, 5:126
Conflicting transfers, 5:146 to 5:148
Construction and interpretation assignment under federal or state law, 5:129
contribution to collective works, below
divisibility under 1976 Copyright Act, 5:123
Section 201(c) privilege, generally, 5:137 to 5:143
standing under 1976 Copyright Act, 5:123
Constructive trust ownership, 5:153
Contracts and agreements, 5:125
Contribution to collective works construction and interpretation, generally, 5:139 to 5:143
INDEX

LICENSES AND LICENSING —Cont’d
Contribution to collective works —Cont’d
freelancers, 5:140
Greenberg v. National Geographic Society, 5:142.95
infringement, 5:143
legislative history of Section 201(c), 5:142 to 5:142.90
nature of privilege, 5:138
nontransferable privilege, 5:141
publishers, 5:141
Section 201(c) privilege, generally, 5:137 to 5:143
third parties, 5:140
Co-owners, 21:38.50
Copyright Act of 1909 and indivisibility, 5:120
Copyright Act of 1976 (this index)
Defense, 5:118
Distribution of copies of work, 13:23
Divisibility, 1976 Copyright Act, 5:121 to 5:123
Evidence, 5:130
Exclusive License (this index)
Exclusive rights, 5:119 to 5:121, 5:147, 8:5
Existence, 5:133
Extrinsic evidence, use of, 5:130
Fair use defense, 10:152
Federal law, 5:129
Final committee reports, 5:142.90
Final version of 1965 bill, 5:142.80
First refusal, rights of, 5:125
Foreign transfers, Section 204(b), 5:135
Forfeiture, 5:154, 5:156
Freelancers, 5:140
Greenberg v. National Geographic Society, 5:142.95
History, 5:122, 5:142 to 5:142.90

LICENSES AND LICENSING —Cont’d
House Judiciary Committee Report, 1966, 5:142.80
Implied licenses, 5:131, 5:132
Indivisibility, 5:120
Infringement, 5:143
IRS liens, 5:150
Jukebox (this index)
Jurisdiction, 17:43
Legislative history, 5:122, 5:142 to 5:142.90
Liens and encumbrances, 5:150
Monetary damages, 22:111
Nonexclusive license, 5:127, 5:128, 5:148
Options, 5:125
Perpetual licenses, 5:134
Personal jurisdiction, 17:180 to 17:182
Phonorecords (this index)
Pre-Copyright Act of 1909, 5:119
Preliminary Draft Bill, 1963, 5:142.60
Priority, 5:146 to 5:148
Privileges. Contribution to collective works, above
Public broadcasting compulsory license, Section 118, 11:45
Publishers, 5:141
Recordation of transfers of ownership, Section 206, 5:144
Records and recording, 5:146 to 5:148
Register’s 1961 report and recommendations, 5:142.50
Register’s Supplementary Report, 5:142.80
Revision bills and revisions, 1964, 5:142.70
Revocation, 5:124, 5:128, 5:132
Royalties, agreements to share, 5:125
Scope of license versus existence, 5:133
Section 201(c). Contribution to collective works, above

© 2019 Thomson Reuters, Rel. 24, 9/2019
LICENSES AND LICENSING
—Cont’d
Section 204(b), 5:135
Section 205(d), 5:147, 5:148
Section 206, 5:144
Sound Recordings (this index)
Standing to sue, 5:121, 5:123,
21:13
State law, 5:129
Statutes, 5:118.50
Third parties, 5:140
Transfer of interest, 5:103
Transfers, 5:118.50, 5:121 to
5:123
Trusts, 5:153
Types, generally, 5:118 to 5:121
Waiver, 5:154, 5:157
LICENSING ACT OF 1692
England and Statute of Anne, 1:9
LIENS AND ENCUMBRANCES
Licenses, Copyright Act of 1976,
IRS liens, 5:150
LIFE OF ARTIST
Exclusive rights, 3:20.50
Visual Artists Rights Act of 1990,
16:40
LIKELIHOOD OF SUCCESS ON
MERITS
Preliminary injunctions, 22:60,
22:61
LIMITATION OF ACTIONS
—Cont’d
Concealment, 20:50
Construction of Section 507(b)
generally, 20:15 to 20:32
accrual of claim, 20:17 to 20:20
commencement of action, 20:16
continuing violations, 20:22,
20:27 to 20:32
Copyright Act of 1909, continuing
violations, 20:28
Copyright Act of 1976, 20:31
Copyright Act of 1976, continuing
violations, 20:29,
20:30
discovery accrual, 20:17 to
20:20
discrete copying, 20:26
ongoing infringement, 20:21 to
20:24
post-Taylor case, 20:31, 20:32
separate accrual rule, 20:23
Taylor v. Meirick, 20:30
violation accrual, 20:17 to
20:20
Continuing violations, 20:27 to
20:32
Continuing wrong theory of third-
party acts, 20:34
Contractors, 20:45
Copying, 20:26
Copyright Act of 1790, 20:7
Copyright Act of 1831, 20:8
Copyright Act of 1870, 20:9,
20:10
Copyright Act of 1909, 1:65,
20:11, 20:28
Copyright Act of 1957, 20:12
Copyright Act of 1976, 20:13,
20:14, 20:29 to 20:31
Declaratory judgment of ownership,
20:42.50
Defense, 20:42.50
Discovery accrual, 20:17 to 20:20,
20:43
Discrete copying, 20:26
Duress, 20:52

Index-98
LIMITATION OF ACTIONS
—Cont’d
Equitable doctrines invoked by defendants
generally, 20:53 to 20:58
equitable estoppel, 20:57, 20:58
laches, generally, 20:54 to 20:57
summary judgment, 20:56
Equitable doctrines invoked by plaintiffs
generally, 20:49 to 20:52
children and minors, 20:52
duress, 20:52
equitable estoppel, 20:51
fraudulent concealment, 20:50
mental incompetence, 20:52
tolling, 20:49
Equitable estoppel, 20:51, 20:57, 20:58
Federal statute, 20:42.60
Fifth circuit, accrual, 20:33
Fraudulent concealment, 20:50
History, generally, 20:5 to 20:32
Joint Authorship (this index)
Judgment, 20:56
Kling v. Hallmark Cards, Inc., 20:42
Laches. Equitable doctrines invoked by defendants, above
Mental incompetence, 20:52
Merchant v. Levy, 20:38
Non-obvious owners, Kling v. Hallmark Cards, Inc., 20:42
Obviousness, 20:42
Ongoing infringement, 20:21 to 20:24
Ownership claims generally, 20:35 to 20:44
accounting of profits, 20:42.60
LIMITATION OF ACTIONS
—Cont’d
Ownership claims—Cont’d
accrual of ownership claim, 20:43
case law, generally, 20:36
declaratory judgment of ownership, 20:42.50
defense, 20:42.50
federal statute, 20:42.60
Kling v. Hallmark Cards, Inc., 20:42
Merchant v. Levy, 20:38
non-obvious owners, Kling v. Hallmark Cards, Inc., 20:42
Seven Arts Filmed Entertainment Limited v. Content Media Corporation, 20:39.50
tolling of ownership claim, 20:44
Zuill v. Shanahan, 20:37 to 20:41
Pleadings, 19:12
Preemption of state savings statutes, 20:48
Relation back, 20:46
Remedial nature of copyright statute, 20:4
Review of rulings, 20:1.70
Secondary liability, 20:45.50
Section 411(a), 20:46.50
Section 507(b), 1976 Copyright Act, 20:13, 20:14
Separate accrual rule, 20:23
Seven Arts Filmed Entertainment Limited v. Content Media Corporation, 20:39.50
State savings statutes, 20:48
State statutes, 20:6
Statute, generally, 20:3
Summary judgment, 20:56
Taylor v. Meirick, 20:30
Third parties, 20:34
Title and ownership. Ownership claims, above
LIMITATION OF ACTIONS
—Cont’d
Tolling, 20:44, 20:49
Types of statutes, 20:2
United States Government and its contractors, suits against, 20:45
Variation of limitations period, 20:47
Violation accrual, 20:17 to 20:20, 20:43
Work made for hire, 5:81
Zuill v. Shanahan, 20:37 to 20:41

LIMITATIONS AND RESTRICTIONS
Berne Convention Implementation Act of 1988, Article 2, 23:18
Cable television and other secondary transmissions, 14:73
Choice of law, 25:57
Constitutional Law (this index)
Copyright Act of 1976 amendment, 1:100
Derivative works, 3:58
Display Publicly (this index)
Distribution of copies of work, 13:24, 13:54
Exclusive Rights (this index)
Jukebox, 14:112, 14:121
Monetary damages, 22:99
Personal jurisdiction, 17:146
Pictorial, Graphic, and Sculptural Works Embodied in Useful Articles (this index)
Public Performance (this index)
Sound recordings, 14:82 to 14:85
Standing to sue, 21:16
TRIPS, Article 13, 23:66

LIMITED PUBLICATION
Formalities, 6:31, 6:50

LINKING
Derivative works, 12:17 to 12:19

LINKING—Cont’d
Display publicly, 15:7

LISTS
Reproduction right, 9:76

LITERAL SIMILARITY
Reproduction right, 9:90

LITERARY WORKS
Generally, 3:61 to 3:63
Berne Convention Implementation Act of 1988, Article 14, 23:34
Copyrightable material, generally, 3:61 to 3:63
Copyright Act of 1909 amendments, nondramatic literary works amendment of 1952, 1:62
Definition, 3:61
Dramatic works, 3:62
Exclusive rights, 8:19
Narratives, 3:63
Nondramatic vs. dramatic works, 3:62
Nonfiction narratives, 3:63
Public performance for blind and other handicapped individuals, 14:48

LITIGATION MATERIALS AND USE
Fair use defense, 10:73
Government works, 4:85

LIVE MUSICAL PERFORMANCES
Uruguay Round Agreements Act (this index)

LLC v. AT&T MOBILITY, LLC
Contributory infringement, 21:61.50
Vicarious liability, 21:77.60

LOCAL GOVERNMENT
Government works, 4:81

Index-100
INDEX

LOCAL LAWS
Pictorial, graphic, and sculptural works, 3:113

LOCAL SERVICE AREA
Cable television and other secondary transmissions, 14:62

LOCAL SIGNALS
Display publicly, 15:17

LOCAL TO LOCAL
Public performance, 14:122

LOCATION AND PLACE
Distribution of copies of work, place of sale, 13:22.50
Formalities, 6:62
Work made for hire, 5:57

LOGOS
Visual Works (this index)

LOS ANGELES NEWS SERVICE v. CBS BROADCASTING
Fair use defense, 10:80

LOS ANGELES NEWS SERVICE v. CONUS COMMUNICATIONS CO. LTD.
Extraterritoriality, 25:101

LOS ANGELES NEWS SERVICE v. KCAL - TV CHANNEL 9
Fair use defense, 10:78

LOS ANGELES NEWS SERVICE v. REUTERS TELEVISION INTERNATIONAL
Fair use defense, 10:79

LOS ANGELES NEWS SERVICE v. TULLO
Fair use defense, 10:77

LOST LICENSING FEES
Monetary damages, 22:111

LOTUS DEVELOPMENT CORP. v. BORLAND AND INTERNATIONAL, INC.
Computer programs, 3:91
Substantial similarity, 9:131

LOUISIANA PURCHASE EXPOSITION ACT OF 1904
First Copyright Act, 1:42
International copyright, 23:6

LOWER COURTS
Computer programs, 3:85

LYONS PARTNERSHIP, L.P. v. MORRIS COSTUMES, INC.
Substantial similarity, 9:182

MACHINE
Computer programs, reproduction right exception, 11:39

MAINTENANCE AND REPAIR
Computer programs, 11:44
Copyright Act of 1976, 1:101

MAI v. PEAK, COMPUTER MAINTENANCE AND REPAIR
Copyright Act of 1976, 1:101

“MAKE AVAILABLE”
Distribution rights, 13:11.50

MANAGEMENT OF RIGHTS
Technological Protection Measures and Copyright Rights Management Information (this index)

MANAGEMENT RIGHTS
Standing to sue, 21:21

MANDAMUS
Infringement, 17:95

MANDATORY INJUNCTIONS
Preliminary injunctions, 22:71

MANUFACTURING
Copyright Act of 1909 amendments, 1:61
MANUFACTURING—Cont’d
  Formalities, 6:14
  International copyright, 23:72

MAPS
  Pictorial, graphic, and sculptural works, 3:117

MARCUS v. ROWLEY
  Fair use defense, 10:105

MAREK v. CHESNY
  Attorneys’ fees, 22:216 to 22:218

MARIGOLD FOODS, INC. v. PURITY DAIRIES, INC.
  Substantial similarity, 9:199

MARKET
  Fair Use Defense (this index)
  Monetary damages, 22:105, 22:106
  Preliminary injunctions, 22:41, 22:51

MARKING
  Visual Artists Rights Act of 1990, 16:14

MARRIED WOMEN’S CONTRACTS
  Choice of law, 25:66

MASKS
  Pictorial, graphic, and sculptural works, 3:152

MASK WORKS
  Rental rights, 13:31

MASTERCARD INTERNATIONAL INC. v. NADER 2000 PRIMARY COMMITTEE, INC.
  Fair use defense, 10:35, 10:132.50

MATERIAL AMOUNT OF EXPRESSION
  Reproduction Right (this index)

MATERIAL BREACH
  Preemption, 18:29

MATERIAL CONTRIBUTION
  Contributory infringement, 21:48, 21:48.50

MATERIALITY
  Infringement, 17:123 to 17:125
  Reproduction right, 9:65

MATHEWS CONVEYER CO. v. PALMER - BEE CO.
  Substantial similarity, 9:195

MATTEL, INC. v. MGA ENTERTAINMENT, INC.
  Substantial similarity, 9:247.10

MAXTONE - GRAHAM v. BURTCHAELL
  Fair use defense, 10:62

“MAY”
  Construction and interpretation, 2:63

MAZER v. STEIN
  Construction and interpretation, 2:42
  Pictorial, graphic, and sculptural works, 3:131
  Substantial similarity, 9:124

MEAD CASE
  Infringement, 17:101

MECHANICAL COMPULSORY LICENSE
  Berne Convention Implementation Act of 1988, Article 13, 23:33

MECHANICAL LICENSES
  Personal jurisdiction, 17:181, 17:182

MEDIA NEUTRALITY
  Fair use, 10:157.20

MEEROPOL v. NIZER
  Fair use defense, 10:43

MENTAL INCOMPETENCE
  Limitation of actions, 20:52

Index-102
INDEX

MERCHANT v. LEVY
Author and authorship, 5:37, 5:38
Limitation of actions, 20:38

MERGER
Computer programs, 3:83
Noncopyrightable material, 4:46, 4:47
Scenes a faire, 4:28

MERITS
Preliminary injunctions, 22:10, 22:60, 22:61

MERRELL DOW PHARMACEUTICALS, INC. v. THOMPSON
Subject-matter jurisdiction, 17:17

MESHWERKS, INC. v. TOYOTA MOTOR SALES U.S.A., INC.
Substantial similarity, 9:257.50

METAPHORIC CONCEPT OF IDEAS
Noncopyrightable material, 4:32

METCALF v. BOCHCO
Substantial similarity, 9:244

MEXICO CITY CONVENTION
First Copyright Act revisions, 1:44

MEXICO CITY COPYRIGHT CONVENTION OF 1902
International copyright, U.S. protection of foreign authors, 23:5

MGM STUDIOS, INC. v. GROKSTER
Contributory infringement, 21:61
Substantial similarity, 9:127
Vicarious liability, 21:77, 21:77.50

MGM v. AMERICAN HONDA MOTOR
Fair use defense, 10:34

MICROMANAGING
Construction and interpretation, 2:8

MIHALEK v. MICHIGAN
Substantial similarity, 9:198

MILLER MUSIC CORP. v. CHARLES N. DANIELS, INC.
Construction and interpretation, 2:43

MILLER V., UNIVERSAL CITY STUDIOS, INC.
Substantial similarity, 9:188

MILLS MUSIC, INC. v. SNYDER
Construction and interpretation, 2:48
Copyright Act of 1976, 7:44

MILLWORTH CONVERTING CORP. v. SLIFKA
Substantial similarity, 9:271

MINER v. EMPLOYERS MUTUAL LIABILITY INSURANCE CO. OF WISCONSIN
Substantial similarity, 9:271

MISAPPROPRIATION
Preemption, 18:39, 18:40

MISTAKE AND ERROR
Formalities, 6:73
Infringement, 17:121 to 17:125
Jurisdiction, 17:39
Preliminary injunctions, 22:11
Reproduction right, 9:20

MISUSE
Generally, 10A:1
Infringement, 17:121 to 17:125, 17:128

MITIGATION OF DAMAGES
Defense of failure to mitigate unavailable, 22:192.25
Formalities, 6:75

© 2019 Thomson Reuters, Rel. 24, 9/2019
M. KRAMER
MANUFACTURING CO. v.
ANDREWS
Substantial similarity, 9:179

MODIFICATION AND CHANGE
Derivative works, 3:56
Limitation of actions, 20:47
Visual Artists Rights Act of 1990, 16:20, 16:22

“MOMENT OF FREEDOM” THEORY
Copyright Act of 1976, 7:46.50

MONETARY DAMAGES
Damages (this index)

MOORE v. CHESAPEAKE & OHIO RAILWAY CO.
Subject-matter jurisdiction, 17:14

MOORE v. COLUMBIA PICTURES INDUSTRIES, INC.
Substantial similarity, 9:232

MORAL RIGHTS
Berne Convention Implementation Act of 1988, Article 6, 23:23

MOST FAVORED NATION
TRIPS, Article 4, 23:59

MOTION PICTURES AND OTHER AUDIOVISUAL WORKS
Generally, 3:155 to 3:158
Construction and interpretation, 3:157
Copyrightable material, generally, 3:155 to 3:158
Copyright Act of 1976, 1:105, 3:156
Informercials, 3:158
Joint authorship, 5:18.10
Judicial interpretations, 3:157

MOTIONS TO COMPEL
Arbitration, 17:195

MOTION TO DISMISS
Fair use defense, 10:156
Reproduction rights, 9:86.50

MULTINATIONAL INFRINGEMENTS
Choice of law, 25:81

MULTIPLE AUTHORS
Choice of law, 25:51

MULTIPLE AWARDS FOR DIFFERENT VIOLATIONS BY DIFFERENT DEFENDANTS
Monetary damages, 22:193

MULTIPLE DEFENDANTS
Monetary damages, 22:192.50
Pleadings, 19:9

MULTIPLE EMPLOYERS
Work made for hire, 5:79

MULTIPLE VIOLATIONS
Monetary damages, 22:191

MULTIPLE WORKS
Monetary damages, 22:185
Reproduction right, 9:66

MURA v. CBS
Fair use defense, 10:71

MURRAY HILL PUBLICATIONS, INC. v. TWENTIETH CENTURY FOX FILM CORP.
Substantial similarity, 9:204

MUSICAL COMPOSITIONS
Formalities, 6:34, 6:53

MUSICAL PERFORMANCES
Uruguay Round Agreements Act (this index)

MUSICAL WORKS
Generally, 3:92, 3:93
Copyrightable material, generally, 3:92, 3:93
Copyright Act of 1976, 3:93
## INDEX

### MUSICAL WORKS—Cont’d
- Derivative works, 12:28
- England and Statute of Anne, 1:12 to 1:14
- Monetary damages, 22:186
- Phonorecords (this index)
- Pre-1976 Copyright Act, 3:92

### MUSIC VIDEOS
- Uruguay Round Agreements Act, 24:9

### MUTILATED WORK

### NAMES
- Formalities, 6:41, 6:61, 6:73

### NARRATIVES
- Literary works, 3:63

### NASH v. CBS
- Fair use defense, 10:50

### NASH v. COLUMBIA BROADCASTING SYSTEMS
- Substantial similarity, 9:219

### NATIONAL ASSOCIATION OF BOARDS OF PHARMACY v. BOARD OF REGENTS OF UNIVERSITY SYSTEM OF GEORGIA
- Fair use defense, 10:109.50

### NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS
- Computer programs, 3:73

### NATIONAL ELIGIBILITY
- Choice of law, 25:21
- Uruguay Round Agreements Act, 24:11

### NATIONAL FOOTBALL LEAGUE v. PRIMETIME 24 JOINT VENTURE
- Extraterritoriality (this index)

### NATIONALITY
- Choice of law, 25:48, 25:64

### NATIONAL PUBLICATIONS
- Reproduction right, 9:27

### NATIONAL TREATMENT
- Berne Convention Implementation Act of 1988, Article 5, 23:21
- Choice of Law (this index)

### NATIVE AMERICAN TRIBAL DECISION
- Jurisdiction, 17:57.50

### NATURE
- Pictorial, graphic, and sculptural works, 3:117.10
- “NATURE AND OBJECTS OF SELECTIONS MADE”
- Fair use defense, 10:5

