

AOPI FOR MAY 5, 2014: CINCO DE MAYO EDITION

[20 Years Ago 2 Live Crew, A Rude Rap Song And The Supreme Court Helped Clear The Way For The Modern Internet](#)

“A couple months ago, we had a blog post celebrating the [30th anniversary](#) of the Supreme Court's decision that showed the Sony Betamax was legal, an important ruling that helped clear the field for innovations that could, potentially, be used for infringement, so long as they also had substantial non-infringing uses. Today is the anniversary of another important copyright decision. Twenty years ago today, the Supreme Court made a key ruling in [Campbell v. Acuff-Rose](#), emphasizing that fair use can absolutely still apply for commercial use. That ruling is [tremendously important to the history of the internet.](#)”

[Should Copyright Law Also Cover Hyperlinks?](#)

“The U.S. Copyright Office [recently proposed a seemingly small addition to copyright law](#) that bears some huge implications. It wants to enable copyright holders to protect unauthorized versions of their work from hyperlinks. You read that right: it could soon be illegal simply to link to certain content.”

[Copyright backlash: Has Getty given up the fight? \(includes video report\)](#)

“...[T]he world's largest photo agency, Getty Images, decided to make [35 million](#) of its pictures (almost a quarter of its entire archive) available for non-commercial purposes on websites and blogs, without users paying a penny - a move many photographers were quick to condemn.”

[New Paper Says It's Time To Reasonably Decrease Copyright Term And Rethink Putting Copyright In Treaties](#)

“The paper does a great job talking about how a return to more original copyright principles makes sense. Furthermore, it notes that there is no credible economic evidence that longer copyright terms are good for the economy or the public, and in fact, nearly all of the actual evidence says quite the opposite.”

[\\$2.6 Million Awarded in Copyright Damages](#)

“A federal judge ordered collectibles dealers to pay Warner Bros. \$2.57 million for violating copyright on The Wizard of Oz, Gone with the Wind and Tom and Jerry products.”

[Revolving Door: Obama Nominates Copyright Maximalist Lobbyist To Deputy USTR Position](#)

“We recently highlighted the massive problem of the **revolving door** between the USTR's office and various patent and copyright maximalist organizations. One example of this was Victoria Espinel, a former USTR official (and then IP Enforcement Coordinator -- better known as the IP Czar), who went on to become the head of the Business Software Alliance (BSA), the maximalist lobbying/trade group that is basically a voice for Microsoft, IBM and Adobe's copyright maximalist positions. Espinel's predecessor in the job was Robert Hollyeman, who lead the BSA for two decades, during which time it became well known for its [preposterous studies](#) equating every infringing copy to a lost sale.”

[Obama official responsible for copyright chapters of TPP & ACTA gets a job at MPAA; his replacement is another copyright lobbyist](#)

And just why is there any surprise here?

[Copyright Clearance Center Launches MOOC Content Licensing Solution](#)

“...a [MOOC Content Licensing Solution](#) in partnership with course material providers [SIPX](#), [Study.net](#), and [XanEdu](#).”

[New Strategy would Drop College Textbook Costs to Zero](#)

“A pilot program, which the university system estimates is saving 1,100 students a combined \$130,000, is the latest in a shift on the nation's campuses toward digital learning. The [Massachusetts Institute of Technology](#), the California State University system and the Washington State college system are among those that have built libraries of free online course materials in recent years.”

[Other views: Bring copyright law into the 21st century](#)

“Congress updated copyright law in 1998 to address the nation’s shift from analog devices and packaged goods – think turntables and vinyl records – to computers and e-commerce. Unfortunately, the law it wrote has proved to be a better fit for a dial-up era dominated by America Online, not broadband and the World Wide Web.”

[Will copyright recognition threaten the future of video sharing?](#)

“Anyway, the problem with YouTube’s community being at risk is that no other video sharing website comes close to YouTube’s popularity. Think about it: YouTube has a monopoly on online video sharing.”

[Guarding Against Abuse: Restoring Constitutional Copyright](#)

“INTRODUCTION: Copyrights are intended to encourage creative works through the mechanism of a statutorily created limited property right. Under both economic and legal analysis, they are recognized as a form of government-granted monopoly.” Has a link to the 25-page, PDF report.”

[Congress Ignores Terms of Copyright Clause](#)

“Today [30Apr14] R Street Institute released a [report](#) on copyright duration entitled “Guarding Against Abuse – Restoring Constitutional Copyright.””

