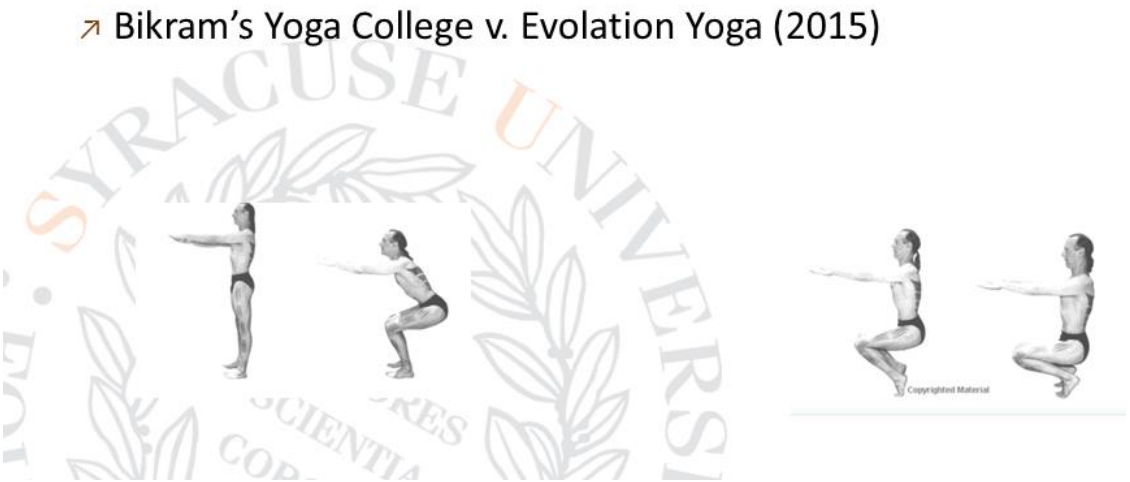
LECTURE TOPIC: INTELLECTUAL PROPERTY RIGHTS S

Discussion 3: Bikram's Yoga College v. Evolation Yoga (illustration of ideas as a copyrightable material)

Plaintiffs filed suit against defendants, alleging, inter alia, that defendants infringed "Bikram's Copyrighted Works through substantial use of Bikram's Copyrighted Works in and as part of Defendants' offering of yoga classes." The district court granted defendants' motion for partial summary judgment as to the claim of copyright infringement of the "Sequence." The parties settled all remaining claims. At issue on appeal was whether a sequence of twenty-six yoga poses and two breathing exercises developed by Bikram Choudhury and described in his 1979 book, Bikram's Beginning Yoga Class, is entitled to copyright protection.



Discussion 4: The Gross v. Seligman Case (pictures below)

In Gross, an artist named Rochlitz posed a nude model for a photograph entitled "Grace of Youth." Rochlitz assigned the copyright to the plaintiffs and took another photograph of the same model entitled "Cherry Ripe" two years later. While the court indicated that "the artist was careful to introduce only enough differences to argue about," the description of the photographs indicates that the second version may have contained tenable differences." For example, the young woman who was sedate in "Grace of Youth" wears a smile in the second picture and holds a cherry stem between her teeth. In addition, the backgrounds are different and the contours of the woman's figure had changed from the passing of the years.

Complainant's "Grace of Youth"

Original Photo

Defendant's "Cherry Ripe"

Subsequent Photo

Pro arts vs. Hustler Magazine et al (picture below)

Plaintiff, Pro Arts, Inc., brought this action against defendants, numerous entities associated with the publication and distribution of Hustler and Slam Magazines, alleging copyright infringement of a poster of celebrity Farrah Fawcett which plaintiff created and copyrighted in 1976

Discussion 5: Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994),

The case involved the song "Pretty Woman" by the notorious rap group 2 Live Crew, released in 1989, and Roy Orbison and William Dees' "Oh, Pretty Woman," released in 1964. The 2 Live Crew song used the same distinctive bass riff from the original, but changed the lyrics to conform to 2 Live Crew's distinctive style. Acuff-Rose, 510 U.S. at 594-96 App. A (Orbison/Dees) and App. B (2 Live Crew). Prior to releasing the song, 2 Live Crew offered to pay for the right to the parody, but Acuff-Rose refused. 2 Live Crew then released the song anyway on the album "As Clean As They Wanna Be