### NATURE - BASED WORKS
- Originality, 3:38.50

### NEGLIGENCE
- Preemption, 18:41

### NETWORK SIGNALS
- Display publicly, 15:15

### NETWORK STATION
- Cable television and other secondary transmissions, 14:63
- Jukebox, 14:105 to 14:121

### NEW ERA PUBLICATIONS INTERNATIONAL APS v. HENRY HOLT & CO.
- Fair use defense, 10:47

### NEWPORT - MESA UNIFIED SCHOOL DISTRICT v. CALIFORNIA
- Fair use defense, 10:109

### NEW RECORDING
- Phonorecords of nondramatic musical works, 11:24

### NEWS
- Noncopyrightable material, 4:9
NEWS CLIPPING SERVICES
AND REBROADCASTS
Fair Use Defense (this index)

NEWSPAPER ARTICLES
Reproduction right, 9:84

NEWS REPORTING
Fair use defense, 10:74

NEWTON v. DIAMOND
Substantial similarity, 9:247

NEW YORK TIMES COMPANY,
INC. v. TASSINI
Construction and interpretation, 2:58

NEW YORK TIMES v.
ROXBURY DATA
INTERFACE
Fair use defense, 10:26

NEW YORK TRIBUNE v. OTIS
& CO.
Fair use defense, 10:130

NEXT OF KIN
Term renewal, 1909 general revision, 7:19

NEXUS
Personal jurisdiction, 17:152

NICHOLAS v. UNIVERSAL
PICTURES CORP.
Reproduction right, 9:116

NIHON KEIZAI SHIMBUN, INC.
v. COMLINE BUSINESS
DATA, INC.
Substantial similarity, 9:160

NIHON KEIZAI SHIMBUN v.
COMLINE BUSINESS DATA
Fair use defense, 10:27

NINTENDO EXEMPTION
Rental rights, 13:30

NINTH CIRCUIT
Assignment, 5:105
Derivative works, 3:54.50

NINTH CIRCUIT—Cont’d
Extraterritoriality, 25:92
Monetary damages, 22:132
Personal jurisdiction, 17:153,
17:161 to 17:166, 17:168,
17:169
Pictorial, graphic, and sculptural
works, 3:144.20
Preliminary injunctions, 22:16 to
Reproduction right, 9:54
Substantial Similarity (this
index)

NLFC, INC. v. DEVCOM MID-
AMERICA
Substantial similarity, 9:221

NONCOMMERCIAL
BROADCASTS
Fair use defense, 10:55

NONCOMMERCIAL USES
Fair use defense, 10:16.50 to
10:19

NONCOPYRIGHTABLE
MATERIAL
Generally, 4:1 to 4:88
Analogical reasoning, pitfalls,
4:22
Athletic events, 4:21
Athletic routines, 4:22
Authorial estoppel, 4:7, 4:8
Authorship, personality view of,
4:33
Baker v. Selden, 4:42, 4:43
Blank forms “rule,” 4:52, 4:53
Computing devices, 4:9
Constitutional law, 4:44
Construction and interpretation,
4:5
Contributions, 4:2
Copyright Act of 1976, blank
forms “rule,” 4:53
Costs, 4:35
Data, 4:9
De minimis contributions, 4:2

Index-106
Discoveries, 4:9
Estoppel, 4:6 to 4:8
Evidence, ideas and, 4:34
Exercise routines, 4:22
Expressions. Section 102(b), below
Facts, research, and history generally, 4:3 to 4:10
authorial estoppel, 4:7, 4:8
computing devices, 4:9
data, 4:9
discoveries, 4:9
factual estoppel, 4:6, 4:8
fictional facts, 4:3.50
historical facts, 4:4
historical interpretation, 4:5
news, 4:9
pre-1976 Copyright Act history, 4:52
stock market indexes, 4:10
Factual estoppel, 4:6, 4:8
First Amendment, 4:44
Food, 4:23.50
Format, 4:11, 4:11.50, 4:12
Games, 4:20
Government Works (this index)
History. Facts, research, and history, above
Idea-expression dichotomy
Section 102(b), 4:31
Section 102(b), below
Ideas. Section 102(b), below
Identifying idea in work, 4:37
Indexes, 4:10
Judge Newman’s Literary Work v. Graphic Work Distinction, 4:38
Layout, 4:11, 4:11.50, 4:13
Logos. Visual Works (this index)
Merger, 4:46, 4:47
Metaphoric concept of ideas, 4:32
News, 4:9
Numbers, 4:48 to 4:50
Ornamentation, de minimis contributions, 4:2
Personality view of authorship and ideas, 4:33
Pictorial games, 4:20
Posner-Landes imaginative-discursive distinction, 4:39 to 4:41
Prices, 4:48 to 4:50
Product numbers, valuations, and prices, 4:48 to 4:50
Recipes, 4:23 to 4:23.50
Research. Facts, research, and history, above
Scenes a Faire (this index)
Section 102(a), generally, 4:1
Section 102(b) generally, 4:29 to 4:53
Baker v. Selden, 4:42, 4:43
blank forms “rule,” 4:52, 4:53
continuum, idea-expression dichotomy as, 4:36 to 4:41
Copyright Act of 1976, blank forms “rule,” 4:53
discursive works, 4:39, 4:40
distinguishing ideas from expressions, 4:45
evidence, ideas and, 4:34
fact/value dichotomy, 4:50
First Amendment, 4:44
idea-expression dichotomy, 4:31
idea-expression dichotomy as continuum, generally, 4:36 to 4:41
idea-expression dichotomy, Section 102(b), above
idea, metaphoric concept of, 4:32
identifying idea in work, 4:37
imaginative works, 4:39, 4:41

© 2019 Thomson Reuters, Rel. 24, 9/2019
NONCOPYRIGHTABLE MATERIAL—Cont’d
Section 102(b)—Cont’d
Judge Newman’s Literary Work v. Graphic Work Distinc-
tion, 4:38
merger, 4:46, 4:47
metaphoric concept of ideas, 4:32
patents, Baker v. Selden, 4:42, 4:43
personality view of authorship and ideas, 4:33
Posner-Landes imaginative-discursive distinction, 4:39
to 4:41
pre-1976 Copyright Act history, blank forms “rule,” 4:52
product numbers, valuations, and prices, 4:48 to 4:50
proper approach to merger, 4:47
taxonomies, 4:51
transaction costs, ideas and, 4:35
Short phrases, de minimis contributions, 4:2
Stock market indexes, 4:10
Style, 4:11, 4:11.50, 4:14
Taxonomies, 4:51
Textual games, 4:20
Titles, de minimis contributions, 4:2
Topics and topic structure, 4:11.50
Transaction costs, ideas and, 4:35
Valuations, 4:48 to 4:50
Visual Works (this index)
Words, de minimis contributions, 4:2
Yoga, 4:22

NONDramatic Literary Works
Copyright Act of 1909 amendments, 1:62
Exclusive rights, 8:19

NONDramatic Musical Works
Derivative works, 12:28

NONTHEATRICAL WORKS—Cont’d
PHONORECORDS (this index)
NONEXCLUSIVE LICENSE
Generally, 5:127, 5:128
Copyright Act of 1976, 5:148
Revocation, 5:128
Standing to sue, 21:13

NONFICTION NARRATIVES
Generally, 3:63

NONFORnUITOUS
Fair use defense, 10:70 to 10:72

NONINFRINGING ACTS, LACK OF
Monetary damages, 22:107, 22:108

NONLITERAL ELEMENTS
Computer programs, 3:78

NONLITERAL SIMILARITY
Reproduction right, 9:90

NON-OBVIOUS OWNERS
Kling v. hallmark cards, inc., 20:42

NONPROFIT EDUCATIONAL PURPOSES
Fair use defense, 10:18, 10:19

NONPROFIT ORGANIZATIONS
Cable television and other secondary transmissions, 14:71
Work made for hire, 5:80.50

NONPROFIT PERFORMANCES
Public Performance (this index)

NONPROFIT VETERANS
Public performance, 14:49

Index-108
INDEX

NONRELIANCE PARTIES

Uruguay Round Agreements Act, 24:38

NONRESIDENTS

Personal jurisdiction, 17:143 to 17:146

NONTRANSFERABILITY

Phonorecords of nondramatic musical works, 11:26

NORSE v. HENRY HOLT & CO.

Fair use defense, 10:49

NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

International copyrights, 23:55
Uruguay Round Agreements Act, 24:22

NOTICE AND KNOWLEDGE

Contributory infringement, 21:47, 21:53
Copyright Act of 1976, 7:45
Fair use defense, 10:93
First Copyright Act revisions, 1:21, 1:35, 1:37
Formalities, 6:5
Formalities (this index)
Infringement, 17:91.50, 17:130
Monetary damages, 22:99, 22:178
Preemption, 18:20
Preliminary injunctions, 22:67
Subject-matter jurisdiction claim, 17:91.50
Technological protection measures and copyright rights management information, 16A:4
Uruguay Round Agreements Act (this index)

“NOT PERVADING THE ENTIRETY OF THE WORK”

Definition, 3:59

NOVELTY

Construction and interpretation, 3:27

NOVELTY TEXTILE MILLS, INC. v. JOAN FABRICS CORP.

Substantial similarity, 9:147

NRA v. HANDGUN CONTROL FEDERATION OF OHIO

Fair use defense, 10:131

NUCOR CORP. v. TENNESSEE FORGING STEEL SERVICE, INC.

Substantial similarity, 9:230

NUMBERING AND MARKING REQUIREMENT

Visual Artists Rights Act of 1990, 16:14

NUMBER OF COPIES

Formalities, 6:68

NUMBER OF COPYRIGHTS

Choice of law, 25:17

NUMBER OF PRODUCT

Noncopyrightable material, 4:48 to 4:50

NUMBER OF REGISTRATIONS

Monetary damages, 22:189

OBJECT DEPICTED IN PHOTOGRAPHS

Derivative works, 12:11

OBSCENITY

Fair use defense, 10:92
Originality, 3:42 to 3:44

OBVIOUSNESS

Kling v. Hallmark Cards, Inc., 5:40
Limitation of actions, 20:42

OEM CASES

Technological protection measures and copyright rights manage-
OEM CASES—Cont’d

OFF - AIR TAPING

Fair Use Defense (this index)

OFFER OF JUDGMENT

Attorneys’ Fees (this index)

OFFICER

Definition, 4:70

OMEGA S.A. v. COSTCO WHOLESALE CORP.

Importation, 13:46

OMISSIONS

Formalities, 6:67 to 6:71
Monetary damages, 22:99, 22:178

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

International copyrights, 23:53

ONE COMPLETE ACT THEORY

Extraterritoriality, 25:92

O’NEILL v. DELL PUBLISHING CO.

Substantial similarity, 9:129

ONE WORK, ONE AWARD

Monetary damages, 22:184 to 22:188

ONGOING INFRINGEMENT

Limitation of actions, 20:21 to 20:24


ONLINE DISPLAYS

Display publicly, 15:6

ONLINE INFRINGEMENT

Copyright Act of 1976 amendments, 1:100

ONLINE SERVICE PROVIDER

Display publicly, 15:18

ONLINE SERVICE PROVIDER—Cont’d

Distribution of copies of work, 13:54

Public performance, 14:123

OPERATION OF LAW

Assignment, 5:116

Choice of law, 25:59

OPTIONS

Licenses, 5:125

Standing to sue, 21:17, 21:18

“OR”

Construction and interpretation, 2:62

Preliminary injunctions, 22:35

ORAVEC v. SUNNY ISLES LUXURY VENTURES, L.C.

Substantial similarity, 9:266.50

ORDINARY INFRINGERS

Monetary damages, 22:179

ORDINARY OBSERVER

Reproduction right, 9:69

ORIGINAL ACTS OF INFRINGEMENT

Extraterritoriality, 25:102 to 25:104

ORIGINAL APPALACHIAN ARTWORKS, INC. v. TOY LOFT, INC.

Substantial similarity, 9:259

ORIGINAL EQUIPMENT MANUFACTURERS

Technological protection measures and copyright rights management information, 16A:3

ORIGINALITY

Generally, 3:26 to 3:45

Architectural plans, 3:105.50

Author and authorship, 3:45, 5:14 to 5:16

Choice of law, 25:15
ORIGINALITY—Cont’d
Construction and interpretation, 3:27
Copyrightable material, generally, 3:26 to 3:45
Copyright Act of 1976, 3:26
Copyright Office, 3:44
Creativity
generally, 3:32 to 3:38.50
classic standard, 3:34
dissection, 3:35
fabric designs, 3:38
incentives to create, inquiry into, 3:37
independent creation, 3:31
nature-based works, 3:38.50
objective determination, 3:36
questions of law and fact, 3:39
second circuit, fabric designs, 3:38
threshold requirements, generally, 3:32 to 3:38.50
Defensive independent creation, 3:30
Derivative Works (this index)
Design, 3:38
Early Copyright Office views, immoral or obscene works, 3:44
Early court decisions, immoral or obscene works, 3:42
Fabric designs, 3:38
Fraudulent works, 3:41
History, 3:26
Illicit purposes, works used for, 3:40
Immoral or obscene works, 3:42 to 3:44
Independent creation
generally, 3:28 to 3:31
creativity, lack of relationship between independent creation and, 3:31
defensive independent creation, 3:30
public domain work, 3:29
Legislative history, 3:26

ORIGINALITY—Cont’d
Legislative proposals, immoral or obscene works, 3:43
Nature-based works, 3:38.50
Obscenity, 3:42 to 3:44
Preemption, 18:14, 18:15
Public domain, 3:29, 3:38
Questions of law and fact, 3:39
Religious works and authors, 3:45
Reproduction right, 9:12
Second circuit, fabric designs, 3:38
Useful articles, designs of, 3:146.50

ORIGINAL WORK
Computer programs, 3:80
Constitutional law, 3:16, 3:20, 3:20.50
Derivative works, 12:21
Exclusive rights, status as author of own life story, 3:20.50
Fair use defense, 10:7, 10:91

ORNAMENTATION
Noncopyrightable material, 4:2

OSBORN v. BANK OF THE UNITED STATES
Subject-matter jurisdiction, 17:8

OUT OF PRINT WORKS
Fair use defense, 10:140

OUTRAGE
Preemption, 18:41

OVERHEAD
Monetary damages, 22:141, 22:143

OVERLAPPING AWARDS
Monetary damages, 22:112

OVERSEAS ASSERTIONS
Government works, 4:80

OWN LIFE STORY
Exclusive rights, 3:20.50
PACIFIC & SOUTHERN v. DUNCAN
Fair use defense, 10:75

PACKAGING
Food, designs of useful articles, 3:151.50

PALMER v. BRAUN
Substantial similarity, 9:266

PANAVISION INTERNATIONAL L.P. v. TOEPPEEN
Personal jurisdiction, 17:163

PANTOMIMES AND CHOREOGRAPHIC WORKS
Generally, 3:95 to 3:97
Choreography, generally, 3:96
Copyrightable material, generally, 3:95 to 3:97
Pantomime, generally, 3:97

PARENTS PATRIAE
Standing to sue, 21:6

PARODY
Fair Use Defense (this index)

PARTIAL DISMISSALS
Forum non conveniens, 17:222.50

PARTIAL PREEMPTION
Construction and interpretation, 18:15

PARTIES
Generally, 21:1 to 21:90
See also more specific topics in this index
Class Actions (this index)
Contributory Infringement (this index)
Defendants, generally, 21:37 to 21:90
Infringement (this index)
Joinder and Indispensable Parties (this index)
Plaintiffs, generally, 21:1 to 21:36
Pleadings (this index)

PARTIES—Cont’d
Secondary Liability (this index)
Standing to Sue (this index)
Strict Liability (this index)
Vicarious Liability (this index)

PARTNERS AND PARTNERSHIP
Work made for hire, 5:71.50

PARTY JURISDICTION
Pendent party jurisdiction, Finley case, 17:56

PASHA PUBLICATIONS v. ENMARK GAS CORP.
Fair use defense, 10:119

PASILLAS v. MACDONALD’S CORP.
Substantial similarity, 9:239

PASSING OFF
Preemption, 18:47 to 18:50

PASSIVE CARRIERS
Cable television and other secondary transmissions, 14:69

PATENTS
Baker v. Selden, 4:42
Baker v. Selden, 4:43
Contributory infringement, 21:51
Registration as patent bar, 17:132.60
Subject-matter jurisdiction, 17:9

PAVLOVICH
Personal jurisdiction, 17:171

PAYMENT
Government works, 4:59
Preemption, 18:27
Preliminary injunctions, 22:40
Work made for hire, 5:61, 5:62

PENALTIES
First Copyright Act revisions, 1:40

PENDENT FOREIGN CLAIMS
Jurisdiction, 17:55
<table>
<thead>
<tr>
<th>Index</th>
</tr>
</thead>
</table>
| **PENDENT ISSUES**  
  Jurisdiction (this index) |
| **PENDENT PARTY JURISDICTION**  
  Finley case, 17:56 |
| **PENDENT PERSONAL JURISDICTION**  
  Generally, 17:190 |
| **PENDENT VENUE**  
  Generally, 17:201  
  Federal-state pendent venue, 17:202 |
| **PENDING ACTS AND MATTERS**  
  Jurisdiction, 17:57 to 17:59 |
| **PENGUIN BOOKS U.S.A. v. NEW CHRISTIAN CHURCH OF FULL ENDEAVOR**  
  Fair use defense, 10:137 |
| **PENNOYER v. NEFF**  
  Personal jurisdiction, 17:143 |
| **PERFORM**  
  Definition, 14:22 |
| **PERFORMANCE**  
  Berne Convention Implementation Act of 1988, Article 11, 23:29  
  Choice of law, 25:62  
  Distribution of copies of work, 13:12  
  Exclusive rights, 8:19, 8:28  
  First Copyright Act revisions, 1:27  
  Formalities, 6:33, 6:52, 6:81  
  Public Performance (this index)  
  TRIPS, Article 14, 23:67  
  Uruguay Round Agreements Act (this index)  
  WIPO Treaties, 23:48 |
| **PERFORMING RIGHTS SOCIETIES**  
  Personal Jurisdiction, 17:181  
  Standing to sue, 21:13 |
| **PERIODICALS**  
  Reproduction right, 9:27 |
| **PERMANENT INJUNCTIONS**  
  Generally, 22:74 to 22:78  
  Damages, 22:78  
  Future works, 22:77  
  Monetary damages, 22:78  
  Recall, 22:81  
  Royalty obligations, continuing, 22:75 |
| **PERPETUAL LICENSES**  
  Generally, 5:134 |
| **PERRIS v. HEXAMER**  
  Reproduction right, 9:105  
  Substantial similarity, 9:121 |
| **PERSONALITY VIEW**  
  Noncopyrightable material, 4:33 |
| **PERSONAL JURISDICTION**  
  Generally, 17:133 to 17:193  
  Advertising, 17:175  
  Analytical framework, 17:147  
  Asahi Metal Industry Co. v. Superior Court of California, 17:146  
  Auctions, 17:188  
  Bancroft & Masters, Inc. v. Augusta National, Inc., 17:164  
  Broadcast transmissions, 17:186.50  
  “But for” test, 17:153  
  Calder v. Jones, generally, 17:161  
  Cease-and-desist letters, 17:176  
  Challenges, 17:135, 17:136  
  Claims establishment for each, 17:137  
  registration with the Copyright Office, 17:133.75  
  Consent, 17:142  
  Contracts and agreements, 17:177  
  Copyright Office, 17:178  
  Copyright violation as intentional tort, 17:166.50  
  Corporate veil, piercing, 17:183 |
PERSONAL JURISDICTION — Cont’d
Correspondence, 17:176
Cybersell, Inc. v. Cybersell, Inc., 17:162
Declaratory judgment actions, 17:191 to 17:193
Defendant, establishment for each, 17:138
Doing business, general jurisdiction, 17:149
Dole Food Co. v. Watts, 17:165
Ebay and internet auctions, 17:188
Effects test, 17:161
Elements, generally, 17:139
Email transmissions, 17:187
Establishment for each claim, 17:137
Establishment for each defendant, 17:138
Evidentiary issues, generally, 17:134 to 17:136
Exception to establishing jurisdiction for each claim, pendent personal jurisdiction as, 17:190
Express aiming, 17:156
Facial challenges, 17:135
Factual challenges, 17:136
Filing with Copyright Office, 17:178
Foreign acts and matters, 17:143 to 17:146
Foreign defendants, FRCP 4(k)(2), 17:141
Forum, 17:159, 17:168
Forum selection clauses, 17:179
FRCP, 17:140, 17:141
General jurisdiction, 17:145, 17:148 to 17:150, 17:189
Goodyear Dunlop Tires Operations v. S.A., 17:146
Grokstar case, 17:172
Ham case, 17:192, 17:193
Harm in forum, 17:168