[Judge, siding with accused pirate, orders ‘copyright troll’ to pay up](#)

“High-powered law firms have for decades won massive settlements from accused online pirates based on legal claims that are now in doubt. Initiating so many battles has created a lot of enemies, though, as one firm recently found out.”

[The Digital Millennium Copyright Act \(DMCA\): Seeking Safe Harbor in a Sea of Troubles](#)

“The future of the DMCA and the success of cooperative efforts amongst copyright holders and ISPs remains uncertain. Time will tell if Google and Viacom’s settlement truly represents détente, or if the parties will continue to wage a super-cold war with each side placing their finger firmly on the red button.”

[Music Piracy Goes Mobile](#)

“The music industry faces a new front in its long-running battle against piracy: The smartphone. Mobile applications have eclipsed file-sharing services, online storage sites known as “digital lockers” and stream-ripping software as the most widely used source of free music downloads, according to a new study.”

[Bikini Brouhaha: Calculating damages for copyright infringement](#)

“Copyright infringers may be liable for damages for lost profits, reputational loss, additional damages and in more limited circumstances even conversion damages.”

[Aereo Fight: Supreme Court Justices Worried About Tech Impact of Decision](#)

“The justices expressed concern about Barry Diller's Aereo startup, which captures broadcast TV transmissions via tiny antennas and then relays the programming to subscribers' digital devices. But they seemed reluctant to make a decision that could impair other tech services, like cloud computing, which was mentioned multiple times by justices Stephen Breyer, Sonia Sotomayor and Elena Kagan.”

[Why I suspect the Supreme Court will screw up copyright law in the Aereo case](#)

“I don't know how the Supreme Court will decide [ABC v. Aereo](#), [argued last week](#). But however the case is decided, I see a real risk that the Court will screw up the law. Why? Three reasons.”

Related: [Aereo, the Cloud and Copyright: Legal analysis](#) and

[Why cloud companies are watching the Aereo, Supreme Court case very closely](#)
[Nimmer on Aereo: It's Illegal](#)

[Copyrights matter: Think twice before you cut and paste](#)

“Many people have little understanding of what is and isn't copyrighted material.”

[Wachowski siblings triumph in The Matrix copyright lawsuit](#)

“The Matrix directors Lana and Andy Wachowski have triumphed in a copyright lawsuit over the hit movie trilogy.”

[Record Labels Sue Pandora Over Copyright Infringement](#)

“Federal copyright law only protects recordings made after February 15, 1972. Pandora has licensing arrangements with collection agencies through which it pays songwriters for using their songs. But like all other streaming music services, Pandora does not pay for recordings from before 1972, which includes classics such as the Beatles, Elvis Presley, and The Who.”

Related: [Hypocrisy Of The Music Industry](#) and

[Big Labels Take Aim at Pandora on Royalties](#)

['Radical' Publisher Claims Copyright On Free Collection Of Marx And Engels Works; Orders Them Taken Down](#)

“...[I]t appears that the major supporters of Marxism apparently agree with the idea that copyright is a fundamentally Marxist approach -- so much so that it means that no one can share Marx's works!”

[Economist Explains How Copyright Just Isn't Working](#)

“Working with textbook publishers, [Tabarrock ran smack into the wall that copyright has constructed around -- of all things -- the public domain](#). (via Techdirt reader Marco)”

[When Copyright Smothers Free Expression](#)

“By creating a new right in actors’ performances, this case may make any number of works unavailable at the behest of actors.”

[The Copyright Monopoly's Fundamental Problem Remains The Same...](#)

“There is no way to enforce the copyright monopoly without reading all the private communications in transit – mass eavesdropping and mass surveillance.”

[Musician Claims \\$5.2 BILLION In Damages In Copyright Infringement Lawsuit Against Apple, Amazon And CDBaby](#)

“The laws surrounding IP can [certainly be absurd](#), and the ever-extending [copyright term](#) has turned the phrase "for a limited time" into a joke in search of a punchline. But there's nothing so absurd as those who take these laws into their own hands, find a lawyer [willing to represent fools](#) and [pursue supposed infringement in court](#).”

[Ala. man sentenced for copyright violation](#)

“Alabama man faces two years in federal prison after pleading guilty to copyright infringement in November.”

[Copyright Lawsuit Against Medina Bar: 'Unauthorized' Show By Local Classic Rock Cover Band Caused 'Great and Incalculable Damage'](#)

“The suit is spearheaded by Broadcast Music, Inc. BMI controls the public performance licensing rights to 8.5 million songs. For any of those songs to be legally played publicly, venues pay BMI a fee for access to their catalogue, and BMI then distributes most of that to the copyright holders. In fiscal year 2013, for example, BMI collected more than \$944 million in licensing fees and distributed \$814 million to its member songwriters, composers, and music publishers.”