Please listen to these two songs:

Pretty Woman Roy Orbison:

https://play.google.com/music/preview/T66vbzo2sipwpwatedljobklscq?lyrics=1&utm_source=google&utm_medium=search&utm_campaign=lyrics&pcampaignid=kp-lyrics

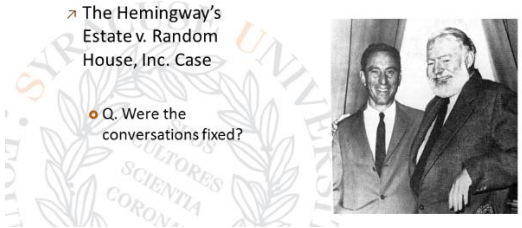
Pretty Woman: 2 Live Crew:
This is the song and lyrics

http://genius.com/2-live-crew-pretty-woman-lyrics

Discussion 6: Estate of Hemingway v. Random House, Inc.

Hemingway died in 1961. During the last 13 years of his life, a close friendship existed between him and A.E. Hotchner, a younger and far less well-known writer. Hotchner, who met Hemingway in the course of writing articles about him, became a favored drinking and traveling companion of the famous author, a frequent visitor to his home and the adapter of some of his works for motion pictures and television. During these years, Hemingway's conversation with Hotchner, in which others sometimes took part, was filled with anecdote, reminiscence, literary opinion and revealing comment about actual persons on whom some of Hemingway's fictional characters were based. Hotchner made careful notes of these conversations soon after they occurred, occasionally recording them on a portable tape recorder.

A cause of action in the complaint in an action by the widow and the estate of a noted author against a less well-known author who was decedent's close friend for 13 years prior to his death, and a publisher (a) to enjoin the publication of a book about the deceased author culled from conversations of which defendant author made careful notes soon after they occurred and which he occasionally recorded on a tape recorder, and (b) for damages was properly dismissed. Plaintiffs do not have a common-law copyright in such conversations. The deceased author never suggested to defendant author that he regarded his remarks as "literary creations" or that defendant author should restrict his use of the notes and recordings which decedent knew defendant author was accumulating. Defendant author wrote articles continually during decedent's lifetime, consisting largely of quotations from his conversations and decedent approved.



Discussion 7: The 1984 Apple Computer v. Formula International

Formula is a wholesaler and retailer of electronic parts and electronic kits. In May 1982, Formula entered the **computer** market, selling a **computer** kit under the trademark "Pineapple." The **computer** was designed to be compatible with application software written for the home **computer** manufactured by **Apple**, the**Apple** II. Included within Formula's **computer** kit were two **computer** programs embodied in semiconductor devices called ROM's (Read Only Memory). Formula concedes for purposes of appeal that the two programs are substantially 523*523similar to two programs for which **Apple** has registered copyrights. **Apple** also introduced evidence to show that Formula had sold copies of three other programs for which **Apple** holds the copyright. These three programs are not sold as part of a **computer** by either **Apple** or Formula, but are distributed separately.

↗ The 1984 Apple Computer v. Formula International

Discussion 8: The Playboy Enter. Inc vs Frena Case. (Copyright violation by third parties)

Frena was a bulletin board operator before the graphical browser was introduced. At this time people connected and exchange files through FTP's and bulletin boards among other things. In this case Frena had a site where its members uploaded pictures of woman with little clothes. Several members had uploaded digitized copies of Playboy magazine's photos. Frena was not aware of this instance he just simply set up the bulleting board. Copyright infringement?

A more modern version of this case is: Actor and former model Tyrese Gibson is being accused of stealing other people's viral videos to promote his R&B album on Facebook

Tyrese Gibson.Facebook

A video from YouTube channel Kurzgesagt is accusing actor and R&B singer/songwriter Tyrese Gibson of taking videos from other content creators without permission and uploading them to his Facebook page.

One video the former model posted back in October — "The best Halloween costume ever!!!" — was viewed 89 million times on his Facebook page.

Gibson supposedly took the video from YouTube without asking the original content creator. The issue with using people's content without permission is that it means the original content creator won't receive exposure or the associated ad revenue they would have generated had those views occurred on YouTube.

The Kurzgesagt video says Gibson is not the only one who does this. "A whole group of people have built their online presence around stealing other people's work," Kurzgesagt writes.