PERSONAL JURISDICTION — Cont’d
Helicopteros Nacionales de Colombia, S.A. v. Hall, 17:145
Industry, effect on, 17:170
Infringement, 17:158, 17:160
Intellectual property torts, 17:166.50, 17:167
Intentional infringement, 17:160, 17:166.50, 17:167
Intentional torts, 17:166.50, 17:167
International torts and effects test, 17:161
Internet generally, 17:185 to 17:189
Ebay and internet auctions, 17:188
email transmissions, 17:187
general jurisdiction, 17:189
Zippo Manufacturing case, 17:186
Janmark case, 17:169
J. McIntyre Machinery, Ltd. v. Nicastro, 17:146.50
Judgments, 17:191 to 17:193
Licensing, 17:180 to 17:182
Limitations and restrictions, 17:146
Location of plaintiff, 17:133.50
Mechanical licenses, 17:181, 17:182
Nexus, 17:152
Ninth circuit. Specific jurisdiction, below
Nonresidents, exercise of jurisdiction over, 17:143 to 17:146
Panavision International L.P. v. Toeppen, 17:163
Pavlovich, 17:171
Pendent personal jurisdiction, 17:190
Pennoyer v. Neff, 17:143

Index-114
PERSONAL JURISDICTION—Cont’d
Performing rights societies, 17:181
Procedural issues, generally, 17:134 to 17:136
Purposeful availment, 17:154, 17:155
Purposeful direction, 17:155
Records and recording, 17:178
Registering a claim with the Copyright Office, 17:133.75
Relatedness, 17:152
Selection, 17:179
Service of process, FRCP 4(k)(1) and (h), 17:140
Situs as forum, 17:159
Situs of infringement, 17:158
Specific jurisdiction generally, 17:151 to 17:172
Bancroft & Masters, Inc. v. Augusta National, Inc., 17:164
“but for” test, 17:153
Calder v. Jones, generally, 17:161
copyright violation as intentional tort, 17:167
Cybersell, Inc. v. Cybersell, Inc., 17:162
Dole Food Co. v. Watts, 17:165
express aiming, 17:156
Grokstar case, 17:172
Ham case, 17:193
harm in forum, 17:168
Helicopteros Nacionales de Colombia, S.A. v. Hall, 17:145
industry, effect on, 17:170
intellectual property torts, 17:167
intentional infringement, 17:160
international torts and effects test, 17:161
internet, 17:186
Janmark case, 17:169

PERSONAL JURISDICTION—Cont’d
Specific jurisdiction—Cont’d
nexus, 17:152
Panavision International L.P. v. Toeppen, 17:163
Pavlovich, 17:171
purposeful availment, 17:154, 17:155
purposeful direction, 17:155
relatedness, 17:152
situs as forum, 17:159
situs of infringement, 17:158
stream of commerce, 17:174
“transacting business,” 17:157
Yahoo! Inc. v. La Ligue Contre Le Racisme et L’Antisemitisme, 17:166
Zippo Manufacturing case, 17:186
Stream of commerce, 17:146, 17:174
Supreme Court, express aiming, 17:156
Trade shows and conferences, 17:184
“Transacting business,” 17:157
Waiver, 17:142
Walden v. Fiore, 17:156
World-Wide Volkswagen Corp. v. Woodson, 17:144
Yahoo! Inc. v. La Ligue Contre Le Racisme et L’Antisemitisme, 17:166
Zippo Manufacturing case, 17:186

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-115
PETER LETTERESE AND ASSOCIATES, INC. v. WORLD INSTITUTE OF SCIENTOLOGY ENTERPRISES
Substantial similarity, 9:266.60

PETERMAN v. REPUBLICAN NATIONAL COMMITTEE
Fair use defense, 10:132.80

PETER PAN FABRICS, INC. v. MARTIN WEINER CORP.
Substantial similarity, 9:140

PETERS v. WEST
Substantial similarity, 9:223.60

PFIZER CASE
Fair use defense, 10:114

PHOENIX HILL ENTERPRISES v. DICKERSON
Fair use defense, 10:132

PHONORECORDS—Cont’d
Licenses for making and distributing—Cont’d
case law under Section 115, 11:28
compulsory license, procedure for obtaining, 11:25
Copyright Act of 1909, 11:20
Copyright Act of 1976, 11:21
covered recordings, 11:23
covered works, 11:22
derivative right exceptions, 12:28
entitlement to license, 11:24
new recording, purpose of, 11:24
nontransferability of Section 115 licenses, 11:26
ringtones, 11:24.50
Section 115 license, operation of, generally, 11:24 to 11:28, 13:33
Monetary damages, 22:186
New recording, purpose of, 11:24
Nondramatic musical works, generally, 11:20 to 11:28
Nontransferability of Section 115 licenses, 11:26
Ringtones, 11:24.50
Section 115 license. Licenses for making and distributing, above
Sound recordings, 11:27
Uruguay Round Agreements Act, 24:20

PHOTOCOPYING
Fair Use Defense (this index)

PHOTOCOPYING
Fair Use Defense (this index)

PHOTOGRAPHS
Generally, 4:18

PHOTOGRAPHIC SUBJECTS
Visual works, 4:18

PHOTOCOPYING
Fair Use Defense (this index)

PHOTOCOPYING
Fair Use Defense (this index)

PHOTOGRAPHS
Generally, 3:118, 3:119
PHOTOGRAPHS—Cont’d
Derivative works, 3:49, 3:119.50, 12:11
Pictorial, graphic, and sculptural works, 3:49, 3:119, 3:119.50, 3:154.50
Useful articles, designs of, 3:154.50

PHOTOGRAPHY
First Copyright Act revisions, 1:31
Visual Artists Rights Act of 1990, 16:9

PHOTOGRAPHY AND DEPOSIT AMENDMENTS OF 1865
First Copyright Act revisions, 1:31

PHYSICAL OR MENTAL DISABILITIES
Public performance, 14:48

PHYSICAL PROXIMITY
Author and authorship, 5:30

PHYSICAL SEPARABILITY
Pictorial, graphic, and sculptural works, 3:138

PICTORIAL GAMES
Noncopyrightable material, 4:20

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
Generally, 3:98 to 3:154.60
Architectural Drawings (this index)
Architectural Plans (this index)
Architectural Works (this index)
Backpacks, 3:152.60
Berne Implementation Act of 1988, 3:101
Classification, 3:109
Clothing, 3:151
Committee reports, 3:135
Conceptual separability, Copyright Office view of, 3:139
Constructability, 3:108.10

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS—Cont’d
Construction and interpretation.
Useful articles, designs of, below
Copyright Act of 1909 generally, 3:99
architectural plans and drawings, 3:103
useful articles, designs of, 3:126
Copyright Act of 1976 generally, 3:100
architectural plans and drawings, 3:104
useful articles, designs of, below
Copyright Office generally, 3:137 to 3:139
reexamination of 1937, 3:129
regulations, designs of useful articles, 3:127 to 3:130, 3:132, 3:133
Copyright Office, deference to, 3:139.10
Costumes, 3:153
Deference to the Copyright Office, 3:139.10
Derivative works, 3:49, 3:119.50
Designs. Useful articles, designs of, below
Distribution right, 3:111
Dolls, 3:149
Drawings, 3:103 to 3:105.50
Eleventh circuit, 3:144.40
Embodiment generally, 3:145
useful articles, embodiment in.
Pictorial, Graphic, and Sculptural Works Embodied in Useful Articles (this index)
Examination, 3:129
Exclusive rights, 3:111
Fabric designs, 3:151
Fifth circuit, 3:143
Fine-art limitation, 3:126
PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
—Cont’d
Food packaging, 3:151.50
Fourth circuit, 3:142
Furniture, 3:154
Headgear, 3:152.50
Helmets, 3:152.50
History, 3:98 to 3:101
Hookahs, 3:154
Jewelry, 3:148
Joint ownership of photographs, 3:119
Labels, 3:120
Lamps, 3:154
Legislative history, 3:98 to 3:101
Limitations and restrictions, 3:126
Live animals or nature, depiction, 3:117.10
Local laws, 3:113
Maps, 3:117
Masks, 3:152
Mazer v. Stein, 3:131
Nature of live animals, depiction, 3:117.10
Ninth circuit, 3:144.20
Original separable features, 3:146.50
Physical separability, Copyright Office view of, 3:138
Pre-1976 Copyright Act law, Useful articles, designs of, below
Pre-Copyright Act of 1909, 3:98
Preemption of state and local laws, 3:113
Prints and labels, 3:120
Question of fact, 3:147
Quilts, 3:121
Reexamination, 3:129
Registration, 3:106, 3:115
Remedies, 3:112
Reports, 3:135
Retroactivity, 3:114
Rugs, 3:151

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
—Cont’d
Sculpture, 3:122
Second circuit, 3:141
Separability, 3:146
Seventh circuit, 3:144
Sixth circuit, 3:143.50
Star Athletica, LLC v. Varsity Brands, Inc., 3:144.80
State laws, 3:113
Technical drawings and plans, 3:154.60
Textiles, 3:151
Toys, 3:149
Two-dimensional works applied to useful articles, 3:150
Types of works covered, generally, 3:102 to 3:123
Useful articles, designs of generally, 3:124 to 3:154.60
backpacks, 3:152.60
clothing, 3:151
courts, generally, 3:140 to 3:144.40
deference to the Copyright Office, 3:139.10
embodiment, 3:145
fifth circuit, 3:143
fourth circuit, 3:142

Index-118
PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
—Cont’d
Useful articles, designs of
—Cont’d
Copyright Act of 1976—Cont’d
construction and interpretation—Cont’d
ninth circuit, 3:144.20
original separable features, 3:146.50
physical separability,
Copyright Office view of, 3:138
proper approach, 3:145 to 3:147
question of fact, 3:147
second circuit, 3:141
separability, 3:146
seventh circuit, 3:144
sixth circuit, 3:143.50
Star Athletica, LLC v. Varsity Brands, Inc., 3:144.80
third circuit, 3:141.50
Copyright Office, 3:137 to 3:139
costumes, 3:153
dolls, 3:149
embodiment in useful articles.

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
EMBODIED IN USEFUL ARTICLES (this index)
fabric designs, 3:151
food packaging, 3:151.50
furniture, 3:154
headgear, 3:152.50
helmets, 3:152.50
hookahs, 3:154
jewelry, 3:148
lamps, 3:154
masks, 3:152
photographs, 3:154.50
pre-1976 Copyright Act law generally, 3:125 to 3:133
Copyright Act of 1909, 3:126

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
—Cont’d
Useful articles, designs of
—Cont’d
pre-1976 Copyright Act law—Cont’d
Copyright Office reexamination of 1937, 3:129
Copyright Office regulations, 3:127 to 3:130, 3:132
fine-art limitation, 3:126
Mazer v. Stein, 3:131
1910 regulation of Copyright Office, 3:127
1917 regulation of Copyright Office, 3:128
1948 regulation of Copyright Office, 3:130
1956 regulation of Copyright Office, 3:132
1959 regulation of Copyright Office, 3:133
pre-1909 statutes, 3:125
statutory provisions, 3:125, 3:126
rugs, 3:151
technical drawings and plans, 3:154.60
textiles, 3:151
toys, 3:149
two-dimensional works applied to useful articles, 3:150
Web sites, 3:123
Works of art incorporated in works, 3:110

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS
EMBODIED IN USEFUL ARTICLES
Generally, 11:11 to 11:15
Architectural plans and works, 11:14
Case law under Section 1(b) of Copyright Act of 1909, 11:12
Copyright Act of 1909, 11:12
INDEX

POSTAL SERVICE AND POST OFFICE
Copyright Act of 1909 amendments, 1:53
First Copyright Act revisions, 1:26, 1:36
Government works, 4:65, 4:79

POSTHUMOUS WORKS
1909 general revision, 7:21

POST OFFICE
Postal Service and Post Office (this index)

POST-REGISTRATION
Damages, 22:201.25

POTENTIAL HARM
Visual Artists Rights Act of 1990, 16:21

POTENTIAL MARKET
Fair Use Defense (this index)

PREAMBLE TO SECTION 107
Fair use defense, 10:11, 10:12

PREDICATE ACT DOCTRINE
Extraterritoriality, 25:90

PREEMPTION—Cont’d
Common law copyright, 18:22.50
Competition, 18:47 to 18:50
Computer Fraud and Abuse Act, 18:45, 18:46
Confidence, breach of, 18:22
Conspiracy, 18:23
Construction and interpretation generally, 18:9 to 18:21
fixation, 18:10, 18:11
partial preemption, 18:15
protection subject matter, generally, 18:12
simultaneous fixation, 18:11
subject-matter preemption, 18:10 to 18:12
two-step analysis, 18:9, 18:13 to 18:15
unoriginal works, 18:14, 18:15
uses in trade and expressive works distinguished, 18:9.50
“within the subject matter of copyright” defined, 18:13 to 18:15
Constructive trust, 18:24
Contracts and agreements generally, 18:25 to 18:30
Bowers v. Baystate Technolo-
gies, Inc., 18:26
Davidson & Associates v. Jung, 18:26
ProCD, Inc. v. Zeidenberg, 18:26
economic advantage, 18:30
election, 18:29
implied contracts, 18:28
material breach, 18:29
private copyright law, 18:26
promise not to violate section 106 right, 18:26.50
promise to pay, 18:27
prospective business, 18:30
quasi-contracts, 18:28
tortious interference, 18:30

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-121© 2019 Thomson Reuters, Rel. 24, 9/2019
<table>
<thead>
<tr>
<th>Term</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREEMPTION—Cont’d</td>
<td></td>
</tr>
<tr>
<td>Contribution, right of,</td>
<td>18:31</td>
</tr>
<tr>
<td>to 8:33</td>
<td></td>
</tr>
<tr>
<td>Conversion,</td>
<td>18:34</td>
</tr>
<tr>
<td>Copyright Act of 1976, Section</td>
<td></td>
</tr>
<tr>
<td>301, generally,</td>
<td>18:8</td>
</tr>
<tr>
<td>to 18:21</td>
<td></td>
</tr>
<tr>
<td>Damages,</td>
<td>18:21</td>
</tr>
<tr>
<td>Dastar case,</td>
<td>18:50</td>
</tr>
<tr>
<td>Davidson &amp; Associates v. Jung,</td>
<td>18:26</td>
</tr>
<tr>
<td>Deceptive trade practices,</td>
<td>18:36</td>
</tr>
<tr>
<td>Definition of “within the subject matter of copyright,”</td>
<td>18:13</td>
</tr>
<tr>
<td>to 18:15</td>
<td></td>
</tr>
<tr>
<td>DMCA preemption of state law claims,</td>
<td>18:52.60</td>
</tr>
<tr>
<td>Economic advantage,</td>
<td>18:30</td>
</tr>
<tr>
<td>Election,</td>
<td>18:29</td>
</tr>
<tr>
<td>Equivalent rights</td>
<td></td>
</tr>
<tr>
<td>generally, 18:16 to 18:21</td>
<td></td>
</tr>
<tr>
<td>awareness, 18:20</td>
<td></td>
</tr>
<tr>
<td>bad faith, 18:20</td>
<td></td>
</tr>
<tr>
<td>commercial immorality,</td>
<td>18:20</td>
</tr>
<tr>
<td>damages, 18:21</td>
<td></td>
</tr>
<tr>
<td>extra-elements test, 18:18</td>
<td></td>
</tr>
<tr>
<td>intent, 18:20</td>
<td></td>
</tr>
<tr>
<td>labels, 18:17</td>
<td></td>
</tr>
<tr>
<td>qualitatively different-in-kind test, 18:19 to 18:21</td>
<td></td>
</tr>
<tr>
<td>Visual Artists Rights Act of 1990, 16:42</td>
<td></td>
</tr>
<tr>
<td>Expressive works and uses in trade distinguished, 18:9.50</td>
<td></td>
</tr>
<tr>
<td>Express preemption, 18:2</td>
<td></td>
</tr>
<tr>
<td>Extra-elements test, 18:18</td>
<td></td>
</tr>
<tr>
<td>Federal claims of reverse passing off, 18:50</td>
<td></td>
</tr>
<tr>
<td>Federal question jurisdiction,</td>
<td>17:23</td>
</tr>
<tr>
<td>Federal statutes, 18:56</td>
<td></td>
</tr>
<tr>
<td>Fiduciary relationship, breach of, 18:22</td>
<td></td>
</tr>
<tr>
<td>Fixation, 18:10, 18:11</td>
<td></td>
</tr>
<tr>
<td>Fraud, 18:37, 18:45, 18:46</td>
<td></td>
</tr>
<tr>
<td>History, 18:3 to 18:8</td>
<td></td>
</tr>
<tr>
<td>“Hot” news, 18:39, 18:40</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Term</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREEMPTION—Cont’d</td>
<td></td>
</tr>
<tr>
<td>Immorality,</td>
<td>18:20</td>
</tr>
<tr>
<td>Implied contracts,</td>
<td>18:28</td>
</tr>
<tr>
<td>Indemnification, right of,</td>
<td>18:31</td>
</tr>
<tr>
<td>18:33</td>
<td></td>
</tr>
<tr>
<td>Intent, 18:20</td>
<td></td>
</tr>
<tr>
<td>Interference, 18:30</td>
<td></td>
</tr>
<tr>
<td>Labels, 18:17</td>
<td></td>
</tr>
<tr>
<td>Lanham Act, Section 43(a),</td>
<td>18:50</td>
</tr>
<tr>
<td>Legislative history of Section 301, 18:3 to 18:8</td>
<td></td>
</tr>
<tr>
<td>Limitation of actions,</td>
<td>20:48</td>
</tr>
<tr>
<td>Material breach,</td>
<td>18:29</td>
</tr>
<tr>
<td>Negligence and outrage,</td>
<td>18:41</td>
</tr>
<tr>
<td>1966 amendments,</td>
<td>18:7</td>
</tr>
<tr>
<td>Notice and knowledge,</td>
<td>18:20</td>
</tr>
<tr>
<td>Originality, 18:14, 18:15</td>
<td></td>
</tr>
<tr>
<td>Outrage, 18:41</td>
<td></td>
</tr>
<tr>
<td>Partial preemption,</td>
<td>18:15</td>
</tr>
<tr>
<td>Passage of Act,</td>
<td>18:8</td>
</tr>
<tr>
<td>Passing off, 18:47 to 18:50</td>
<td></td>
</tr>
<tr>
<td>Payment, 18:27</td>
<td></td>
</tr>
<tr>
<td>Pictorial, graphic, and sculptural works, 3:113</td>
<td></td>
</tr>
<tr>
<td>Pleading pitfalls, 18:52.50</td>
<td></td>
</tr>
<tr>
<td>Preliminary draft bill of 1963, 18:4</td>
<td></td>
</tr>
<tr>
<td>Privacy, right of,</td>
<td>18:43</td>
</tr>
<tr>
<td>Private copyright law,</td>
<td>18:26</td>
</tr>
<tr>
<td>ProCD, Inc. v. Zeidenberg,</td>
<td>18:26</td>
</tr>
<tr>
<td>Promise not to violate section 106 right, 18:26.50</td>
<td></td>
</tr>
<tr>
<td>Promise to pay,</td>
<td>18:27</td>
</tr>
<tr>
<td>Prospective business,</td>
<td>18:30</td>
</tr>
<tr>
<td>Publicity, right of,</td>
<td>18:43</td>
</tr>
<tr>
<td>Qualitatively different-in-kind test, 18:19 to 18:21</td>
<td></td>
</tr>
<tr>
<td>Quantum meruit,</td>
<td>18:42</td>
</tr>
<tr>
<td>Quasi-contracts,</td>
<td>18:28</td>
</tr>
<tr>
<td>Register’s supplementary report of 1965, 18:6</td>
<td></td>
</tr>
<tr>
<td>Reputation, 18:38</td>
<td></td>
</tr>
<tr>
<td>Resale royalty state laws,</td>
<td>18:42.50</td>
</tr>
</tbody>
</table>
INDEX

PREEMPTION—Cont’d
Reverse passing off, 18:47 to 18:50
Revision bill of 1964, 18:5
Revision bill of 1965, 18:6
Section 301, generally, 18:8 to 18:21
Simultaneous fixation, 18:11
Sound recordings, Section 301(c), 18:54 to 18:56
State claims of reverse passing off, 18:49
State criminal actions, 18:43.10
State statutes, 18:52
State trespass to chattel claims, 18:46
State VARA actions, 18:43.50
Statutes, generally, 18:1 to 18:21
Subject-matter preemption, 18:10 to 18:12
Supplementary report, 18:6
Supremacy clause, 18:59, 18:60
Tortious interference, 18:30
Trade dress, 18:43.90
Trade secrets, 18:44
Trespass to chattels, 18:45, 18:46
Unfair competition, including passing off and reverse passing off, 18:47 to 18:50
Unjust enrichment, 18:51
Unoriginal works, 18:14, 18:15
Uruguay Round Agreements Act, 24:15
Uses in trade and expressive works distinguished, 18:9.50
Visual Artists Rights Act of 1990 (this index)
“Within the subject matter of copyright” defined, 18:13 to 18:15

PREEXISTING CAUSES OF ACTION
Assignment, 5:113
Visual Artists Rights Act of 1990, 16:39

