

COPYRIGHT CHRONOLOGY

ca. 300 B.C.E. Demetrius Phalerus began the building of the library of Alexandria by requiring that all ships stopping at Alexandria had to make available any books they held to be copied for the library.

561-567 King Diarmaid MacCerbhaill of Ireland decided that a copy of a manuscript psalter made by [St.] Columba had to be given back to [St.] Finnian from whose original Columba had made an unauthorized copy. "To every cow her calf."

1223 Statutes of University of Paris required that booksellers produce duplicate copies of the authorized texts.

early 15th century The Italian city state of Venice used the grant of privileges or grants of exclusive rights to secure the provision of some useful service.

1421 The Italian city state of Florence granted Filippo Brunelleschi a patent for a specific boat hull design. Although the boat was unsuccessful, the use of patents to provide exclusive rights was established.

1452 Invention of moveable type printing allowed the creation of works in multiple copies.

1469 Venice granted a 5 year privilege to John of Speyer as a printer.

1476 Printing was introduced to England by William Caxton with the crown granting individual printers exclusive patents for the printing of certain types of works.

1486 The first known copyright to an author when Venice granted Marc Antonio Sabellico exclusive control over the printing and distribution of *Decades rerum Venetarum*.

1496 Venice granted a 20 year privilege to Aldus Manutius for all works to be printed in Greek.

1534 At the critical juncture in the English separation from the Church of Rome, the Act of Supremacy declared particular sovereignty for the King. At the same time, Henry VIII used licencing of printing to control the flow of continental and domestic works which called for religious and social reforms.

1556 Ordinance of Henri II of France defined literary property and declared the publication of condemned books to be treason. French copyrights remained perpetual until National Assembly abolished all royal privileges in 1789.

1557 Following the short reign of Henry's minor son, Edward VI, in which continental and English Protestants were encouraged to expand the reformation including through publication and importation of Protestant tracts, Henry's Catholic daughter Mary Tudor tried to rid England of all traces of Protestantism. To control the press, Mary granted a charter to the Stationers Company (first organized in 1403) whereby it would hold a monopoly on all printing providing that they publish nothing offensive to the government. Printers would then file a notice with the Stationers' Company to register the works they were printing, and no printer was to publish a work which some other printer had already registered as their "copy right." In this way, printers held the right over the copy or copyright, a condition which continued until the end of the 17th century.

1637 The Star Chamber of the Privy Council issued a decree "Concerning Printing" which was a decree for censorship against seditious books. It was renewed in the 1662 Licencing Act renewed until 1694.

1643 In the midst of the English Civil War and calls for greater freedom of the press, Parliament passed the Licencing Act which re-established the Stationer's Company's licence and monopoly. The edict also called for all authors to be identified on the title page.

1644 In response to the renewal of the Stationer's Company monopoly, John Milton published *Aeropagitica: A Speech for Unlicenced Printing* advocating elimination of the Parliamentary licencing of printing and its concomitant censorship.

1672 General Court of Massachusetts granted John Usher exclusive rights to print laws of Massachusetts

1694 The English Parliament allowed the expiration of the charter of the Royal Company of Stationers by which it held the monopoly over printing.

1709/10 Parliament passed An Act for the Encouragement of Learning, the "Statute of Anne" which was a radical departure in the regulation of printing and the first modern copyright law. To provide the printers with protection and remedy against pirating and unauthorized copying, the law established the idea of ownership of a work and placed that ownership initially in the hands of the author, but with the possibility of transferring ownership from the author to the printer for a period of 14 years with the possibility of one 14 year renewal period.

1741 The decision in *Pope v. Curl* (to stop an unauthorized publication of Alexander Pope's letters) drew the distinction between physical possession of letters and ownership of literary property.

1774 In *Donaldson v. Beckett*, the British House of Lords affirmed that an author's rights, and those rights assigned to a publisher, were not perpetual but distinctly limited to a fixed time, and that the Statute of Anne extinguishes an author's rights on publication. Commons rejected booksellers' petition for monetary relief from losses resulting from Lords decision.

1776 American colonies declared independence, ending any basis for claims of applicability of the Statute of Anne to American publishing.

1783 Congress adopted a resolution calling for the several states to enact copyright laws.

1783-89 American government under Articles of Confederation administered copyright separately by each state. In this era, publishers might have to travel to each state to register works they sought to publish. Writers such as Noah Webster and Joel Barlow of Connecticut complained that the system was a serious hindrance to the development of an American literature and intellectual life. Twelve of thirteen states enacted copyright laws.

