Copyright

Spring 2015

Professor William Fisher

This examination has two parts. Part I is a three-hour in-class test, which will be administered from 2:00 p.m. to 5:00 p.m. on April 30, 2015. Part II is an unlimited-time “take-home” essay, due at 4:30 p.m. on May 7, 2015. Your responses to the two parts will be given equal weight when determining your grade.

Instructions for Part I

Part I of the exam consists of a single question. You have three hours to complete your answer. The exam mode, for this portion of the exam, is CLOSED. This means that you will not have access to the hard drive of your computer or to the Internet. Nor will you have access to your answer once you have submitted it.

This portion of the exam is also “closed-book.” You may not bring any written material or paper into the exam room. (The proctors will supply scrap paper that you may use to take notes during the exam.) In preparing your answers, you may not consult in any way with your fellow students or with any other person.

Exam4 will automatically put your Anonymous ID and word count on the exam copy. Do not write your name on any part of your response. To preserve the anonymity of your response, avoid including any information that would enable the instructor to identify you.

DO NOT TURN TO PAGE TWO UNTIL THE PROCTOR TELLS YOU TO BEGIN.
Instructions for Part II

This portion of the exam is open-book, and the exam mode is TAKEHOME. In preparing your answer, you may read any material you wish. You are also free to discuss your answer with your classmates or other persons. However, you must indicate in your answer the sources of any ideas you have derived from others.

Your answer may take one of three forms. First, you may write an essay addressing one of the following two topics:

(A) In April 2009, the Economist magazine organized an online debate concerning the merits and demerits of the copyright system. Participants included Justin Hughes (Professor at Loyola Law School and a treaty negotiator on behalf of the United States), John Kennedy (Chairman of the IFPI), Dale Cendali (Partner at Kirkland & Ellis and Adjunct Professor at HLS), Jennifer Urban (Director of the IP and Technology Law Clinic at USC), Jessica Litman (Professor at the University of Michigan Law School), David Lammy (Minister for Higher Education and IP, United Kingdom), and William Fisher. Read the contributions to the debate: http://cyber.law.harvard.edu/people/tfisher/ex/Economist_Debate_2009.htm. Then draft your own contribution.

(B) What should be the purpose(s) of copyright law? Describe how, if copyright law were reformed so as to advance more effectively the purpose(s) you have identified, the rules governing two of the following sectors would change:
   1) copyright protection for “useful articles”;
   2) the way in which copyright law treats photography;
   3) the “work-for-hire” doctrine;
   4) termination rights;
   5) appropriation art;
   6) traditional knowledge;
   7) technological protection measures.

Second, instead of addressing one of the topics set forth above, you may propose a topic of your own. It must enable you to address in some way the relationship between copyright law and the policies that copyright law does or might advance. Proposals for topics of this sort must be submitted (via email) to Prof. Fisher by 5:00 p.m. on April 17. If you are considering this approach, you are encouraged to consult with Prof. Fisher prior to April 17.

Finally, instead of writing a single essay, you may contribute to the discussion forum accompanying the course a set of short comments that, in combination, manifest insight into the relationship between copyright law and the policies that copyright law does or might advance. If you elect this option, you should create a compilation of your submissions to the forum and indicate the context in which each submission appeared.

Regardless of which of these three formats you select, your answer to Part II of the exam may not exceed 2000 words (including any footnotes or references). You must submit it before 4:30 p.m. on May 7, 2015, to the Registrar’s Office using the Exam 4 software.
Although you are required and expected to write only one answer in response to Part II of the exam, you may submit two answers (on different topics, of course). If you elect to do so, you must submit the first of your two answers to the Registrar’s Office (as indicated above) and email the second of your two answers to Kathy Curley (eurley@law.harvard.edu) before 4:30 p.m. on May 7, 2015. Prof. Fisher will grade your two answers separately. You will receive the higher of the two grades for Part II of the exam.