PREEXISTING LIVE MUSICAL PERFORMANCES
Uruguay Round Agreements Act, 24:14

PREJUDGMENT INTEREST
Remedies, 22:222

PREJUDICE
Fair use defense, 10:7

PRELIMINARY INJUNCTIONS
Generally, 22:7 to 22:73
Abuse of discretion review, 22:8
Adequacy of remedy at law, 22:35
Affirmative defense, 22:70
American Hospital Supply Corp. v. Hospital Products Ltd., 22:55
“And” or “or,” 22:35
Appeal and review, 22:8, 22:9
Architectural plans, 22:73
Architectural works, 22:73
Automatic, 22:14
Bonding injunction, 22:72
Burden of proof, 22:70
Cessation of infringement, 22:65
Confusion in market, 22:41
Contract cases, 22:59
Damages, 22:42
Defenses, 22:70
Defining market, 22:51
Delay, rebutting presumption by showing, 22:56
Digital Millennium Copyright Act, 22:58
District of Columbia circuit, 22:31
Eighth circuit, 22:28
Eleventh circuit, 22:30
Error-avoidance methodology, 22:11
Evidentiary hearing, 22:68
Extraterritorial injunctions, 22:73.50
Fair use defense, 10:9.50
Fifth circuit, 22:25
Financial ruin, 22:40

© 2019 Thomson Reuters, Rel. 24, 9/2019
PRELIMINARY INJUNCTIONS
—Cont’d
First circuit, 22:22
Fleeting fame, 22:38
Four-factor test
generally, 22:21 to 22:31
affirmative defense, 22:70
architectural plans, 22:73
architectural works, 22:73
bonding injunction, 22:72
burden of proof, 22:70
cessation of infringement, 22:65
District of Columbia circuit, 22:31
Eighth circuit, 22:28
Eleventh circuit, 22:30
evaluation, generally, 22:32 to 22:73
evidentiary hearing, 22:68
extraterritorial injunctions, 22:73.50
Fifth circuit, 22:25
First circuit, 22:22
Fourth circuit, 22:24
hardships, balance of, 22:62, 22:63
irreparable harm
generally, 22:33 to 22:59
adequacy of remedy at law, 22:35
adoption of presumption,
generally, 22:49 to 22:59
algebraic models, 22:55
American Hospital Supply Corp. v. Hospital Products Ltd., 22:55
“and” or “or,” 22:35
confusion in market, 22:41
contract cases, 22:59
delay, rebutting presumption by showing, 22:56
Digital Millennium Copyright Act, 22:58
financial ruin, 22:40
fleeting fame, 22:38

PRELIMINARY INJUNCTIONS
—Cont’d
Four-factor test—Cont’d
irreparable harm—Cont’d
FRE 301, 22:46, 22:47
goodwill, 22:41
history of presumption, 22:45
immediacy, 22:36
insolvency, 22:40
judgment, ability to pay, 22:40
market, defining, 22:51
Ninth circuit, 22:52, 22:53
post-American Metropolitan opinions, 22:48
presumption, generally, 22:44 to 22:59
reputation, 22:41
seasonal works, 22:39
Seventh circuit, 22:54
statutory damages, 22:42
Visual Artists Rights Act, 22:57
willfulness, 22:43
likelihood of success on merits, 22:60, 22:61
mandatory injunctions, 22:71
notice, 22:67
presumption. Irreparable harm,
above this group
prior restraint, preliminary injunctions as, 22:66
public interest, 22:64
Seventh circuit, 22:27, 22:54
Sixth circuit, 22:26
specificity of injunction, FRCP 65(d) and 52(a), 22:69
Supreme Court, 22:21
Tenth circuit, 22:29
Third circuit, 22:23
Fourth circuit, 22:24
FRCP 52, 22:69
FRCP 65, 22:69
FRE 301, 22:46, 22:47
INDEX

PRINCETON UNIVERSITY PRESS v. MICHIGAN DOCUMENT SERVICES, INC.
Fair use defense, 10:118

PRINT AND NOTICE AMENDMENTS
First Copyright Act revisions, 1:35

PRINTS AND LABELS
Copyright Act of 1909 amendments, 1:54
First Copyright Act revisions, 1:21
Pictorial, graphic, and sculptural works, 3:120

PRIOR ACT EVIDENCE
Reproduction right, 9:92

PRIORITY
Licenses, 5:146 to 5:148

PRIOR RESTRAINT
Preliminary injunctions, 22:66

PRIVACY, RIGHT OF
Preemption, 18:43

PRIVATE CONTRACTOR
Government works, 4:77

PRIVATE COPYRIGHT LAW
Preemption, 18:26

PRIVATE FACTORS
Forum non conveniens, 17:218, 17:219

PRIVATE VIEWING
Display publicly, 15:15
Jukebox, 14:105 to 14:121

PRIVATE WORKS
Government works
Noncopyrightable material, 4:60 to 4:62

PRIVILEGES
Distribution of copies of work, 13:3
Exclusive rights, 8:7

Index-126

PATRY ON COPYRIGHT

PRIVILEGES—Cont’d
Historical background, 1:2
Licenses (this index)

PROBATIVE SIMILARITY
Reproduction right, 9:19

PROC, INC. v. ZEIDENBERG
Preemption, 18:26

PRODUCERS
TRIPS, Article 14, 23:67

PRODUCTIVE USES
Fair use defense, 10:21

PRODUCT NUMBERS
Noncopyrightable material, 4:48 to 4:50

PRODUCT PRICES
Noncopyrightable material, 4:48 to 4:50

PRODUCT VALUES
Noncopyrightable material, 4:48 to 4:50

PROFITS
Damages (this index)
Fair use defense, 10:7
Public performance, 14:20

PROGRAMMING
Public performance, 14:79.50

PROGRESS
Constitutional Law (this index)

PROMISE TO PAY
Preemption, 18:27

PROMOTE
Definition, 3:5

PROMOTION
Constitutional Law (this index)

PROMOTIONS
Visual Artists’ Rights Act of 1990, 16:13.50

“PROPERLY AWARDABLE”
Attorneys’ fees, 22:218
PUBLIC PERFORMANCE
—Cont’d
Definitions
generally, 14:8
for-profit performances, 14:9
perform, 14:22
performance, 14:6
public performances, 14:8
Distribution rights distinguished, 14:21
Educational broadcasting, Section 110(2), 14:35
Exclusion rights, 8:19
Exemptions
generally, 14:47, 14:122
instruction and other nonprofit performances, Section 110, below
Exhaustion doctrine, Section 109, 14:32
Face-to-face instruction, Section 110(1), 14:34
Fair use, Section 107, 14:31
First Copyright Act revisions, 1:27
For-profit limitation, 14:20
For-profit performances defined, 14:9
Fraternal organizations, Section 110(10), 14:49
Further transmissions, 14:41
Handicapped, 14:48
History
generally, 14:3 to 14:28
construction and interpretation.
Copyright Act of 1976, below this group
Copyright Act of 1909
generally, 14:4 to 14:9
construction and interpretation, 14:5
for-profit performances defined, 14:9
performance defined, 14:6
public performances defined, 14:8
reasoning by analogy, 14:7
Index-128
INDEX

PUBLIC PERFORMANCE
—Cont’d
History—Cont’d
1952 Copyright Act, 14:10
Copyright Act of 1976, above
1790-1909, 14:3
Horticulture, 14:46
Instruction and other nonprofit performances, Section 110 generally, 14:33 to 14:49
agricultural and horticultural fairs, Section 110(6), 14:46
blind and other handicapped individuals, performance of literary works for, Sections 110(8) and (9), 14:48
educational broadcasting, Section 110(2), 14:35
face-to-face instruction, Section 110(1), 14:34
fraternal organizations, Section 110(10), 14:49
nonprofit performances, Section 110(4), 14:37
nonprofit veterans, Section 110(10), 14:49
record-store exemption, Section 110(7), 14:47
religious performances, Section 110(3), 14:36
small-business exemption, Section 110(5) generally, 14:38 to 14:45
apparatus commonly used in private homes, 14:43
Cass County test, 14:42
construction and interpretation of 1976 Copyright Act, 14:39
further transmissions, 14:41
1998 amendments, 14:44
small businesses only, 14:40
WTO panel ruling, 14:45
Jukebox (this index)

PUBLIC PERFORMANCE
—Cont’d
Limitations and restrictions generally, 14:30 to 14:80
cable television and other secondary transmissions, 14:73
exhaustion doctrine, Section 109, 14:32
fair use, Section 107, 14:31
history, 14:20
instruction and other nonprofit performances, Section 110, above
Internet streaming of television programming, 14:79.50
online service providers, Section 512, 14:123
Local to local station exemption, 14:122
Nonprofit performances, Instruction and other nonprofit performances, Section 110, above
Nonprofit veterans, Section 110(10), 14:49
Online service provider, 14:123
Performance defined, 14:6
Perform defined, 14:22
Places open to family and social acquaintances, 14:27
Places open to public, 14:26
Profit, 14:20
Public performances defined, 14:8
Record-store exemption, Section 110(7), 14:47
Register of Copyrights’ 1961 report, 14:11
Relatives, places open to family and social acquaintances, 14:27
Religious performances, Section 110(3), 14:36
Reports, 14:11
Retransmission, 14:122
Revision bills of 1964-1966. History, above

© 2019 Thomson Reuters, Rel. 24, 9/2019
PUBLIC PERFORMANCE
—Cont’d
Right to publicly perform work, generally, 14:1 to 14:123
Sales, 14:47
Satellite retransmission of local to local station exemption, Section 122, 14:122
Section 106, 14:29
Section 107, 14:31
Section 109, 14:32
Section 110. Instruction and other nonprofit performances, Section 110, above
Section 122, 14:122
Section 512, 14:123
Small-business exemption, Section 110(5). Instruction and other nonprofit performances, Section 110, above
Social acquaintances, places open to family and social acquaintances, 14:27
Sound Recordings (this index)
Statute, generally, 14:1
Transmissions, 14:23, 14:28, 14:41
Veterans, 14:49
WTO panel ruling, 14:45
PUBLIC POLICY
Forum selection, 25:77
Government works, 4:58
PUBLIC PRESENTATION AND CONSERVATION
Visual Artists Rights Act of 1990, 16:30
PUBLIC RECITATION
Berne Convention Implementation Act of 1988, Article 11, 23:31
PUBLIC RECORDS
Government works, 4:87
PUBLISHED WORKS
Fair use defense, 10:139.30
INDEX-130

PUBLISHERS
Licenses, 5:141
PUDDU v. BUONAMICI STATUARY, INC.
Substantial similarity, 9:145
PUNITIVE DAMAGES
Generally, 22:151
PURPOSEFUL AVAILMENT
Personal jurisdiction, 17:154, 17:155
PURPOSEFUL DIRECTION
Personal jurisdiction, 17:155
QUALIFIED IMMUNITY
Generally, 21:88.20
QUALITATIVELY DIFFERENT - IN - KIND TEST
Preemption, 18:19 to 18:21
QUALITATIVE TAKINGS
Reproduction right, 9:64
QUALITY KING DISTRIBUTORS, INC. v.
L’ANZA RESEARCH INTERNATIONAL, INC.
Construction and interpretation, 2:57
QUANTITATIVE TAKINGS
Reproduction right, 9:64
QUANTITY OF MATERIALS USED
Fair use defense, 10:6
QUANTUM MERUIT
Preemption, 18:42
QUASI - CONTRACTS
Preemption, 18:28
QUESTIONS OF LAW AND FACT
Author and authorship, 5:31
Creativity, 3:39
Originality, 3:39
Ownership, 5:1.50

Index-130
QUESTIONS OF LAW AND FACT—Cont’d
Pictorial, graphic, and sculptural works, 3:147
Reproduction right, 9:86
Subject-matter jurisdiction, 17:45
Work made for hire, 5:95

QUILTS
Pictorial, graphic, and sculptural works, 3:121

RADIO RETRANSMISSIONS
Bonneville v. Peters, 14:88

RATES
Cable television and other secondary transmissions, 14:75
Fees (this index)
Jukebox, 14:119, 14:120
Sound recordings, 14:89.50, 14:98
Webcasting rates, 14:89.50

RAUM v. NORWOOD
Substantial similarity, 9:205

READER’S DIGEST ASSOCIATION, INC. v. CONSERVATIVE DIGEST, INC.
Substantial similarity, 9:274

REASONABLE EFFORTS
Formalities, 6:69

REBROADCASTS
Fair Use Defense (this index)

REBUTTAL
Reproduction right, 9:11

RECALL
Generally, 22:79 to 22:81
Permanent injunction stage, 22:81
Preliminary injunction stage, 22:80

RECASTING
Derivative works, 3:48

RECEIPT DOCTRINE
Reproduction right, 9:30

RECIPIENT
Fees (this index)

INDEX
Index-131 © 2019 Thomson Reuters, Rel. 24, 9/2019
REMEDIES—Cont’d
Permanent Injunctions (this index)
Permanent Injunctions (this index)
Pictorial, graphic, and sculptural works, 3:112
Pre-1976 Copyright Acts, 22:3, 22:4
Prejudgment interest, 22:222
Preliminary Injunctions (this index)
Recall (this index)
Section 411(a), 22:6
Seizure. Impoundment, Seizure, and Destruction (this index)
1790-1908, 22:3
Uruguay Round Agreements Act, 24:37 to 24:39
Visual Artists Rights Act of 1990, 16:46

REMOVAL
Federal Question Jurisdiction (this index)
Formalities, 6:72, 6:76

RENAISSANCE PRIVILEGES
Distribution of copies of work, 13:3

RENEWAL
Assignment, jurisdiction, 7:10.50
Choice of law, 25:70 to 25:73
Copyright Act of 1909, 1:56, 1:67
Copyright Act of 1976, 7:41
Sonny Bono Copyright Term Extension Act, 7:60

RENEWAL CERTIFICATES
Infringement (this index)

RENTAL RIGHTS
Generally, 13:26 to 13:32
Amendments
1988 Record Rental amendments, 13:27
Computer Software amendments of 1990, below
RENTAL RIGHTS—Cont’d
Computer software amendments of 1990
generally, 13:28 to 13:32
exemptions from ban, 13:29 to 13:31
machines or products, programs within, 13:29
1994 GATT-TRIPS agreement, 13:32
Nintendo exemption, 13:30
semiconductor chips and mask works, 13:31

Computer software. Computer software amendments of 1990, above
Contracts and agreements, 13:32
Distribution of copies of work, generally, 13:26 to 13:32
Exemptions from ban, 13:29 to 13:31
GATT, 13:32
Mask works, 13:31
1988 Record Rental amendments, 13:27
Nintendo exemption, 13:30
Record Rental Act of 1984, 13:26
Record Rental amendments of 1988, 13:27
Semiconductor chips and mask works, 13:31
Software. Computer software amendments of 1990, above
Trade related aspects, 13:32
TRIPS, 13:32, 23:64
Uruguay Round Agreements Act, 24:4, 24:20

RENOVI
Choice of law, 25:68

REPEAL
Sound recordings, 5:93

REPORTS AND REPORTING
Computer programs, 11:30
Copyright Act of 1976, 1:73, 7:29
Damages (this index)

REPORTS AND REPORTING—Cont’d
Fair use defense, 10:74
Government works, 4:88
Library photocopying, 11:4, 11:5
Pictorial, graphic, and sculptural works, 3:135
Public performance, 14:11
Section 108 Study Group report, 11:8.50

REPP v. WEBBER
Substantial similarity, 9:158

REPRODUCTION
Berne Convention Implementation Act of 1988, Article 9, 23:26
Derivative works, 12:15
Uruguay Round Agreements Act, 24:10
Visual Artists Rights Act of 1990, 16:11

REPRODUCTION RIGHTS
Generally, 9:1 to 9:278
Abstraction-filtration-comparison, 9:94
Abstractions test, 9:93
Access generally, 9:22 to 9:31
after defendant’s work created, 9:37
architectural works, 9:28
Corporate receipt doctrine, 9:30
definition, 9:23
deposit with library or other depository source, 9:31
direct and indirect, 9:24
general availability of work, 9:26
inferential access, 9:25
national publications, publication in, 9:27
prima facie case of infringement, below
showrooms, attendance at, 9:27
third parties, through, 9:29
REPRODUCTION RIGHTS
—Cont’d
Access—Cont’d
trade periodicals, publication in, 9:27
trade shows, attendance at, 9:27
vicarious inference, 9:30
Affirmative defense, 9:36
Aggregate copying, 9:66
Anti-doctrine, 9:38
Appeal and review, 9:88
Architectural works, 9:28, 11:46
Arnstein v. Edward B. Marks
Music Group, 9:35
Arnstein v. Porter, 9:38, 9:118
Audience, 9:70
Audio Home Recording Act of
1992, 11:47
Availability of work, 9:26
Bile dem cabbage down, 9:94
Blind, reproduction for, Section
121, 11:49
Bracken v. Rosenthal, 9:108
Bridgeport Music, Inc. v. Dimen-
sion Films, 9:61
Cartoon Network LP, LLLP v.
CSC Holdings, Inc., 9:63.50
Case law, generally, 9:101 to
9:113
Certificate of registration, 9:7,
9:13, 9:14
Cognitive scientists, 9:85
Common sources, copying from,
9:67
Comparison, 9:94
Computer Programs (this index)
Copy defined, 9:62
Corporate receipt doctrine, 9:30
Courts, role of, generally, 9:3
daly v. Palmer, 9:113
Defense, 9:36
Definitions
access, 9:23
copy, 9:62
fixed, 9:63
striking similarity, 9:44
REPRODUCTION RIGHTS
— Cont’d
Exceptions, exclusions, and exemptions—Cont’d
Audio Home Recording Act of 1992, 11:47
blind, reproduction for, Section 121, 11:49
Computer Programs (this index)
Ephemeral Recording Exemption (this index)
Fair Use Defense (this index)
Library Photocopying (this index)
Phonorecords (this index)
Pictorial, Graphic, and Sculptural Works Embodied in Useful Articles (this index)
public broadcasting compulsory license, Section 118, 11:45, 12:30
Section 107, fair use, 11:3, 12:25
Sound Recordings (this index)
Expert witnesses
generally, 9:79 to 9:82
contemporary use, 9:81
early uses, 9:80
striking similarity, 9:43, 9:82
use and misuse of experts, 9:79
Factual works, total-concept-and-feel test, 9:72
Fair abridgment, 9:98
Fictitious entries and other anomalies, 9:18
Fifth circuit, 9:50
Filtration, 9:94
First circuit, 9:46
Fixed defined, 9:63
Folsom v. Marsh, 9:102
Foreign works, 9:10
Fourth circuit, 9:49

REPRODUCTION RIGHTS
— Cont’d
FRCP Rule 12(b)(6), infringement, 9:86.50
Fred Fisher, Inc. v. Dillingham, 9:34
General availability of work, 9:26
Hein v. Universal Pictures Co., 9:119
Hein v. Harris, 9:33
History
legislative history, below material amount of expression, 9:62, 9:63
Independent creation
generally, 9:32 to 9:36
affirmative defense, 9:36
Arnstein v. Edward B. Marks Music Group, 9:35
Fred Fisher, Inc. v. Dillingham, 9:34
Hein v. Harris, 9:33
Section 106(1), 9:100
striking similarity, 9:41
Inference, 9:30
Inferential access, 9:25
Infringement, generally, 9:1 to 9:278
Intent, 9:5, 9:70, 9:100
Inverse ratio theory, 9:91
Jollie v. Jaques, 9:112
Judgment, summary, 9:40, 9:87
Keene v. Wheatley, 9:110
Lawrence v. Dana, 9:109
Legislative history
definition of copy, 9:62
definition of fixed, 9:63
Section 106(1), below
Library of Congress, 9:31
Library Photocopying (this index)
Lists, similarity versus dissimilarity, 9:76
Literal similarity, 9:90
Material amount of expression generally, 9:58 to 9:64
REPRODUCTION RIGHTS
—Cont’d
Material amount of expression
—Cont’d
Bridgeport Music, Inc. v. Dimension Films, 9:61
de minimis uses, 9:60
legislative history of definition of “copy,” 9:62
legislative history of definition of “fixed,” 9:63
prima facie case of infringement
common errors as method of proving copying, 9:20
direct proof of copying unnecessary, 9:21
fictitious entries and other anomalies, 9:18
probative similarity, 9:19
purpose of requirement, 9:17
unauthorized copying of, generally, 9:16 to 9:21
qualitative takings, 9:64
quantitative takings, 9:64
substantial similarity, 9:64
takings, 9:64
unauthorized copying and infringement, 9:16 to 9:21
Materiality judged by reference to plaintiff’s work, 9:65
Mistake and error, 9:20
Motion to dismiss, 9:86.50
Multiple works infringed, 9:66
National publications, publication in, 9:27
Newspaper articles, 9:84
Nicholas v. Universal Pictures Corp., 9:116
Ninth circuit, 9:54
Nonliteral similarity, 9:90
Ordinary observer, 9:69
Originality, 9:12
Periodicals
 trade periodicals, publication in, 9:27
Perris v. Hexamer, 9:105
Phonorecords (this index)