1787-1789 Charles Pinckney and James Madison developed language for the U.S. Constitution to support uniform regulation of copyright. In a unique passage, the Constitution (Article I, Section 8)) stated "The Congress shall have Power ... To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries."

1790 Congress passed the first federal copyright act based heavily on the Statute of Anne with a term of 14 years renewable for 14 years if the author was living. Required deposit of copy in District Court.

1802 Amendment of the copyright law to include prints and require inclusion of a copyright notice.

- 1831 First major revision of federal copyright law. Term revised to 28 years plus renewal for 14 years. District Courts required to send list of registrations and deposited copies to Secretary of State.
- 1834 *Wheaton v. Peters* first Supreme Court case determined that common law copyright did not survive establishment of federal copyright and that there was no natural law right of copyright.
- 1841 The decision in the case of *Folsom v. Marsh* articulated the judicial doctrine of fair use whereby quotation from a copyrighted work was allowed in certain circumstances.
- 1842 British law set copyright term as life plus 7 years or 42 years, whichever is longer.
- 1856 Copyright protection provided for public performance of dramatic works.
- 1865 Copyright protection established for photographs. Supreme Court affirmed constitutionality of the copyrightability of photographs of original works in the 1884 case of *Giles v. Saronby*.
- 1870 Second major revision of federal copyright law. Copyright protection established for translations and dramatizations of copyrighted works, as well as for statuary, models, and designs. Deposit and registration transferred entirely to the Library of Congress.
- 1891 Congress closed the loophole whereby American printers had freely pirated foreign works when it adopted revisions that allowed the United States to participate in the Berne Convention and created policies for articulating American copyright practices with those of other countries.
- 1903 Supreme Court, in *Bleistein v. Donaldson Lithography* extended the right of copyright to commercial art, not just fine art. In asserting that judges should not have to be assessing artistic value to find for a copyright in a work, they disassociated authorship from genius and set a low threshold for the finding of creativity.
- 1909 Third major revision of federal copyright law. Works for hire provisions allowed for employers to have ownership of copyright in works made by employees, further disassociating work from the creative genius of the author. Extended the term to 28 years, renewable for 28 years and introduced compulsory licenses for mechanical reproductions of musical works.
- 1912 Copyright extended to motion pictures.
- 1976 Fourth major revision of federal copyright act. Replaced copyright by registration with copyright effective from the time of fixation. Ended common law perpetual copyright of unpublished material providing it with term of life of the author plus 50 years. For other copyrights, extended term from 28 years plus a renewal term of 28 years to life of the author plus 50 years (works for hire for 75 years). Establishment of judicial doctrine of fair use as a statutory right. Exemptions providing for certain forms of library copying.
- 1985 Supreme Court in *Harper & Row v. Nation Magazine* ruled against The Nation which had claimed a fair use exemption for its journalistic scoop of publishing segments of President Ford's memoirs. The court articulated a rule that fair use for unpublished material was narrower than that for published works, although the focus of their decision was on the right of economic benefit to come from first publication.
- 1987 Second Court of Appeals, in *Salinger v. Random House* ruled that J. D. Salinger could bar a biographer not just from printing but also simply paraphrasing quotations from his unpublished letters. The court argued that the Supreme Court ruling in *Harper & Row v. Nation* prevented the application of the fair use defense in the case of unpublished materials. (cert. denied 484 U.S. 890 [1987])

1989 Second Court of Appeals, in *New Era Publications v. Henry Holt* (more commonly know as *Hubbard*) ruled, based on *Harper & Row v. Nation* and *Salinger* that unpublished nature of material prevented a biographer from making fair use quotations of unpublished writings of his subject. The effect of *Salinger* and *Hubbard* was to call into question the ability of users of archives and manuscript collections to cite unpublished materials when the author or their heirs wanted to limit the investigation into the past. The Second Court attempted to tie privacy in with copyright. (cert. denied, 493 U.S. 1094 [1990])

1990 Visual Artists Rights Act added Section (106A) created a limited scope of "moral rights" for certain categories of works.

1991 *Wright v. Warner Books, Inc.* (Richard Wright's widow sought to block publication of letters.) 2nd Court of Appeals decided in favor of author of biography of Richard Wright. While the court restated the substance of *Salinger* and *Hubbard* in regard to unpublished material being less open to quotation under 'fair use' provisions, it provided some hope. The court stated "Neither *Salinger*, *Harper & Row*, nor any other case, however, erected a per se rule regarding unpublished works. The fair use test remains a totality inquiry, tailored to the particular facts of each case."