[Study Shows How Notice-And-Takedown Reduces Transaction Costs In Making Works Legally Available](#)

“...[t]he entertainment industry's main focus in the next round of copyright reform is to [wipe out](#) the notice-and-takedown provisions of the DMCA. The legacy recording and movie industries want everyone else to act as copyright cops, and hate the idea that notice-and-takedown puts the initial burden on themselves as copyright holders.’

[Tom Lehrer, Culture And Copyright After Death](#)

“If you don't know who Tom Lehrer is, well, you've missed out for a long, long time. Still, it's never too late to catch up, and there are [plenty](#) of great sources, including the [The Tom Lehrer Wisdom Channel](#) on YouTube ... But what caught my attention was some discussion that Lehrer has had with certain fans concerning the copyright on his works, whether or not it's okay to put them online and what happens to them after his death. The simple answer seems to be that Lehrer couldn't care any less about all of it.”

[Of Bundles, Bindings, and the Next Great Copyright Law | Peer to Peer Review](#)

“To some degree, fair use provides a kind of gap-filler exception, so recognizing the problem makes the role of fair use even more important.”

[Why Did Copyright Shape Music and Books Differently Online?](#)

”This is [the question posed by Paul J. Heald of the University of Illinois](#) (PDF link). Heald's research shows that the majority of uniquely named musical songs from the previous century are available in digital form on places such as YouTube (70% of public domain and 77% of copyrighted). But when you go to look at ebooks, the story is starkly different: 94% of popular books from the early part of the 1900s up to 1923 are available and after that you're pretty much out of luck.”

[Judge Richard Posner's Ruling In Wacky 'Banana Lady' Case Highlights Just How Wrong Judge Kozinski Was About Copyright](#)

The two judges would banana split.

[The Controversial Google Copyright Case: Who Has It Right?](#)

“Media giants like Facebook and Twitter have requested permission to file an amicus brief supporting Google's position, which is that, if the opinion stands, “everyone from extras to backup dancers” could control how films get distributed, with platforms like YouTube caught in the middle, overwhelmed with take-down notices.”

[New Copyright Law Could Make Linking To Videos, Blog Posts A Crime](#)

“A proposed copyright law could restrict media communication by protecting [copyright property](#) from being linked to in blog posts.”

[Michael Jackson's image at center of Cirque du Soleil copyright lawsuit](#)

“FilmOn founder Alki David filed a lawsuit Tuesday against MGM Resorts for using trademarked technology in its hologram of the late pop star.”

[What is the Value of Copyright?](#)

2'45" video with 10" commercial at start.

[Copyright law affects course readings](#)

"[Deborah] Gerhardt [a University of North Carolina law professor] said course packs — collections of readings or problems necessary for a class — that some professors require can be a source of conflict between the creators of the work and the users. Course packs are sold at UNC Student Stores."

[COPYRIGHT GROUP: CHILLING EFFECTS DMCA ARCHIVE IS "REPUGNANT"](#)

"If it wasn't for the Chilling Effects DMCA clearing house the actions of those abusing the DMCA would go largely unreported. Still, the Copyright Alliance doesn't like the site, this week [3-16-14] describing the information resource as "repugnant" to the DMCA. Unsurprisingly, Chilling Effects sees things differently."

[Famous 1923 Silent Film Sparks Copyright Lawsuit Over a Clock](#)

"The owner of "Safety Last!" says a clock manufacturer didn't do something that Martin Scorsese did."

[Liberation Music Sued a Harvard Law Professor... Guess What Happened Next](#)

"Would you take a Harvard Law professor to court? Better yet, would you take on a legal expert who specializes in copyright law for violating copyright? Yeah, doesn't seem like a good idea."

[What Hookahs Can Teach Us About 3-D Printing and Copyright](#)

"The caterpillar from [Alice's Adventures in Wonderland](#) taught generations of children a simple message: When you need to do some deep thinking about the world, a hookah is a great place to start. A case decided earlier this year in California brings comfort that, whatever future technology holds, the ability of the hookah to reveal inner truths about the world around us remains."

[An Overview of 'Work for Hire'](#)

"Typically the creator of an item owns it. An exception to this rule is a "work for hire." The federal Copyright Act at [17 U.S.C. Section 101](#) states..."

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