REPRODUCTION RIGHTS
—Cont’d
Pictorial, Graphic, and Sculptural Works
Embodied in Useful Articles
(this index)
Presumption, 9:7, 9:11
Prima facie case of infringement generally, 9:4 to 9:95
access, above
aggregate copying, 9:66
appeal and review, 9:88
Cartoon Network LP, LLLP v. CSC Holdings, Inc., 9:63.50
cognitive scientists, 9:85
copying from, 9:67
derivative works and certificate of registration, 9:13
discerning observer, 9:73, 9:74
errant standards and tests, above
expert witnesses, above
facts stated in certificate of registration, 9:14
factual works, total-concept-and-feel test, 9:72
FRCP Rule 12(b)(6), 9:86.50
independent creation, above
intended audience, 9:70
intent, 9:5
lists, similarity versus dissimilarity, 9:76
material amount of expression, unauthorized copying of, above
materiality judged by reference to plaintiff’s work, 9:65
motion to dismiss, 9:86.50
multiple works infringed, 9:66
newspaper articles, 9:84
ordinary observer, 9:69
originality, 9:12
ownership of right, 9:15
presumptions provided by certificate of registration, 9:7
Prima facie case of infringement—Cont’d
protected subject matter, 9:6, 9:12
registration, below
Rule 12(b)(6), 9:86.50
similarity versus dissimilarity, 9:75 to 9:78
standard of review, 9:88
striking similarity, below
substantial similarity as question of fact, 9:86
substantial similarity, final version of defendant’s work, 9:78
summary judgment, 9:87
survey evidence, 9:83
third party, copying plaintiff’s work from, 9:68
total-concept-and-feel test, 9:71, 9:72
volitional conduct distinguished, 9:5.50
Prior act evidence, 9:92
Probative similarity, 9:19
Publication and publications, 9:27
Public broadcasting compulsory license, Section 118, 11:45
Qualitative takings, 9:64
Quantitative takings, 9:64
Question of fact, 9:86
Rebuttal of registration presumption, 9:11
Records and recording, 11:47
Reference, 9:65
Registration
prima facie case of infringement generally, 9:7 to 9:11
derivative works and certificate of registration, 9:13
elements of proper registration, 9:8
foreign works, 9:10

Registration—Cont’d
prima facie case of infringement—Cont’d
presumptions provided by certificate of registration, 9:7
proper deposit copy, 9:9
rebuttal of registration presumption, 9:11
Richardson v. Miller, 9:111
Rule 12(b)(6), infringement, 9:86.50
Scientists, 9:85
Second circuit, 9:47, 9:115
Section 106(1)
determining copy, 9:99
fair abridgment, 9:98
independent creation, 9:100
intent to copy, 9:100
learning, court’s effort to encourage, 9:97
legislative history, generally, 9:96 to 9:100
Section 121, 11:49
Seventh circuit, 9:52
Sheldon v. Metro-Goldwyn Pictures Corp., 9:117
Showrooms, attendance at, 9:27
Similarity
dissimilarity compared, 9:75 to 9:78
material amount of expression, 9:64
prima facie case of infringement, 9:19, 9:85
striking similarity, below
Substantial Similarity (this index)
Sixth circuit, 9:51
Sound Recordings (this index)
Statutes, generally, 9:2
Stowe v. Thomas, 9:107
Striking similarity generally, 9:38 to 9:58
INDEX

REPRODUCTION RIGHTS
—Cont’d
Striking similarity—Cont’d
anti-doctrine, 9:38
Arnstein v. Porter, 9:38
definition, 9:44
delusional plaintiffs, 9:39
District of Columbia circuit, 9:57
eighth circuit, 9:53
eleventh circuit, 9:56
expert witnesses, 9:43, 9:82
fifth circuit, 9:50
first circuit, 9:46
fourth circuit, 9:49
independent creation compared, 9:41
ninth circuit, 9:54
recent cases, generally, 9:45 to 9:57
second circuit, 9:47
seventh circuit, 9:52
sixth circuit, 9:51
summary judgment, obsolete view of, 9:40
tenth circuit, 9:55
third circuit, 9:48
Substantial Similarity (this index)
Summary judgment, 9:40, 9:87
Supersubstantial similarity, 9:95
Survey evidence, 9:83
Takings, 9:64
Tenth circuit, 9:55
Third circuit, 9:48
Third parties, 9:29, 9:68
Title and ownership, 9:15
Total-concept-and-feel test, 9:71, 9:72
Trade periodicals, publication in, 9:27
Trade shows, attendance at, 9:27
Twentieth-century general rules of infringement, generally, 9:114 to 9:119
Vicarious inference, 9:30

REPRODUCTION RIGHTS
—Cont’d
Virtual identity, 9:95
Volitional conduct, 9:5.50
Webb v. Powers, 9:104

REPUTATION
Preemption, 18:38
Preliminary injunctions, 22:41
Visual Artists Rights Act of 1990, 16:21

RESALE ROYALTY STATE LAWS
Preemption, 18:42.50

RESCSSION
Work made for hire, 5:78

RESEARCH
Noncopyrightable Material (this index)

RESIDENCY
Choice of law, 25:64

RES JUDICATA
Jurisdiction, 17:39, 17:39.10

RESTORATION
Uruguay Round Agreements Act (this index)

RETAILIATION
Berne Convention Implementation Act of 1988, Article 6, 23:22

RETRANSMISSION
Cable television and other secondary transmissions, 14:70, 14:80
Public performance, 14:122
Sound recordings, 14:87 to 14:89

RETROACTIVITY
Assignment, 5:103, 5:112
Berne Convention Implementation Act of 1988, Article 18, 23:40
Copyright Act of 1909, 1:50
RETROACTIVITY—Cont’d
Pictorial, graphic, and sculptural works, 3:114
Uruguay Round Agreements Act (this index)
Visual Artists Rights Act of 1990, 16:47

REVERSE ENGINEERING
Fair use defense, 10:58

REVERSE PASSING OFF
Preemption, 18:47 to 18:50

REVISIONS
Amendments and Revisions (this index)

REVOCATION
Licenses, 5:124, 5:128, 5:132

REYHER v. CHILDREN’S TELEVISION WORKSHOP
Substantial similarity, 9:148

RICE v. FOX BROADCASTING CO.
Substantial similarity, 9:245

RICHARDSON v. MILLER
Reproduction right, 9:111

RINGGOLD v. BLACK ENTERTAINMENT TELEVISION, INC.
Substantial similarity, 9:156

RINGTONES
Phonorecords of nondramatic musical works, 11:24.50

ROBERT STIGWOOD GROUP v. O’REILLY
Fair use defense, 10:135

ROKEACH v. AVCO EMBASSY PICTURES
Fair use defense, 10:44

ROOKER - FELDMAN CASE
Subject-matter jurisdiction, 17:39

ROSEMONT ENTERPRISES v. RANDOM HOUSE
Fair use defense, 10:41

ROTLUND COMPANY, INC. v. PINNACLE CORPORATION
Substantial similarity, 9:234

ROYALTIES
Copyright Act of 1976, 7:44
Licenses, 5:125
Permanent injunctions, 22:75
Preemption, resale royalty state laws, 18:42.50
Standing to sue, 21:19, 21:27

RUGS
Pictorial, graphic, and sculptural works, 3:151

RUSSIA
Choice of law, 25:31, 25:44

SAFE HARBORS
Digital millennium copyright act of 1998, 21:85.10

SALARIES
Government works, 4:59

SALES
Distribution of Copies of Work (this index)
Fair use defense, 10:7, 10:29, 10:29.10
Public performance, 14:47
Term, 7:4, 7:6

SALINGER v. RANDOM HOUSE
Fair use defense, 10:46

SANDOVAL v. NEW LINE CINEMA CORP.
Substantial similarity, 9:157

SATELLITE CARRIER
Cable television and other secondary transmissions, 14:70
Display publicly, 15:15
Jukebox, 14:105 to 14:121
INDEX

SATELLITE RETRANSMISSION
Display publicly, 15:17
Public performance, 14:122

SAVED ACQUISITION COSTS
Damages (this index)

SAVIGNY
Choice of law, 25:6

SCENES A FAIRE
Abstraction-filtration-comparison analysis, 4:27
Computer programs, 4:26
Infringement, 4:25
Merger, 4:28
Noncopyrightable material generally, 4:24 to 4:28
abstraction-filtration-comparison analysis, 4:27
computer programs, 4:26
infringement, 4:25
merger, 4:28

SCHUCHART & ASSOCIATES v. SOLO SERVE CORP.
Fair use defense, 10:116

SCIENCE
Constitutional Law (this index)

SCIENTISTS
Reproduction right, 9:85

SCOPE
Infringement, 17:106, 17:110
Licenses, 5:133

SCOTLAND
Forum non conveniens, 17:211

SCOTT v. WKJG, INC.
Substantial similarity, 9:216

SCULPTURAL WORKS
Pictorial, Graphic, and Sculptural Works (this index)

SEASONAL WORKS
Preliminary injunctions, 22:39

SECONDARY LIABILITY
Direct infringement distinguished, 21:40
Extraterritoriality, 25:86,
25:86.10, 25:86.20
Infringement, 21:40
Limitation of actions, 20:45.50
Pleadings, 19:11
Types, generally, 21:41

SECONDARY TRANSMISSIONS
Cable Television and Other Secondary Transmission (this index)

SECOND CIRCUIT
Computer programs, 3:87, 3:89
Derivative works, 3:53
Monetary damages, 22:129,
22:136
Originality, 3:38
Pictorial, graphic, and sculptural works, 3:141
Preliminary injunctions, 22:16 to 22:20
Reproduction right, 9:47, 9:115
Substantial Similarity (this index)

SECOND RESTATEMENT OF CONFLICT OF LAWS
Choice of law, 25:8

SECTION 108 STUDY GROUP REPORT
Exceptions, exclusions, and exemptions, 11:8.50

SECTION 1201
Access anti-circumvention.
Technological Protection Measures and Copyright Rights Management Infor-
INDEX

SHOWROOMS
   Reproduction right, 9:27

SHULTHIS v. MCDOUGLAS
   Subject-matter jurisdiction, 17:10

SIGNATURE
   Assignment, 5:110
   Work made for hire, 5:49, 5:50, 5:77

SILVERS v. SONY PICTURES ENTERTAINMENT
   Assignment, 5:104

SIMILARITY
   Reproduction Right (this index)
   Substantial Similarity (this index)

SIMULTANEOUS FIXATION
   Preemption, 18:11

SIMULTANEOUS PUBLICATION ON INTERNET
   Choice of law and subject matter, 25:18.50
   Formalities, 6:55.40

SIMULTANEOUS REGISTRATION AND FILING NOTICE OF INTENT
   Uruguay Round Agreements Act, 24:49

SIMULTANEOUS VIOLATIONS
   Exclusive rights, 8:23

SINGLE WORK REGISTRATIONS
   Infringement, 17:93

SITE SPECIFIC WORKS
   Visual Artists Rights Act of 1990, 16:31

SITUATION MANAGEMENT SYSTEMS, INC. v. ASP CONSULTING LLC
   Substantial similarity, 9:136.10

SITUS
   Choice of law, 25:11
   Personal jurisdiction, 17:158, 17:159

SIXTH CIRCUIT
   Monetary damages, 22:137
   Pictorial, graphic, and sculptural works, 3:143.50
   Preliminary injunctions, 22:26
   Reproduction right, 9:51
   Substantial Similarity (this index)

SKIDMORE CASE
   Infringement, 17:100

SKIDMORE v. LED ZEPPELIN
   Substantial similarity, 9:247.40

SKILL
   Work made for hire, 5:55

SMALL BUSINESS EXEMPTION
   Public Performance (this index)

SMALL USES
   Fair use defense, 10:154

SMITH CASE
   Jurisdiction, 17:38, 17:42

SMITHSONIAN INSTITUTE
   Government works, 4:71

SMITH v. JACKSON
   Substantial similarity, 9:242

SMITH v. KANSAS CITY TITLE & TRUST CO.
   Subject-matter jurisdiction, 17:13

SOCIAL ACQUAINTANCES
   Public performance, 14:27

SOCIETY OF THE HOLY TRANSFIGURATION MONASTERY, INC. v. ARCHBISHOP GREGORY OF DENVER, COLORADO
   Fair use defense, 10:137.50

© 2019 Thomson Reuters, Rel. 24, 9/2019
SONNY BONO COPYRIGHT TERM EXTENSION ACT
—Cont'd
Renewal, 7:60
Section 203(a)(2), 7:61
Section 302(a), 7:53
Section 302(b), 7:54
Section 303(a), 7:57
Section 304, 7:58
Section 304(a), 7:59
Section 304(b), 7:60
Section 304(c)(2), 7:61
Section 304(d), 7:62
Sound recordings, 7:63
Termination of transfers, 7:61, 7:62
Transfers, 7:61, 7:62
Unpublished, 7:57
Unregistration, 7:57
Works made for hire, 7:55

SONY CORP. OF AMERICA v. UNIVERSAL CITY STUDIOS
Contributory infringement, 21:49
Fair Use Defense (this index)

SOUND RECORDINGS
Generally, 3:160 to 3:163, 11:16 to 11:19, 14:81 to 14:98
See also Phonograms; Phonorecords (this index)
Agee v. Paramount Communications, 11:18
Antitrust exemption, Section 114(e), 14:96
Authorship, 3:161
Bonneville v. Peters, 14:88
Broadcast and nonsubscription services, Section 114(d), 14:86
Broadcasting exemption, 11:19
Collective works, 5:90
Compilations, 5:91
Complement, 14:93
Compulsory license rates, 14:98
INDEX

SOUND RECORDINGS—Cont’d
Compulsory licensing, 14:91 to 14:94, 14:97
Contributions to collective works as collective works, 5:90
Copyrightable material, generally, 3:160 to 3:163
Copyright Act of 1909 amendments, 1:70, 5:84
Copyright Act of 1976, 5:85, 5:89
Costs and expenses, 5:87
Derivative works, 3:162, 12:27
Digital millennium copyright act (DMCA) amendments, 14:88
safe harbors, 21:85.10
Employer-employee relationship, 5:86
Exclusive rights, 8:20, 8:28
Exemptions
generally, 14:86 to 14:90
antitrust exemption, Section 114(e), 14:96
broadcast and nonsubscription services, Section 114(d), 14:86
DMCA amendments, 14:88
incidental feeds, Section 114(d)(1)(c), 14:90
radio retransmissions, Bonneville v. Peters, 14:88
retransmissions, Section 114(d)(1)(b), 14:89
webcasting rates, 14:89.50
Feeds, 14:90
Formalities, 6:54, 6:63
History, 5:89
Incidental feeds, Section 114(d)(1)(c), 14:90
Infringement, 3:163, 11:17
Instance and expense test, 5:87
Interactive services, 14:92, 14:95
Legislative history, 5:89
Licenses and licensing
compulsory license rates, 14:98
compulsory licensing, Section 114(d)(2), 14:91 to 14:94
SOUND RECORDINGS—Cont’d
Licenses and licensing—Cont’d
compulsory licensing, Section 114(f), 14:97
interactive services, licenses for,
Section 114(d)(3), 14:95
Limitations and restrictions, 14:82 to 14:85
Monetary damages, 22:186
Phonorecords (this index)
Preemption, 18:54 to 18:56
Public broadcasting exemptions,
11:19
Publicly perform, right to, generally, 14:81 to 14:98
Radio performance, 14:29
Radio retransmissions, Bonneville v. Peters, 14:88
Rates, 14:98
Repeal, 5:93
Reproduction right, 11:48
Retransmissions, 14:87 to 14:89
Right to publicly perform, generally, 14:81 to 14:98
Section 106(6), 14:82 to 14:85
Section 114, 14:82 to 14:85
Section 114(a), 14:83
Section 114(b), 14:84
Section 114(b), generally, 11:16 to 11:19
Section 114(c), 14:85
Section 114(d), 14:86
Section 114(d)(1)(b), 14:89
Section 114(d)(1)(c), 14:90
Section 114(d)(2), compulsory licensing, 14:91 to 14:94
Section 114(d)(3), 14:95
Section 114(e), 14:96
Section 114(f), 14:97
Sonny Bono Copyright Term Extension Act, 7:63
Sound recording performance complement, 14:93
TRIPS, Article 14, 23:67
Uruguay Round Agreements Act, 24:35

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-145
SOUND RECORDINGS—Cont’d
Webcasting rates, 14:89.50
Work made for hire
generally, 5:82 to 5:93
contributions to collective
works as collective works, 5:90
Copyright Act of 1909, 5:84
Copyright Act of 1976, 5:85, 5:89
employer-employee relation-
ship, 5:86
enumerated categories, 5:88
instance and expense test, 5:87
1999 Amendment, 5:92
noncollective-work compil-
tions, 5:91
repeal of 2000, 5:93
SOUNDS
Infringement, subject-matter juris-
diction, 17:86
SOUTHERN BELL TELEPHONE
& TELEGRAPH CO. v.
ASSOCIATED TELEPHONE
DIRECTORY
Substantial similarity, 9:260
SOVEREIGN IMMUNITY
DMCA, 21:87
Government works, 4:66
Immunity, 21:87
Parties, 21:88
State governments, 21:88
Territories, 21:88.10
Visual Artists’ Rights Act of 1990,
16:48
SPECIAL ORDERS
Work Made for Hire (this index)
SPECIAL VENUE STATUTE
Federal claims, 17:203
SPECIFICITY
Preliminary injunctions, 22:69
SPECIFIC JURISDICTION
Personal Jurisdiction (this index)
SPECIFIC PERFORMANCE
Uruguay Round Agreements Act,
24:50
SPECULATION
Damages, 22:103, 22:119
SPONSORSHIP
Vicarious liability, 21:72
SPOUSES
Choice of law, 25:66
STANDARD REFERENCE DATA
ACT OF 1968
Copyright Act of 1909 amend-
ments, 1:69
Government works, 4:67
STANDING TO SUE
Generally, 21:1 to 21:28
Accrued causes of action, owner-
ship, 21:22
Administration rights, 21:21
Affirmative defense, 21:3
Anti-Assignment Act, 21:23
Assignment, 21:5, 21:23
Associational standing, 21:28
Beneficial owners, 21:25 to 21:27
Continuing, 21:27
Contracts and agreements, 21:16,
21:20
Corporations, 21:4.50
Defenses, 21:3
Derivative works, 21:12
Distribution agreements, 21:20
Divisibility, 21:9
Employees for hire, 21:7.50
Equitable trust theory of beneficial
ownership, 21:26
Exclusive rights, Section 501(b)
generally, 21:15
administration rights, 21:21
contracts and agreements, 21:16
distribution agreements, 21:20
first refusal, 21:18
limitations, 21:16
management rights, 21:21
INDEX

STANDING TO SUE—Cont’d
Exclusive rights, Section 501(b)—Cont’d
options and rights, 21:17, 21:18
royalties, right to receive, 21:19
First refusal, 21:18
FRCP 17(a), 21:2
Infringement, 21:22
Jurisdiction, 17:47
Lack of standing as affirmative defense, 21:3
Licenses and licensing, 5:121, 5:123, 21:13
Limitation of Actions (this index)
Limitations of attributes of exclusivity, 21:16
Management rights, 21:21
Non-copyright rights, 21:24
Nonexclusive licensees, lack of standing, 21:13
Options, 21:17, 21:18
Parens patriae, 21:6
Parent corporations, 21:4.50
Performing rights societies, 21:13
Registration of claim to copyright contrasted, 21:9.50
Requirements, generally, 21:14 to 21:22
Requirement that rights arise under United States law, 21:22.50
Royalties, 21:19, 21:27
Section 501(b). Exclusive rights, Section 501(b), above
State law, ownership, 21:8
Statutes, 21:4, 21:23
Subsidiary corporations, 21:4.50
Third parties, work made for hire, 5:49.10
Time of infringement, ownership at, 21:10, 21:22
Title and ownership, generally, 21:7 et seq.
Transfer of right, 5:104
Trusts, 21:26
United States as parens patriae, 21:6

STANDING TO SUE—Cont’d
United States law, rights arising under, 21:22.50
VARA rights and standing, 21:11
Work made for hire, 5:49.10, 21:7.50

STAPLE ARTICLE OF COMMERCE DOCTRINE
Contributory infringement, 21:49 to 21:51
Vicarious liability, 21:78, 21:79

STAR ATHLETICA, LLC v. VARSITY BRANDS, INC.
Pictorial, graphic and sculptural works, 3:144.80