In a Nutshell — Kurzgesagt/YouTube/Skitch

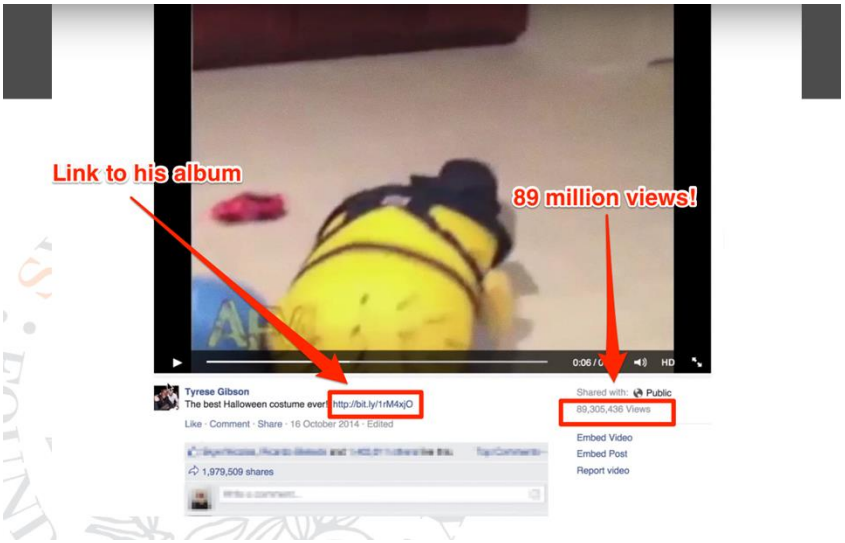
What makes Gibson's example stand out is that not only is he allegedly stealing other people's work, but it appears he has been using the videos to advertise his own, unrelated product.

After Gibson uploads the video, he adds a link to the post, which directs users to buy his latest album on iTunes.

iTunes

To reach 86 million people via a Facebook ad, Gibson would have needed to pay thousands of dollars (assuming an average CPM of $0.25.) But by using people's videos seemingly without permission, he's getting all that exposure for free.

Tyrese Gibson accused of stealing viral videos to promote his R&B album on Facebook



Discussion 9: Church of Scientology Cases (fair use)

The Church of Scientology defends its copyrights over their "religious book" with great effort. In the link on the slide you can see the many examples of cases that they have fought in and out of court.

The Church of Scientology is "religion" in the 1950s by a science fiction writer named L. Ron Hubbard. In the original case one of its former members realized that his organization was a fraud and decided to set up a bulleting board where he quoted and commented on the book. He would quote parts of the book in quotations and then make a comment/criticism. Copyright violation?

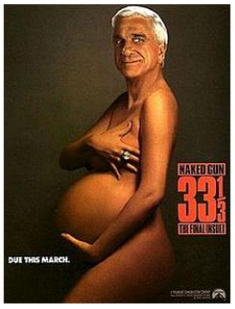
Discussion 10: More Demi Moore (pictures below) Fair use

August 1991 *Vanity Fair*cover was a controversial nude photograph of the then seven-months pregnant Demi Moore taken by Annie Leibovitz for the August 1991 cover of *Vanity Fair* to accompany a cover story about Moore.

The cover has had a lasting societal impact. Since the cover was released, several celebrities have posed for photographs in advanced stages of pregnancy, although not necessarily as naked as Moore.

The picture has been parodied several times, including for advertising *Naked Gun 33⅓: The Final Insult* (1994). This led to the 1998 Second Circuit fair use case *Leibovitz v. Paramount Pictures Corp.*


VANITY FAIR
More
Demi
Moore
by Nancy Collins
DARYL GATES
Is L.A.'s Top Cop
to Blame?
by Fredric Dannen
HOW SADDAM
SURVIVED
by Gail Sheehy
SHOWDOWN
AT THE
BARNES COLLECTION
by John Richardson
and David D'Arcy
VÁCLAV HAVEL,
Philosopher King
by Stephen Schiff
HOLLYWOOD
MAYHEM
What Is
Joe Eszterhas's
Basic Instinct?
by Lynn Hirschberg


NAKED GUN
33⅓
THE FINAL INSULT
DUE THIS MARCH.