1991 Supreme Court in *Feist v. Rural Telephone* ruled that databases consisting strictly of facts can be copyrighted but only when the selection and arrangement meet an originality requirement. It rejected "sweat of the brow" claims as a sufficient basis for copyright.

1992 Congress passed the Fair Use of Copyrighted Works Act which specifically rejected the Second Appeals Court's rules and declared that the unpublished nature of material could not be used as a per se basis to find against fair use. At the same time, the Congress accepted the Supreme Court's 1985 ruling in *Harper & Row v. Nation* as a proper balance between encouragement of broad public dissemination and safeguarding the right of first publication.

1994 *Campbell v. Acuff-Rose* (2 Live Crew). Unanimous Supreme Court decision approving parody as a fair use. It "rescued fair use" indicating that in deliberations of fair use, a case by case analysis must look at all four factors in light of the purpose of copyright. Commercial nature is not a presumptive barrier to a finding of fair use.

1998 *Sundeman v. Seajay* (Appeals 4rth Circuit) ruled as fair use the photocopying, research use, and reporting at a scholarly conference of unpublished literary work of Marjorie Kinnan Rawlings. Relied on *Campbell v. Acuff Rose* and 1992 Fair Use of Copyrighted Works Act.

1998 Digital Millennium Copyright Act added regulation for digital copies of works, technologically-based works, reiterated support for fair use, but also added measures relating to anti-circumvention of Copyright Management Information.

1998 Sonny Bono Copyright Term Extension Act added 20 years to the term of copyright making that for published and unpublished materials life of the author plus 70 years. In the case of works for hire, anonymous works, or pseudonymous works it was changed to a term of 95 years from the year of its first publication, or a term of 120 years from the year of its creation, whichever expires first.

1999 *Bridgeman Art Library v. Corel Corporation* in the U.S. District Court for Southern District of New York found that faithful photographic images of underlying works of art are not in themselves copyrightable. Judge Lewis Kaplan compared such photography to photocopying.

1999-2003 *Eldred v. Aschcroft* case calling for the 1998 CTEA to be declared unconstitutional. In January 2003, the Supreme Court ruled that Congress had great latitude in setting the length of copyright term and that Congress could extend the term of existing as well as new copyrights. It also

asserted that not all copyright law provisions were immune from First Amendment scrutiny.

2000-2003 Uniform Computer Information Transaction Act (UCITA) legislation was proposed and opposed in several states. UCITA is a proposed uniform state law to render enforceable "click-on" licences or "take-it-or-leave-it" contracts that could overwrite user and library rights under federal copyright.

2003 In *Dastar v. Fox* the Supreme Court affirmed the public's federal right to copy and to use material from expired copyrights, unencumbered by Trademark law.

2005 *Metro-Goldwyn-Mayer Studios v. Grokster*, the Supreme Court declared that distributors of peer-to-peer file-sharing systems may be held liable if they actively induce copyright infringement by users, but it reaffirmed its earlier *Sony v. Universal City Studios* ruling that technologies could not be outlawed if they were capable of substantial noninfringing uses.

2001-12 *Golan v. Holder* unsuccessfully challenged constitutionality of restoring copyright to foreign works which had passed into the public domain because they had not complied with the "formalities" required by the law prior to 1978.

2014 *Authors Guild et al. v. Hathi Trust et al.* Second Circuit Court of Appeals upheld most of District Court ruling which found that Hathi Trust and the University of Michigan did not infringe on copyrights when it digitized in-copyright orphaned and non-orphaned works. Ruling rested heavily on fact that the digitization process created searchable indices for the books which qualified the copying as a fair use because in so doing, it created a work for a different purpose than the original.

2005-2016 *Authors Guild v. Google*. The initial filing of the Author Guild against Google came in 2005. It claimed that the Google Book project infringed copyright because it digitized in-copyright books and made snippets of their text readable through its customized search. This evolved into efforts to obtain court approval of a settlement, but they collapsed in 2011. Authors Guild persisted, but in 2013, the District court rejected the claim of infringement, saying that Google's copying and presentation of "snippets" constituted fair use. Authors Guild's appeal to the Second Circuit was rejected in 2015, finding that the copying was a transformative fair use despite Google being a profit-making business. Authors Guild's subsequent appeal to the U.S. Supreme court was denied writ of certiorari in April, 2016.