STATE CLAIMS
Preemption, 18:49

STATE COURT
Jurisdiction, 17:39, 17:51

STATE GOVERNMENT
Government works, 4:81
Parties, 21:88
Sovereign immunity, 21:88

STATE LAWS
Distribution of copies of work, 13:5
Exclusive rights, 8:11
Formalities, 6:17
Infringement, subject-matter jurisdiction preConstitution, 17:64.20
Jurisdiction, 17:57
Licenses, 5:129
Limitation of actions, 20:6, 20:48
Pictorial, graphic, and sculptural works, 3:113
Preemption, 18:42.50, 18:43.10, 18:43.50, 18:52
Resale royalty state laws, 18:42.50
Standing to sue, 21:8
Term, 7:5
Uruguay Round Agreements Act, 24:15

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-147
STATE LAWS—Cont’d
Visual Artists’ Rights Act of 1990, 16:48

STATE LITIGATION
Jurisdiction, 17:57 to 17:59

STATES
Colonial period, 1:16, 1:17
Historical, 1:16, 1:17
Preemption (this index)

STATE TRESPASS TO CHATTEL CLAIMS
Preemption, 18:46

STATIONERS’ COMPANY v. THE ROYAL PATENTEES
England and Statute of Anne, 1:7, 1:8

STATUTE OF ANNE
England (this index)

STATUTES
Generally, 1:19 to 1:115
Ad Interim Act of 1905, 23:7
Anti-Assignment Act, 21:23
Audio Home Recording Act, 21:84
Chace Act, 23:4
Computer Fraud and Abuse Act, 18:45, 18:46
Construction and Interpretation (this index)
Copyright Act of 1909 (this index)
Copyright Act of 1976 (this index)
Copyright Renewal Act of 1992, 7:50
Display Publicly (this index)
Distribution of Copies of Work (this index)
Engravings Act of 1735, 1:13

STATUTES—Cont’d
Exclusive Rights (this index)
Fair Use Defense (this index)
First Copyright Act (this index)
Formalities (this index)
Government works, 4:67
Historical background, generally, 1:2
Importation (this index)
Impoundment, Seizure, and Destruction (this index)
Licensing Act of 1692, 1:9
Limitation of Actions (this index)
Louisiana Purchase Exposition Act of 1904, 23:6
Predicate Act doctrine, 25:90
Preemption (this index)
Public Performance (this index)
Record Rental Act of 1984, 13:26
Reproduction Right (this index)
Sonny Bono Copyright Term Extension Act (this index)
Standing to sue, 21:4, 21:23
Talfourd Term Extension Act of 1842, 1:15
Venue, 17:203, 17:204
Visual Artists Rights Act of 1990 (this index)
Work made for hire, 5:44, 5:50

STATUTORY DAMAGES
Damages (this index)

STATUTORY DEFINITION
Derivative works, 3:47
Formalities, 6:49

STATUTORY FORMALITIES
Infringement, 17:64

STATUTORY LICENSE
Copyright Act of 1976 amendments, 1:104

STATUTORY SUCCESSOR CLASS
1909 general revision, 7:14
STATUTORY SUCCESSORS
1909 general revision, 7:15

STAY
Jurisdiction, 17:57 to 17:59

STENOGRAPH LLC v.
BOSSARD ASSOCIATES, INC.
Substantial similarity, 9:275

STEWART v. ABEND
Construction and interpretation, 2:53

STILL PHOTOGRAPHIC IMAGES
Visual Artists Rights Act of 1990, 16:9

STOCK MARKET INDEXES
Noncopyrightable material, 4:10

STOWE v. THOMAS
Reproduction right, 9:107

STREAMING
Public performance, 14:79.50

STREAM OF COMMERCE
Personal jurisdiction, 17:146, 17:146.50, 17:174

STRICT LIABILITY
Generally, 21:38, 21:39
Internet, 21:39

STRIKING SIMILARITY
Reproduction Right (this index)

STROMBACK v. NEW LINE CINEMA
Substantial similarity, 9:207

STUFF v. E.C. PUBLICATIONS, INC.
Substantial similarity, 9:143

STURDZA v. UNITED ARAB EMIRATES
Substantial similarity, 9:276

STYLE
Noncopyrightable material, 4:11, 4:11.50, 4:14

SUBJECT MATTER
Choice of Law (this index)
Subject Matter Jurisdiction (this index)
Subject Matter Preemption (this index)

SUBJECT MATTER JURISDICTION
Generally, 17:4 to 17:21
America Invents Act, 17:6
American Well Works Co. v. Layne Bowler Co., 17:11, 17:12
Arising under jurisdiction generally, 17:6 to 17:21, 17:29 to 17:48
America Invents Act, 17:6
American Well Works case, 17:37
appeal, T.B. Harms case, 17:32
Basset v. Mashantucket Pequot Tribe, 17:35
case law, generally, 17:6 to 17:21
choice of law, 25:67
class theory, 17:36
condition to license or independent covenant, 17:43
contracts and agreement, 17:41
contracts and agreements, 17:40
determining existence, generally, 17:7 to 17:21
election, 17:40
essence test, 17:35
establishment of subject-matter jurisdiction, 17:44
extraterritorial acts, 17:48
foreign judgments, res judicata, 17:39.10
infringement, 17:40
patent cases, 17:9
primary and controlling test, 17:35
SUBJECT MATTER  
JURISDICTION—Cont’d  
Arising under jurisdiction —Cont’d  
question of law, 17:45  
reserve approach of Smith case, 17:42  
res judicata for erroneous state court proceedings, 17:39  
review of determinations, 17:45  
Rooker-Feldman, 17:39  
set theory, 17:36  
Smith case, 17:38, 17:42  
standing, lack of, 17:47  
subject-matter jurisdiction, 17:41  
suits against United States and its contractors, 17:46  
T.B. Harms case, generally, 17:30 to 17:34  
well-pleaded-complaint rule, 17:6  
Christianson v. Colt Industries Operating Corp., 17:18  
Complaint, 17:6  
Determining existence of arising under jurisdiction, generally, 17:7 to 17:21  
Federal question jurisdiction classification proposal, 17:28  
Franchise Tax Board v. Construction Laborers Vacation Trust for Southern California, 17:16  
Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing, 17:21  
Gully v. First National Bank in Meridian, 17:15  
History, 17:5  
Holmes Group, Inc. v. Vornado Air Circulation, 17:19  
Infringement (this index)  
Jones v. R.R. Donnelly & Sons Co., 17:20  
Jurisdiction, 17:41  

SUBJECT MATTER  
JURISDICTION—Cont’d  
Merrell Dow Pharmaceuticals, Inc. v. Thompson, 17:17  
Moore v. Chesapeake & Ohio Railway Co., 17:14  
Osborn v. Bank of the United States, 17:8  
Patent cases, 17:9  
Prima facie case of infringement. Infringement (this index)  
Res judicata and foreign judgments, 17:39.10  
Rooker-Feldman, erroneous state court proceedings, 17:39  
Shulthis v. McDougals, 17:10  
Smith v. Kansas City Title & Trust Co., 17:13  
Well-pleaded-complaint rule, 17:6  

SUBJECT MATTER  
PREEMPTION  
Construction and interpretation, 18:10 to 18:12  
Visual Artists Rights Act of 1990, 16:41, 16:45  

SUBSIDIARIES  
Personal jurisdiction, 17:138  
Vicarious liability, 21:83  

SUBSTANTIALITY  
Fair Use Defense (this index)  

SUBSTANTIAL  
NONINFRINGEMENT USES  
Contributory infringement, 21:52, 21:53  

SUBSTANTIAL SIMILARITY  
Generally, 9:120 to 9:278  
Appeal and review, 9:278  
Apple Computer, Inc. v. Microsoft Corp., 9:241  
Arc Music Corp. v. Lee, 9:142  
Atari, Inc. v. Amusement World, 9:178  

Index-150
SUBSTANTIAL SIMILARITY—Cont’d
Atkins v. Fischer, 9:277
Attia v. Society of the New York Hospital, 9:163
Bateman v. Mnemonics, Inc., 9:263
Baxter v. MCA, Inc., 9:237
BellSouth Advertising & Publishing Corp. v. Donnelley Information Publishing Inc., 9:261
Benson v. Coca-Cola Co., 9:262
Benton v. Decotex, Inc., 9:202
Blehm v. Jacobs, 9:257.70
Bridgeport Music, Inc. v. Dimension Films, 9:209
Bridgeport Music, Inc. v. UMG Recordings, Inc., 9:209.20
Callaghan v. Myers, 9:122
Cartier v. Jackson, 9:253
Champion Map Corp. v. Twin Printing Co., 9:177
Charles W. Ross Builder, Inc. v. Olsen Fine Home Building, LLC, 9:185.50
Chicago Record-Herald Co. v. Tribune Association, 9:211
CMM Cable Rep v. Ocean Coast Properties, Inc., 9:133
Concrete Machinery Co. v. Classic Lawn Ornaments, Inc., 9:130

SUBSTANTIAL SIMILARITY—Cont’d
Continental Casualty Co. v. Beardsley, 9:139
Copeland v. Bieber, 9:185.60
Coquico, Inc. v. Rodriguez-Miranda, 9:136.20
Costello v. Loew’s, Inc., 9:272
Court of appeals for federal circuit and court of federal claims, 9:278
Creations Unlimited, Inc. v. McClain, 9:192
Derivative works, 12:13
Design Basics, LLC v. Lexington Homes, Inc., 9:223.70
District court cases, 9:250
District of Columbia circuit generally, 9:267 to 9:277
Atkins v. Fischer, 9:277
Costello v. Loew’s, Inc., 9:272
Lapsley v. American Institute of Certified Public Accountants, 9:273
Miner v. Employers Mutual Liability Insurance Co. of Wisconsin, 9:271
Reader’s Digest Association, Inc. v. Conservative Digest, Inc., 9:274
Sheets v. Twentieth Century Fox Film Corp., 9:270
Sherrill v. Grieves, 9:268
Sturdza v. United Arab Emirates, 9:276
Dorsey v. Old Surety Life Insurance Co., 9:249
DSC Communications Corp. v. DGI Technologies, Inc., 9:191
SUBSTANTIAL SIMILARITY —Cont’d
Educational Testing Services v. Katzman, 9:169
Edwards & Deutsch Lithographing Co. v. Boorman, 9:212
Eighth circuit generally, 9:224 to 9:234
Funkhouser v. Loew’s Inc., 9:229
Hartman v. Hallmark Cards, Inc., 9:231
Nucor Corp. v. Tennessee Forging Steel Service, Inc., 9:230
Rottlund Company, Inc. v. Pinnacle Corporation, 9:234
Taylor Corporation v. Four Seasons Greetings, LLC, 9:233
Twentieth Century-Fox Film Corp. v. Dieckhaus, 9:228
Eleventh circuit generally, 9:258 to 9:266.60
Bateman v. Mnemonics, Inc., 9:263
BellSouth Advertising & Publishing Corp. v. Donnelley Information Publishing Inc., 9:261
Benson v. Coca-Cola Co., 9:262
Leigh v. Warner Bros., Inc., 9:264
Oravec v. Sunny Isles Luxury Ventures, L.C., 9:266.50

SUBSTANTIAL SIMILARITY —Cont’d
Eleventh circuit—Cont’d
Original Appalachian Artworks, Inc. v. Toy Loft, Inc., 9:259
Palmer v. Braun, 9:266
Peter Letterese and Associates, Inc. v. World Institute of Scientology Enterprises, 9:266.60
Southern Bell Telephone & Telegraph Co. v. Associated Telephone Directory, 9:260
Watt v. Butler, 9:266.70
Ellis v. Diffie, 9:201
Federal circuit, 9:278
Federal claims court, 9:278
Feist Publications, Inc. v. Rural Telephone Service Co., 9:126
Fifth circuit generally, 9:186 to 9:192
Creations Unlimited, Inc. v. McClain, 9:192
DSC Communications Corp. v. DGI Technologies, Inc., 9:191
Miller v., Universal City Studios, Inc., 9:188
First circuit generally, 9:128 to 9:136.20
SUBSTANTIAL SIMILARITY
—Cont’d
First circuit—Cont’d
CMM Cable Rep v. Ocean Coast Properties, Inc., 9:133
Concrete Machinery Co. v. Classic Lawn Ornaments, Inc., 9:130
Coquico, Inc. v. Rodriguez-Miranda, 9:136.20
Grubb v. KMS Patriots, L.P., 9:132
Johnson v. Gordon, 9:136
Segrets, Inc. v. Gillman Knitwear Co., 9:134
Situation Management Systems, Inc. v. ASP Consulting LLC, 9:136.10
Yankee Candle Co. v. Bridgewater Candle Co., 9:135
Fogerty v. MGM Group Holdings Corp., Inc., 9:206
Folio Impressions, Inc. v. Byer California, 9:153
Fourth circuit generally, 9:174 to 9:185.50
Atari, Inc. v. Amusement World, 9:178
Champion Map Corp. v. Twin Printing Co., 9:177
Charles W. Ross Builder, Inc. v. Olsen Fine Home Build-

SUBSTANTIAL SIMILARITY
—Cont’d
Fourth circuit—Cont’d
Copeland v. Bieber, 9:185.60
Johnson v. Automotive Ventures, 9:183
Keeler Brass Co. v. Continental Brass Co., 9:180
Lewis v. Kroger Co., 9:176
M. Kramer Manufacturing Co. v. Andrews, 9:179
Reed v. Carusi, 9:175
Towler v. Sayles, 9:184
Funkhouser v. Loew’s Inc., 9:229
Gaste v. Kaiserman, 9:152
Grubb v. KMS Patriots, L.P., 9:132
Hamil America, Inc. v. GFI, 9:161
Harper & Row, Publisher, Inc. v. Nation Enterprises, 9:125
Hartman v. Hallmark Cards, Inc., 9:231
Herbert Rosenthal Jewelry Corp. v. Honora Jewelry Co., 9:146
Hoehling v. Universal City Studios, Inc., 9:149
Ideal Toy Corp. v. Fab-Lu, Ltd., 9:144
Jacobsen v. Deseret Book Co., 9:257
JCW Investment, Inc. v. Novelty, Inc., 9:223.50
Johnson v. Automotive Ventures, 9:183
SUBSTANTIAL SIMILARITY
—Cont’d
Johnson v. Gordon, 9:136
Jones v. Blige, 9:209.50
Jorgensen v. Epic/Sony Records, 9:164
Keeler Brass Co. v. Continental Brass Co., 9:180
Knitwaves, Inc. v. Lollytogs, Ltd., 9:155
Kohus v. Mariol, 9:203
Krofft decision, 9:236
Langman Fabrics v. Graff California Wear, 9:159
Lapsley v. American Institute of Certified Public Accountants, 9:273
La Resolana Architects, PA v. Reno, Inc., 9:257.60
Leigh v. Warner Bros., Inc., 9:264
Lewis v. Kroger Co., 9:176
Mattel, Inc. v. MGA Entertainment, Inc., 9:247.10
Mazer v. Stein, 9:124
Metcalf v. Bochco, 9:244
MGM v. Grokster, Ltd., 9:127
Mihalek v. Michigan, 9:198
Miller v. Universal City Studios, Inc., 9:188

SUBSTANTIAL SIMILARITY
—Cont’d
Millworth Converting Corp. v. Slifka, 9:141
Miner v. Employers Mutual Liability Insurance Co. of Wisconsin, 9:271
M. Kramer Manufacturing Co. v. Andrews, 9:179
Murray Hill Publications, Inc. v. Twentieth Century Fox Film Corp., 9:204
Nash v. Columbia Broadcasting Systems, 9:219
Newton v. Diamond, 9:247
Ninth circuit generally, 9:235 to 9:247.40
Apple Computer, Inc. v. Microsoft Corp., 9:241
Baxter v. MCA, Inc., 9:237
Krofft decision, 9:236
Mattel, Inc. v. MGA Entertainment, Inc., 9:247.10
Metcalf v. Bochco, 9:244
Newton v. Diamond, 9:247
Pasillas v. MacDonald’s Corp., 9:239
Rice v. Fox Broadcasting Co., 9:245
Shaw v. Lindheim, 9:238
Skidmore v. Led Zeppelin, 9:247.40
Smith v. Jackson, 9:242
Swirsky v. Carey, 9:246
Three Boys Music Corp. v. Bolton, 9:243
Williams v. Gaye, 9:247.30

Index-154
SUBSTANTIAL SIMILARITY — Cont’d
NLFC, Inc. v. Devcom Mid-America, 9:221
Novelty Textile Mills, Inc. v. Joan Fabrics Corp., 9:147
Nucor Corp. v. Tennessee Forging Steel Service, Inc., 9:230
Oravec v. Sunny Isles Luxury Ventures, L.C., 9:266.50
Original Appalachian Artworks, Inc. v. Tofu Loft, Inc., 9:259
Palmer v. Braun, 9:266
Pasillas v. MacDonald’s Corp., 9:239
Perris v. Hexamer, 9:121
Peter Letterese and Associates, Inc. v. World Institute of Scientology Enterprises, 9:266.60
Peter Pan Fabrics, Inc. v. Martin Weiner Corp., 9:140
Peters v. West, 9:223.60
Raum v. Norwood, 9:205
Reader’s Digest Association, Inc. v. Conservative Digest, Inc., 9:274
Reed v. Carusi, 9:175
Repp v. Webber, 9:158
Reproduction right, 9:64, 9:78, 9:86, 9:86.50
Reyher v. Children’s Television Workshop, 9:148
Rice v. Fox Broadcasting Co., 9:245
Rottlund Company, Inc. v. Pinnacle Corporation, 9:234
Scott v. WKJG, Inc., 9:216

SUBSTANTIAL SIMILARITY — Cont’d
Second circuit generally, 9:137 to 9:164
Arc Music Corp. v. Lee, 9:142
Attia v. Society of the New York Hospital, 9:163
Continental Casualty Co. v. Beardsley, 9:139
Folio Impressions, Inc. v. Byer California, 9:153
Gaste v. Kaiserman, 9:152
Hamil America, Inc. v. GFI, 9:161
Herbert Rosenthal Jewelry Corp. v. Honora Jewelry Co., 9:146
Hoehling v. Universal City Studios, Inc., 9:149
Ideal Toy Corp. v. Fab-Lu, Ltd., 9:144
Jorgenson v. Epic/Sony Records, 9:164
Knitwaves, Inc. v. Lollytogs, Ltd., 9:155
Langman Fabrics v. Graff Californiawear, 9:159
Millworth Converting Corp. v. Slifka, 9:141
Novelty Textile Mills, Inc. v. Joan Fabrics Corp., 9:147
Peter Pan Fabrics, Inc. v. Martin Weiner Corp., 9:140
Repp v. Webber, 9:158
Reyher v. Children’s Television Workshop, 9:148
SUBSTANTIAL SIMILARITY — Cont’d
Second circuit — Cont’d
Wainwright Securities, Inc. v. Wall Street Transcript Corp., 9:149
Walker v. Time Life Films, Inc., 9:151
Warner Brothers, Inc. v. American Broadcasting Cos., 9:150
Zelewski v. Cicero Builder Dev., Inc, 9:164.10
Segrets, Inc. v. Gillman Knitwear Co., 9:134
Selle v. Gibb, 9:218
Seventh circuit
generally, 9:210 to 9:223.60
Chicago Record-Herald Co. v. Tribune Association, 9:211
Design Basics, LLC v. Lexington Homes, Inc., 9:223.70
Edwards & Deutsch Lithographing Co. v. Boorman, 9:212
JAC Investment, Inc. v. Novelty, Inc., 9:223.50
Nash v. Columbia Broadcasting Systems, 9:219
NLFC, Inc. v. Devcom Mid-America, 9:221

SUBSTANTIAL SIMILARITY — Cont’d
Seventh circuit — Cont’d
Peters v. West, 9:223.60
Scott v. WKJD, Inc., 9:216
Selle v. Gibb, 9:218
Susan Wakeen Doll Co. v. Ashton-Drake Galleries, 9:223
Ty Inc. v. GMA Accessories, Inc., 9:222
Wildlife Express Corp. v. Carol Wright Sales, Inc., 9:220
Shaw v. Lindheim, 9:238
Sheets v. Twentieth Century Fox Film Corp., 9:270
Sherrill v. Grieves, 9:268
Situation Management Systems, Inc. v. ASP Consulting LLC, 9:136.10
Sixth circuit
generally, 9:193 to 9:209.50
Benton v. Decotex, Inc., 9:202
Bridgeport Music, Inc. v. Dimension Films, 9:209
Bridgeport Music, Inc. v. UMG Recordings, Inc., 9:209.20
Ellis v. Diffie, 9:201
Fogerty v. MGM Group Holdings Corp., Inc., 9:206
Jones v. Blige, 9:209.50
Kohus v. Mariol, 9:203
Mihalek v. Michigan, 9:198
Murray Hill Publications, Inc. v. Twenty First Century Fox Film Corp., 9:204
Raum v. Norwood, 9:205
Stromback v. New Line Cinema, 9:207
Index

SUBSTANTIAL SIMILARITY
—Cont’d
Sixth circuit—Cont’d
  Trapani v. CBS Records, Inc., 9:200
  Winfield Collection Ltd. v. Gemmy Corp., 9:208
  Skidmore v. Led Zeppelin, 9:247.40
  Smith v. Jackson, 9:242
  Southern Bell Telephone & Telegraph Co. v. Associated Telephone Directory, 9:260
  Stromback v. New Line Cinema, 9:207
  Sturda v. United Arab Emirates, 9:276
Supreme Court
  generally, 9:120 to 9:127
  Callaghan v. Myers, 9:122
  Feist Publications, Inc. v. Rural Telephone Service Co., 9:126
  Harper & Row, Publisher, Inc. v. Nation Enterprises, 9:125
  Mazer v. Stein, 9:124
  MGM v. Grokster, Ltd., 9:127
  Perris v. Hexamer, 9:121
  White-Smith Music Publishing Co. v. Apollo Co., 9:123
  Susan Wakeen Doll Co. v. Ashton-Drake Galleries, 9:223
  Swirsky v. Carey, 9:246
  Tansley v. Daniels, 9:173.50
  Taylor Corporation v. Four Seasons Greetings, LLC, 9:233

SUBSTANTIAL SIMILARITY
—Cont’d
Tenth circuit
generally, 9:248 to 9:257.70
  Blehm v. Jacobs, 9:257.70
  Cartier v. Jackson, 9:253
district court cases, 9:250
  Dorsey v. Old Surety Life Insurance Co., 9:249
  Jacobsen v. Deseret Book Co., 9:257
  La Resolana Architects, PA v. Reno, Inc., 9:257.60
  Testa v. Janssen, 9:168
Third circuit
generally, 9:165 to 9:173
  Educational Testing Services v. Katzman, 9:169
  Tansley v. Daniels, 9:173.50
  Testa v. Janssen, 9:168

© 2019 Thomson Reuters, Rel. 24, 9/2019
SUBSTANTIAL SIMILARITY
—Cont’d
Third circuit—Cont’d
Universal Athletic Sales Co. v. Salkeld, 9:166
Whelan Associates, Inc. v. Jaslow Dental Laboratory, 9:170
Three Boys Music Corp. v. Bolton, 9:243
Towler v. Sayles, 9:184
Trapani v. CBS Records, Inc., 9:200
Twentieth Century-Fox Film Corp. v. Dieckhaus, 9:228
Ty Inc. v. GMA Accessories, Inc., 9:222
Universal Athletic Sales Co. v. Salkeld, 9:166
Wainwright Securities, Inc. v. Wall Street Transcript Corp., 9:149
Walker v. Time Life Films, Inc., 9:151
Warner Brothers, Inc. v. American Broadcasting Cos., 9:150
Watt v. Butler, 9:266.70
Whelan Associates, Inc. v. Jaslow Dental Laboratory, 9:170
White-Smith Music Publishing Co. v. Apollo Co., 9:123
Wildlife Express Corp. v. Carol Wright Sales, Inc., 9:220
Williams v. Gaye, 9:247.30
Winfield Collection Ltd. v. Gemmy Corp., 9:208
Yankee Candle Co. v. Bridgewater Candle Co., 9:135

SUBSTANTIAL SIMILARITY
—Cont’d
Zelewski v. Cicero Builder Dev., Inc, 9:164.10

SUBSTITUTIONS
Derivative works, 12:10

SUCCESS ON MERITS
Preliminary injunctions, 22:60, 22:61

SUCCESSOR CLASS
General revision of 1909, 7:14

SUCCESSORS
General revision of 1909, 7:15
Uruguay Round Agreements Act, 24:41

SUFFICIENCY
Assignment, 5:114

SUIS AGAINST UNITED STATES AND ITS CONTRACTORS
Jurisdiction, 17:46

SUMMARY JUDGMENT
Fair use defense, 10:159
Limitation of actions, 20:56
Monetary damages, 22:183
Reproduction right, 9:40, 9:87

SUNTRUST BANK v. HOUGHTON MIFFLIN CO.
Substantial similarity, 9:265

SUPERSTATIONS
Display publicly, 15:15
Jukebox (this index)

SUPERSUBSTANTIAL SIMILARITY
Reproduction right, 9:95

SUPERVISE, RIGHT TO
Vicarious liability, 21:67

SUPPLEMENTAL JURISDICTION
Generally, 17:53, 17:54

Index-158
SUPPLEMENTAL JURISDICTION—Cont’d
Gibbs case, 17:54
Review of rulings, 17:54.50

SUPPLEMENTARY REGISTRATION
Infringement, 17:132

SUPPLEMENTARY REPORT
Monetary damages, 22:158
Preemption, 18:6

SUPRANATIONAL COPYRIGHT LAW INFRINGEMENT
Choice of law, 25:82

SUPREMACY CLAUSE
Preemption, 18:59, 18:60

SUPREME COURT
See also specific cases in this index
Construction and interpretation, 2:18
Express aiming, 17:156
Fair use defense, 10:86
Impoundment, seizure, and destruction, 22:83
Infringement, 17:98 to 17:101
L’anza decision, 13:45
Preliminary injunctions, 22:21
Substantial Similarity (this index)

SURVEY EVIDENCE
Reproduction right, 9:83

SURVIVING SPOUSE
Term renewal, 1909 general revision, 7:17

SUSAN WAKEEN DOLL CO. v. ASHTON - DRAKE GALLERIES
Substantial similarity, 9:223

SWATCH GROUP MANAGEMENT SERVICES LTD. v. BLOOMBERG L.P.
Fair use defense, 10:80.30

SWIRSKY v. CAREY
Substantial similarity, 9:246

SYBERSOUND RECORDS, INC. v. UAV CORPORATION
Assignment, 5:103
Transfer of interest by exclusive licensees, 5:103

SYMBOL
Formalities, 6:59
Visual works, 4:17

SYMBOLIC AUTHORSHIP
Definition, 3:21

TAKE DOWN NOTICES
DMCA, preemption of state law claims, 18:52.60

TAKINGS
Fair Use Defense (this index)
Reproduction right, 9:64

TALFOURD TERM EXTENSION ACT OF 1842
Generally, 1:15

TALMUD
Choice of law, 25:4

TANGIBLE OBJECT
Title and ownership, 5:97

TANKLEY V. DANIELS
Substantial similarity, 9:173.50

TARIFFS
International copyrights, 23:56

TAXATION
Monetary damages, 22:144
Work made for hire, 5:66

TAXONOMIES
Noncopyrightable material, 4:51

TAYLOR CORPORATION v. FOUR SEASONS GREETINGS, LLC
Substantial similarity, 9:233
TAYLOR v. MEIRICK
Limitation of actions, 20:30

T.B. HARMS DECISION
Subject Matter Jurisdiction (this index)

TEACHER EXCEPTION
Work made for hire, 5:71

TECHNICAL AMENDMENTS
Copyright Act of 1976, 1:96

TECHNICAL DRAWINGS AND PLANS
Pictorial, graphic, and sculptural works, 3:154.60

TECHNOLOGICAL PROTECTION MEASURES AND COPYRIGHT RIGHTS MANAGEMENT INFORMATION
Generally, 16A:1 et seq.
Civil remedies, 16A:5
Copyright rights management generally, 16A:3.50
non-digital form, 16A:3.60
Definition, 16A:2
Knowledge requirement, 16A:4
Nexus to infringement, 16A:4.50
OEM cases, 16A:3
Original equipment manufacturers, cases to block competing products, 16A:3
Public domain work, 16A:2
Statement by Librarian of Congress relating to Section 1201 rulemaking, App 16A-A

TECHNOLOGIES—Cont’d
Exclusive rights, 8:2

TECHNOLOGY DRIVEN ALTERNATIVES
Derivative works, 3:57

TELEPROMPTERS
Cable television and other secondary transmissions, 14:57

TELEVISION
Cable Television and Other Secondary Transmission (this index)
Copyright Act of 1976, 1:78
Public performance, Internet streaming, 14:79.50

TELEVISION DIGEST v. UNITED STATES TELEPHONE ASSOCIATION
Fair use defense, 10:120

TEMPORARY INJUNCTIONS
Generally, 22:15

TEMPORARY RESTRAINING ORDERS
Generally, 22:9

TENTH CIRCUIT
Computer programs, 3:88
Preliminary injunctions, 22:29
Reproduction right, 9:55
Substantial Similarity (this index)

TERM
Generally, 7:1 to 7:63
Berne Convention Implementation Act of 1988, Article 7, 23:24
Bono, Sonny Bono Copyright Term Extension Act (this index)
Booksellers, 7:4, 7:6
Constitutional law, 7:6
Copyright Act of 1790, 7:7
Copyright Act of 1976 (this index)
TERM—Cont’d
Copyright Renewal Act of 1992, 7:50
Duration of copyright, generally, 7:1 to 7:63
Early legislation, generally, 7:7 to 7:9
Extension of term. Sonny Bono Copyright Term Extension Act (this index)
General revision of 1831, 7:8
General revision of 1870, 7:9
History, 7:1, 7:4 to 7:6
Legislation, generally, 7:7 to 7:9
Phonograms, 7:51
Pre-constitutional state statutes, 7:5
Renewal
assignment, jurisdiction, 7:10.50
Copyright Act of 1976 (this index)
Copyright Renewal Act of 1992, 7:50
Sales, 7:4, 7:6
Sonny Bono Copyright Term Extension Act (this index)
State statutes, 7:5
Statutes
Copyright Renewal Act of 1992, 7:50
pre-constitutional state statutes, 7:5
Sonny Bono Copyright Term Extension Act (this index)
TRIPS, Article 12, 23:65
Uruguay Round Agreements Act, 7:51, 24:33
WIPO, 7:51
Works first published overseas, 7:24.50
TERMINATED SERVICE
Jukebox, 14:113
TERMINATION OF TRANSFER—Cont’d
Choice of law, 25:74
TERMINATION OF TRANSFER
Copyright Act of 1976 (this index)
Sonny Bono Copyright Term Extension Act, 7:61, 7:62
TERRITORIAL COPYRIGHTS
Choice of law, 25:18
TERRITORIAL RESTRICTIONS
Jukebox, 14:121
TERRITORY GOVERNMENT
Sovereign immunity, 21:88.10
TESTA v. JANSSEN
Substantial similarity, 9:168
TEXTILES
Pictorial, graphic, and sculptural works, 3:151
TEXTUAL GAMES
Noncopyrightable material, 4:20
THIRD CIRCUIT
Computer programs, 3:86, 3:90
Pictorial, graphic, and sculptural works, 3:141.50
Preliminary injunctions, 22:23
Reproduction right, 9:48
Substantial Similarity (this index)
THIRD PARTIES
Assignment, 5:114
Fair use defense, 10:158
Licenses, 5:140
Limitation of actions, 20:34, 20:45.50
Pleadings, 19:11
Reproduction right, 9:29, 9:68
Standing, work made for hire, 5:49.10
THREE BOYS MUSIC CORP. v. BOLTON
Substantial similarity, 9:243
THREE DIMENSIONAL WORKS
Derivative works, 12:20

TIME AND DATE
Choice of Law (this index)
Copyright Act of 1909, 1:65, 1:67
Copyright Act of 1976, 1:97 to 1:107
Formalities (this index)
Monetary damages, 22:192
Standing to sue, 21:10, 21:22
Term (this index)
TRIPS, 23:68
Uruguay Round Agreements Act (this index)
Visual Artists Rights Act of 1990 (this index)
Work made for hire, 5:58, 5:60

TIN PAN APPLE v. MILLER BREWING
Fair use defense, 10:32

TIRE ENGINEERING & DISTRIBUTION, LLC v. SHANDONG LINGLONG RUBBER COMPANY, LTD.
Extraterritoriality, 25:92.50

TITLE AND OWNERSHIP
Generally, 5:1 to 5:157
Assignment (this index)
Choice of law, 25:30, 25:46
Computer programs, 11:32
Copies, ownership of generally, 5:97 to 5:100
Copyright Act of 1976, 5:98
intangible intellectual property, 5:97
tangible object distinguished, 5:97
tension between “copy” and “copyright,” 5:100
“work” distinguished from “copy,” 5:99
Copyright Act of 1976, 5:98
Derivative works, 12:22

TOKSVIG v. BRUCE PUBLISHING CO.
Fair use defense, 10:37
Substantial similarity, 9:214

TOLLING
Author and authorship, 5:42
Limitation of actions, 20:44, 20:49

TOOLS
Work made for hire, 5:56

“TO PROMOTE THE PROGRESS OF SCIENCE”
Constitutional Law (this index)

TORTIOUS INTERFERENCE
Preemption, 18:30

TORTS
Personal jurisdiction, 17:167
INDEX

TORTS—Cont’d
Strict liability tort, 21:38, 21:39
Transitory tort, 25:105

TOTAL CONCEPT AND FEEL TEST
Reproduction right, 9:71, 9:72

TOWLER v. SAYLES
Substantial similarity, 9:184

TOWNSEND AMENDMENT OF 1912
Copyright Act of 1909, 1:47

TOYS
Pictorial, graphic, and sculptural works, 3:149

TRADE DRESS
Preemption, 18:43.90

TRADE PERIODICALS
Reproduction right, 9:27

TRADE RELATED ASPECTS OF IP
TRIPS (this index)

TRADE SECRETS
Disclosure by filing with copyright office, 17:132.50
Preemption, 18:44

TRADE SHOWS AND CONFERENCES
Personal jurisdiction, 17:184
Reproduction right, 9:27
Vicarious liability, 21:69 to 21:71

TRADING WITH THE ENEMY ACT OF 1962
Copyright Act of 1909 amendments, 1:68

TRAINING MATERIALS
Monetary damages, 22:187

“TRANSACTIONS BUSINESS”
Personal jurisdiction, 17:157

TRANSCRIPTS
Government works, 4:88

TRANSFER OF COPIES
Computer programs, 11:43

TRANSFER OF VENUE
Generally, 17:208

TRANSFERS
Choice of law, 25:74, 25:80.10
Copyright Act of 1976 (this index)
Ownership by assignment, 5:103
Sonny Bono Copyright Term Extension Act, 7:61, 7:62

TRANSFORMATIVE USES
Fair use defense, 10:13, 10:21, 10:142

TRANSFORMING
Derivative works, 3:48

TRANSITORY TORT
Generally, 25:105

TRANSLATION
Berne Convention Implementation Act of 1988, Article 8, 23:25

TRANSMISSIONS
Cable Television and Other Secondary Transmission (this index)
Exclusive rights, 8:23
Extraterritoriality (this index)
Jukebox, 14:105 to 14:121
Public performance, 14:23, 14:28, 14:41
Sound recordings, 14:87 to 14:89
Uruguay Round Agreements Act, 24:10

TRANSWESTERN PUBLISHING v. MULTIMEDIA MARKETING ASSOCIATES
Substantial similarity, 9:256

TRAPANI v. CBS RECORDS, INC.
Substantial similarity, 9:200

© 2019 Thomson Reuters, Rel. 24, 9/2019
<table>
<thead>
<tr>
<th><strong>TRESPASS</strong></th>
<th>Preemption, 18:45, 18:46</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>TRIAL COURT</strong></td>
<td>Extraterritoriality, 25:96</td>
</tr>
<tr>
<td><strong>TRIBAL DECISION</strong></td>
<td>Jurisdiction, 17:57.50</td>
</tr>
<tr>
<td></td>
<td>Stay pending, 17:57.50</td>
</tr>
<tr>
<td><strong>TRIBAL IMMUNITY</strong></td>
<td>Parties, 21:89</td>
</tr>
<tr>
<td><strong>TRIPS</strong></td>
<td>Generally, 23:57 to 23:68, App 24-A</td>
</tr>
<tr>
<td></td>
<td>Article 1(3), nature and scope of obligations, 23:57</td>
</tr>
<tr>
<td></td>
<td>Article 3(1), national treatment, 23:58</td>
</tr>
<tr>
<td></td>
<td>Article 4, most-favored-nation treatment, 23:59</td>
</tr>
<tr>
<td></td>
<td>Article 6, exhaustion, 23:60</td>
</tr>
<tr>
<td></td>
<td>Article 8(2), principles, 23:61</td>
</tr>
<tr>
<td></td>
<td>Article 9, relation to Berne Convention, 23:62</td>
</tr>
<tr>
<td></td>
<td>Article 10, computer programs and compilations of data, 23:63</td>
</tr>
<tr>
<td></td>
<td>Article 11, rental rights, 23:64</td>
</tr>
<tr>
<td></td>
<td>Article 12, term of protection, 23:65</td>
</tr>
<tr>
<td></td>
<td>Article 13, limitations and exceptions, 23:66</td>
</tr>
<tr>
<td></td>
<td>Article 14, protection of performers, producers of phonograms (sound recordings), and broadcasting organizations, 23:67</td>
</tr>
<tr>
<td></td>
<td>Berne Convention, Article 9, relation to, 23:62</td>
</tr>
<tr>
<td></td>
<td>Broadcasting organizations, 23:67</td>
</tr>
<tr>
<td></td>
<td>Compilation of data, 23:63</td>
</tr>
<tr>
<td></td>
<td>Computer programs, 23:63</td>
</tr>
<tr>
<td></td>
<td>Effective dates, 23:68</td>
</tr>
<tr>
<td></td>
<td>Exceptions, 23:66</td>
</tr>
<tr>
<td></td>
<td>Exhaustion, 23:60</td>
</tr>
<tr>
<td></td>
<td><strong>Importation</strong> (this index)</td>
</tr>
<tr>
<td></td>
<td>Limitations and restrictions, 23:66</td>
</tr>
</tbody>
</table>

| **TRIPS—Cont’d**   | Most-favored-nation, 23:59 |
|                    | NAFTA. *North American Free Trade Agreement* (this index) |
|                    | Performance, 23:67 |
|                    | Phonograms, 23:67 |
|                    | Producers, 23:67 |
|                    | Rental rights, 13:32, 23:64 |
|                    | Self-executing, 23:1.50, 24:1.50 |
|                    | Software, 23:63 |
|                    | Sound recordings, 23:67 |
|                    | Status as treaty, 24:1.50 |
|                    | Term, 23:65 |
|                    | Time and date, 23:68 |

| **TRUCKS**         | Jukebox, 14:114 |

| **TRUSTS**         | Constructive trust ownership, 5:153 |
|                    | Standing to sue, 21:26 |

| **TUFENKIAN IMPORT/EXPORT VENTURES, INC. v. EINSTEIN MOOMJY, INC.** | Substantial similarity, 9:162 |

| **TUNNEL VISION**  | Construction and interpretation, anchoring problem with judicial supremacists’ tunnel vision, 2:61 |

| **TWENTIETH CENTURY - FOX FILM CORP. v. DIECKHAUS** | Substantial similarity, 9:228 |

| **TWENTIETH CENTURY FOX FILM CORP. v. ICRA VE TV** | Extraterritoriality, 25:100 |

| **TWENTIETH CENTURY MUSIC CORPORATION v. AIKEN** | Construction and interpretation, 2:46 |
### INDEX

| **28 USCA** | Jurisdiction, 17:55 |
| **29 USCA** | Government works, 4:66 |
| **TWIN PEAKS PRODUCTIONS v. PUBLICATIONS INTERNATIONAL** | Fair use defense, 10:65 |
| **TWO - DIMENSIONAL REPRODUCTIONS** | Display publicly, 15:16 |
| **TWO - DIMENSIONAL WORKS** | Derivative works, 12:20  
Pictorial, graphic, and sculptural works, 3:150 |
| **TY INC. v. GMA ACCESSORIES, INC.** | Substantial similarity, 9:222 |
| **TY INC. v. PUBLICATIONS INTERNATIONAL** | Fair use defense, 10:67 |
| **TYPEFACE AND TYPOGRAPHY** | Computer programs, 3:75  
Visual works, 4:19 |
| **UNCLEAN HANDS** | Infringement, 17:121 to 17:125, 17:127  
Pleadings, 19:2.60 |
| **UNELECTION OF STATUTORY DAMAGES** | Monetary damages, 22:173 |
| **UNFAIR COMPETITION** | Preemption, 18:47 to 18:50 |
| **UNFORMED CORPORATIONS** | Work made for hire, 5:80 |
| **UNITED STATES** | Choice of law absent, 25:0.50  
Definition, 4:72 to 4:74 |
| **UNITED STATES AS PARENTS PATRIAE** | Standing to sue, 21:6 |
| **UNITED STATES - CANADA FREE TRADE AGREEMENT (CFTA)** | Generally, 23:54 |
| **UNITED STATES CLAIMS** | Choice of law, 25:84 |
| **UNITED STATES GOVERNMENT** | Actions against generally, 21:86  
Copyright Act of 1909, 1:66  
DAMAGES, defendant, as, generally, 21:86  
jurisdiction, 17:46  
limitation of actions, 20:45  
"Work of the United States Government," defining, 4:69, 4:70 |
| **UNITED STATES INTERNATIONAL TRADE COMMISSION** | Section 337 actions, 23:75 |
| **UNIT OF PUBLICATION RULE** | Formalities, 6:66 |
| **UNIVERSAL ATHLETIC SALES CO. v. SALKELD** | Substantial similarity, 9:166 |
| **UNIVERSAL COPYRIGHT CONVENTION** | Copyright Act of 1909, generally, 1:63  
Formalities, 6:46  
International copyright, U.S. protection of foreign authors, 23:11, 23:12  
Self-executing, 23:1.50 |
| **UNIVERSITIES AND COLLEGES** | University Professor's Act of 1926, 1:51 |
UNJUST ENRICHMENT
Preemption, 18:51

UNORIGINAL WORKS
Preemption, 18:14, 18:15

UNPUBLISHED WORKS
Copyright Act of 1976, 7:38
England and Statute of Anne, 1:11
Fair use defense, 10:139
Government works
noncopyrightable material, 4:64
Sonny Bono Copyright Term Extension Act, 7:57

UNSOLD GOODS
Monetary damages, 22:142

UPDATE ART, INC. v. MODIIN PUBLISHING, LTD.
Extraterritoriality, 25:90, 25:91

URAA
Uruguay Round Agreements Act
(this index)

URUGUAY ROUND AGREEMENTS ACT
—Cont’d
“Bootlegs of live musical performances,” Sections 512 and 513—Cont’d
national eligibility requirements, 24:11
preexisting live musical performances, protection of, 24:14
reproduction, distribution, and transmission, 24:10
state laws, preemption, 24:15
violation of rights and remedies, 24:12

Computer program rental, 24:4, 24:20
Congress of U.S.
Executive, President Clinton, below
H.R. 4894 and Representative Hughes’ Floor Statement, App 24-D
Representative Hughes’ and Representative Berman’s Floor Statements on Passage of Act (Nov. 29, 1994), App 24-J
Representative Hughes’ Floor Statement on Passage of Rule (Oct. 8, 1994), App 24-H
S. 2368 and Senator DeConcini’s Floor Statement, App 24-E
Senate Judiciary Committee Statement on Act, App 24-I

Consent to fixation, 24:8
Constitutional basis of right, 24:7
Constitutionality of restoration provisions, 24:51
<table>
<thead>
<tr>
<th>Topic</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Continuing infringement and reliance party status, <em>URUGUAY ROUND AGREEMENTS ACT</em>—Cont’d</td>
<td>24:40</td>
</tr>
<tr>
<td>Contributory infringement and statutory damages, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:44</td>
</tr>
<tr>
<td>Copyright components, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:3</td>
</tr>
<tr>
<td>Copyright Office notice of intent, Section 104A(e), <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:45</td>
</tr>
<tr>
<td>Notice of Policy Decision on Effective Date (Feb. 9, 1995), App 24-M</td>
<td>24:46</td>
</tr>
<tr>
<td>reliance party, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:45, 24:48</td>
</tr>
<tr>
<td>simultaneous registration and filing notice of intent with Copyright Office, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:49</td>
</tr>
<tr>
<td>Criminal provisions, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:16</td>
</tr>
<tr>
<td>Cutoff, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:42</td>
</tr>
<tr>
<td>Damages, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:44</td>
</tr>
<tr>
<td>Definition of restored work, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:32</td>
</tr>
<tr>
<td>Derivative works, Section 104A(d)(3), <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:43</td>
</tr>
<tr>
<td>Distribution, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:10</td>
</tr>
<tr>
<td>Duration of protection in restored works, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:36</td>
</tr>
<tr>
<td>Effective date generally, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:24 to 24:28</td>
</tr>
<tr>
<td>Copyright Office, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:26</td>
</tr>
<tr>
<td>Copyright Office’s Notice of Policy Decision on Effective Date (Feb. 9, 1995), App 24-M</td>
<td>24:45</td>
</tr>
<tr>
<td>1997 legislative effort, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:28</td>
</tr>
<tr>
<td>President Clinton, 24:27, App 24-L</td>
<td>24:25</td>
</tr>
<tr>
<td>restoration, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:25</td>
</tr>
<tr>
<td>Enactment, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:2</td>
</tr>
<tr>
<td>Exclusion from protection, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:30, 24:33</td>
</tr>
<tr>
<td>Exclusive rights, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>8:27</td>
</tr>
<tr>
<td>Expiration of term, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:33</td>
</tr>
<tr>
<td>Fixation, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:8</td>
</tr>
<tr>
<td>Foreign works, retroactivity, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:23</td>
</tr>
<tr>
<td>Music videos, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:9</td>
</tr>
<tr>
<td>National eligibility requirements, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:11</td>
</tr>
<tr>
<td>Nonreliance parties, Section 104A(D)(1), <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:38</td>
</tr>
<tr>
<td>North American Free Trade Agreement, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:22</td>
</tr>
<tr>
<td>National eligibility requirements, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:11</td>
</tr>
<tr>
<td>Office of Legal Counsel Memorandum on Constitutionality of Retroactive Copyright, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:25</td>
</tr>
<tr>
<td>Exclusion from protection, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:30, 24:33</td>
</tr>
<tr>
<td>Enactment, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:2</td>
</tr>
<tr>
<td>Exclusion from protection, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:30, 24:33</td>
</tr>
<tr>
<td>Exclusive rights, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>8:27</td>
</tr>
<tr>
<td>Expiration of term, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:33</td>
</tr>
<tr>
<td>Fixation, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:8</td>
</tr>
<tr>
<td>Foreign works, retroactivity, <em>URUGUAY ROUND AGREEMENTS ACT</em></td>
<td>24:23</td>
</tr>
</tbody>
</table>
URUGUAY ROUND AGREEMENTS ACT —Cont’d

Protection (July 29, 1994), App 24-C

Performance generally, 24:50
“bootlegs of live musical performances,” Sections 512 and 513, above

Phonorecord and computer program rental, 24:20

Preemption, 24:15

Preexisting live musical performances, protection of, 24:14

President Clinton illegal proclamation, effective date, 24:27

1993 Memorandum of Intent to Enter into Uruguay Round Agreements, App 24-B

Proclamation (Mar. 23, 1995) for implementation of provisions, App 24-N

Proclamation on Effective Date of Uruguay Round Agreements (Dec. 23, 1994), App 24-L

Records and recording
Copyright Office and on reliance party, 24:48
notice of intent with Copyright Office or directly on reliance party, Section 104A(e), 24:45

Rental rights, 24:4, 24:20

Reproduction, 24:10

Restoration generally, 24:25
constitutionality of provisions, 24:51
duration of protection in restored works, 24:36
grounds for, 24:34
title and ownership, Section 104A(b), 24:31, 24:32

Retroactivity, Section 514
generally, 24:17 to 24:21, 24:23
Berne Convention, 24:18, 24:21
phonorecord and computer program rental, 24:20
pre-Berne Convention, 24:19

Section 104A
derivative works, Section 104A(d)(3), 24:43
exclusion from protections expiration of term, Sections 104A(h)(6)(B) and (C), 24:33

filing notice, 24:45 to 24:47

Reliance party—Cont’d
filing notice on reliance party, Section 104A(e)(2)(A), 24:47
filing of notice of intent with Copyright Office or directly on reliance party, Section 104A(e), 24:45
filing with Copyright Office and on reliance party, 24:48
nonreliance parties, Section 104A(D)(1), 24:38
notice of intent and cutoff of reliance party immunity, 24:42
Section 104A(d)(2) to (4), 24:39
successors to, 24:41

Remedies, 24:37 to 24:39

Rental rights, 24:4, 24:20

Registration, 24:49

Reliance party generally, 24:40
assignees of, 24:41
VENUE
Generally, 17:198 to 17:208
Establishing, 17:205
Federal claim proper
general venue statute, 17:204
special venue statute, 17:203
Federal-state pendent venue,
17:202
Forum selection clauses, 17:206
General venue statute, 17:204
Improper venue, Section 1406(a),
17:207
Nature of venue, generally, 17:199
Pendent venue, 17:201, 17:202
Section 1400(a), generally, 17:200
Section 1406(a), 17:207
Selection, 17:206
Special venue statute, 17:203
Transfer of venue, Section
1404(a), 17:208

VESTING OF RENEWAL
Choice of law, 25:73
Copyright Act of 1976, 7:26
1909 general revision, 7:13

VETERANS
Public performance, 14:49

VICARIOUS INFRINGEMENT
Reproduction right, 9:30

VICARIOUS LIABILITY
Generally, 21:62 to 21:83
Adobe Systems Inc. v. Canus
Productions, Inc., 21:71
A&M Records, Inc. v. Napster,
Inc., 21:74
Apparent authority, 21:82
Ballroom line of decisions, 21:65
Case law, 21:63 to 21:65
Commer, 21:78, 21:79
Contractors, 21:80
Copyright Act of 1909, case law
under, 21:63 to 21:65
Corporations, parent and subsidiaries, 21:83
Direct financial benefit, 21:68

VICARIOUS LIABILITY
—Cont’d
Ellison v. Robertson, 21:75
Employment, 21:81
Financial benefit, direct, 21:68
Flea markets, 21:69 to 21:71
Fonovisa, Inc. v. Cherry Auction
Inc., 21:70
Independent liability for independent contractors, 21:80
Individual liability of company employees, 21:81
Inducement claims, 21:79
Inducement liability and staple article of commerce doctrine, 21:79
In re Aimster Copyright Litigation, 21:76
Internet
generally, 21:73 to 21:77.50
A&M Records, Inc. v. Napster,
Inc., 21:74
Ellison v. Robertson, 21:75
In re Aimster Copyright Litigation, 21:76
LLC v. AT&T Mobility, LLC,
21:77.60
MGM Studios, Inc. v. Grokster,
Inc., 21:77, 21:77.50
Perfect 10 cases, 21:77.50
Landlord-tenant line of decisions,
21:64
Leases, 21:64
LLC v. AT&T Mobility, LLC,
21:77.60
MGM Studios, Inc. v. Grokster,
Inc., 21:77, 21:77.50
Requirements, generally, 21:66 to
21:68
Sponsorship, 21:72
Staple article of commerce doctrine, 21:78, 21:79
Subsidiaries, 21:83
Supervise, right to, 21:67
Trade shows, 21:69 to 21:71
INDEX

VIDEOS
- Uruguay Round Agreements Act, 24:9

VIOLATION ACCRUAL
- Construction of Section 507(b), 20:17 to 20:20
- Limitation of actions, 20:43

VIRTUAL IDENTITY
- Reproduction rights, 9:95

VISUAL ARTISTS’ RIGHTS ACT OF 1990 (VARA)
- Generally, 16:1 to 16:48
  - Advertising and promotional use, 16:13.50
  - Attribution, right of, 16:17
  - Authors, 16:5, 16:6
  - Berne, 16:3
  - Buildings, works contained in, 16:32 to 16:34
  - Completion, 16:27
  - Constitutional law, 16:36
  - Copy defined, 16:26
  - Destruction, 16:24, 16:26
  - Display of mutilated work, lack of right to prohibition, 16:23
  - Distortion, mutilation, or other modification, 16:20, 16:22
  - Droit moral, 16:2, 16:3
  - Duration and preemption generally, 16:38 to 16:45
duration, generally, 16:38
equivalent remedies, 16:43
equivalent rights preemption, 16:42
life of artist, preemption during, 16:40
preemption, generally, 16:39, 16:40
preexisting causes of action, 16:39
Section 106 rights, 16:44
special provisions, 18:58
state VARA actions, 18:43.50
subject-matter preemption, 16:41, 16:45

VISUAL ARTISTS’ RIGHTS ACT OF 1990 (VARA)—Cont’d
- Effective date and retroactive application, 16:47
- Eligibility for benefits, 16:4 to 16:6
- Ensemble works, 16:8
- Equivalent remedies, 16:43
- Equivalent rights preemption, 16:42
- Exceptions, exclusions, and exemptions
  - formalities, 6:79
  - protected subject matter, 16:12, 16:13
  - rights, 16:28 to 16:31
- Exclusive rights, 8:25
- Exhibition purposes, still photographic images for, 16:9
- Fair use, 16:35
- Fair use defense
  - generally, App 10-I
  - legislative reports, App 10-J
- Finishing work, 16:27
- First Amendment, 16:36
- Foreign authors, 16:5
- Formalities, 6:79, 16:14, 16:15
- Harm, 16:21
- Honor, 16:21
- Immunity, 16:48
- Individual artists, 16:4
- Injunctive relief, 16:46
- Integrity, right of
  - generally, 16:18 to 16:25
destruction, right to prohibit, 16:24
display of mutilated work, lack of right to prohibition, 16:23
distortion, mutilation, or other modification, 16:20
intent, 16:19
intentional distortion, mutilation, or other modification, 16:22

© 2019 Thomson Reuters, Rel. 24, 9/2019
INDEX

WAINWRIGHT SECURITIES, INC. v. WALL STREET TRANSCRIPT CORP.
Fair use defense, 10:25
Substantial similarity, 9:149

WAIVER
Licenses, 5:154, 5:157
Personal jurisdiction, 17:142
Visual Artists Rights Act of 1990, 16:37

WALDEN v. FIORE
Express aiming, 17:156

WALKER v. TIME LIFE FILMS, INC.
Substantial similarity, 9:151

WARNER BROTHERS, INC. v. AMERICAN BROADCASTING COS.
Substantial similarity, 9:150

WARRANTY
Uruguay Round Agreements Act, 24:50

WASHINGTONIAN PUBLISHING CO., INC. v. PEARSON
Construction and interpretation, 2:40

WASHINGTON SHOE CO. v. A-Z SPORTING GOODS INC.
Personal jurisdiction, 17:166.50

WASTE
Joint authorship, 5:10, 5:11

WATT v. BUTLER
Substantial similarity, 9:266.70

WEBB v. POWERS
Reproduction right, 9:104

WEBCASTING
Sound recordings, 14:89.50

WEBCASTING STATUTORY LICENSE
Copyright Act of 1976, 1:104

WEB SITES
Pictorial, graphic, and sculptural works, 3:123

WELL - KNOWN
Fair use defense, 10:93

WELL - PLEADED - COMPLAINT RULE
Subject-matter jurisdiction, 17:6

WHEATON v. PETERS
Government works, noncopyrightable material, 4:55, 4:56

WHELAN ASSOCIATES, INC. v. JASLOW DENTAL LABORATORY
Computer programs, 3:86
Substantial similarity, 9:170

WHITE - SMITH MUSIC PUBLISHING CO. v. APOLLO CO.
Substantial similarity, 9:123

WICKHAM v. KNOXVILLE INTERNATIONAL ENERGY EXPOSITION, INC.
Substantial similarity, 9:197

WIDESPREAD HARM FROM SMALL USES
Fair use defense, 10:154

WIHTOL v. CROW
Fair use defense, 10:102, 10:134, 10:137

WILDLIFE EXPRESS CORP. v. CAROL WRIGHT SALES, INC.
Substantial similarity, 9:220

WILL
Copyright Act of 1909 general revision, 7:14, 7:18

© 2019 Thomson Reuters, Rel. 24, 9/2019
WILLFUL INFRINGEMENT
Preliminary injunctions, 22:43
WILLIAMS v. GAYE
Substantial similarity, 9:247.30
WILLIAMS & WILKINS v. UNITED STATES
Fair use defense, 10:103
WINFIELD COLLECTION LTD. v. GEMMY CORP.
Substantial similarity, 9:208
WIPO
Generally, 23:46 to 23:48
Copyright Act of 1976 amendments, 1:98, 1:101
Copyright Treaty, 23:47
Formalities, 6:81
Importation, rights of, Section 602, 13:37
1996 Treaties, generally, 23:46 to 23:48
Performances and Phonograms Treaty, 23:48
Phonograms, 23:48
Term, 7:51
WIRELESS CABLE
Cable television and other secondary transmissions, 14:65
“WITHIN THE SUBJECT MATTER OF COPYRIGHT”
Definition, 18:13 to 18:15
WOMEN
Choice of law, 25:66
WORDS
Noncopyrightable material, 4:2
WORK
Defined, 10:144
WORK MADE FOR HIRE
Generally, 5:44 to 5:95.50
Affirmative defense, 5:95.50
WORK MADE FOR HIRE—Cont’d
Assignment, 5:59
Assistants, 5:62
Authorship, generally, 5:44 to 5:95.50
Belt-and-suspenders agreements, 5:51
Benefits, provision of employee benefits, 5:65
Business, hiring party in, 5:64
Check endorsement, 5:77
Commission, 5:48
Commissioned work. Special orders and commissioned works, below
Community for Creative Non-Violence v. Reid generally, 5:53 to 5:69
labor law supplanting, 5:67.10
Construction and interpretation, 5:68, 5:69
Contracts and agreements
Copyright Act of 1976 writing requirement, 5:49, 5:51
e-mail, 5:77.50
rescission of agreement containing work for hire agreement, 5:78
special orders and commissioned works, 5:76
United States Government works, 5:78.50
Copyright Act of 1909, 5:45
Copyright Act of 1976 generally, 5:46 to 5:51
belt-and-suspenders agreements, 5:51
commission, 5:48
employees, works created by, 5:47
Esign Act, effect of, 5:50
signature on agreement, 5:49
special orders, 5:48
term, 7:37
writing requirement, generally, 5:46 to 5:51
Index-174
INDEX

WORK MADE FOR HIRE — Cont'd

Costs and expenses, 5:70
Defense, 5:95.50
Definition of special orders and commissioned works, 5:73
Discretion, 5:60
Dissolved corporations, 5:80
Email, 5:77.50
Employees generally, 5:52 to 5:69
assignment of additional projects to hired party, 5:59
assistants, hired party's right to hirer and pay, 5:62
benefits, provision of employee benefits, 5:65
business, hiring party in, 5:64
Community for Creative Non-Violence v. Reid generally, 5:53 to 5:69
labor law supplanting, 5:67.10
Copyright Act of 1976 writing requirement, 5:47
duration of relationship of parties, 5:58
extent of hired party's discretion over when and how long to work, 5:60
hiring party's right to control manner and means by which work is created, 5:54
instance and expense test, 5:70
location of work, 5:57
partners as employees of partnership, 5:71.50
payment, 5:61, 5:62
post-CCNV interpretation, 5:68, 5:69
regular business of hiring party, part of, 5:63
scope of employment, 5:69
skill required, 5:55
source of instrumentalities and tools, 5:56

WORK MADE FOR HIRE — Cont’d

Employees—Cont’d
tax treatment, 5:66
Employers, multiple, 5:79
Esign Act, effect of, 5:50
Exceptions, 5:71
Government works, 4:77
Instance and expense test, 5:70
Instrumentalities, 5:56
Limitation of actions, 5:81
Location of work, 5:57
Multiple employers, 5:79
Nonprofit organizations, 5:80.50
Partners as employees of partnership, 5:71.50
Payment, 5:61, 5:62
Question of fact, 5:95
Question of law, 5:95
Regular business of hiring party, part of, 5:63
Religious and nonprofit organizations, 5:80.50
Rescission of agreement containing work for hire agreement, 5:78
Signature, 5:49, 5:50, 5:77
Skill required, 5:55
Sonny Bono Copyright Term Extension Act, 7:55

Sound Recordings (this index)
Special orders and commissioned works

Standing to sue, 5:49.10, 21:7.50
Statutes, 5:44, 5:50
Tax treatment, 5:66
Teacher exception, 5:71
Third party standing, 5:49.10

© 2019 Thomson Reuters, Rel. 24, 9/2019

Index-175
WORK MADE FOR HIRE
—Cont’d
Time and date, 5:58, 5:60
Tools, 5:56
Unformed corporations, 5:80
United States Government works, 5:78.50
Writing requirement. Copyright Act of 1976, above
WORK OF THE UNITED STATES GOVERNMENT
Definition, 4:69, 4:70
Government Works (this index)
WORKS OF ARCHITECTURE
Architectural Works (this index)
WORKS OF ART
Formalities, 6:32
Pictorial, graphic, and sculptural works, 3:110
WORLDWIDE CHURCH OF GOD v. PHILADELPHIA CHURCH OF GOD
Fair use defense, 10:136
WORLD - WIDE VOLKSWAGEN CORP. v. WOODSON
Personal jurisdiction, 17:144
WRIGHT v. WARNER BOOKS
Fair use defense, 10:48

WRITINGS
Assignment (this index)
Author and authorship, 5:26
Work Made for Hire (this index)
WTO PANEL RULING
Public performance, 14:45
WWII
Copyright Act of 1909 amendments, 1:58
YAHOO! INC. v. LA LIGUE CONTRE LE RACISME ET L’ANTISEMITISME
Personal jurisdiction, 17:166
YANKEE CANDLE CO. v. BRIDGEWATER CANDLE CO.
Substantial similarity, 9:135
YOGA
Noncopyrightable material, 4:22
ZELIEWSKI v. CICERO BUILDER DEV., INC
Substantial similarity, 9:164.10
ZIPPO MANUFACTURING CASE
Personal jurisdiction, 17:186
ZUILL v. SHANAHAN
Joint authorship, 5:36, 5:38
Limitation of actions, 5:36, 5:38, 20:37 to 20:41