

Copyright^x UCT

GUIDELINES

Dear participant,

Welcome to CopyrightX:UCT.

CopyrightX:UCT is a member of the CopyrightX Community, a network of affiliated courses offered by several universities and other institutions between January and April of each year. Through a combination of pre-recorded lectures, readings, seminars, live webcasts, and online discussions, the participants in these courses examine and assess the ways in which law seeks to stimulate and regulate creative expression. Some of the conversations enabled by CopyrightX are small and limited to students in a single course, while others are global and engage the students in all of the affiliated institutions. CopyrightX was developed by Professor William Fisher at Harvard Law School; it is hosted and supported by the HarvardX distance-learning initiative, and the Berkman Center for Internet and Society.

CopyrightX:UCT is carried out in collaboration with Harvard Law School and consists of the CopyrightX pre-recorded lectures provided by Harvard, accompanied by reading materials relating to U.S. and South African copyright law. Weekly class-room seminars will discuss the pre-recorded lectures and will more closely analyse issues related to South African Copyright law. Particular attention will be drawn to the development aspects of copyright law.

This guideline document will provide you with the necessary information for participating in the course. Should you have any additional questions kindly contact the course administrator Andrea Blaauw at andrea.blaauw@uct.ac.za .

We hope this course will be a pleasant and instructive experience.

The CopyrightX:UCT Team.

For more information about CopyrightX, visit www.copyrightx.org

<p>The portions of the CopyrightX lectures, readings, and maps consisting of original material are licensed under a CC BY-NC-SA 2.5 license, the terms of which are available at http://creativecommons.org/licenses/by-nc-sa/2.5/</p>
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Guidelines

H2O

The core tool for CopyrightX:UCT is called H2O and can be accessed here: <https://h2o.law.harvard.edu/playlists/22682> On H2O you will find the course structure and schedule, links to all pre-recorded Harvard lectures and a variety of supporting documents and readings. Please familiarise yourself with the H2O platform before the course commences.

Lectures

Participants in CopyrightX: UCT are required to watch the prescribed Harvard pre-recorded lectures before each seminar. Links to these lectures are available on the H2O platform.

Reading material

Each lecture is accompanied by a list of prescribed reading materials related to U.S. and South African copyright law (articles, statutes and case law). These readings provide a better understanding of the underlying principles and will be used to discuss certain topics in more detail during the weekly in-class seminars. It is highly recommended that these materials are read before each seminar. Reading materials and other supporting documents are available on the H2O platform.

Seminars

Weekly seminars will take place at the University of Cape Town (Moot Court, Faculty of Law). During these seminars case studies and other copyright related issues will be discussed. Seminars will usually take place on Wednesday evenings from 18h00 to 19h30, commencing on 17 February 2016. Four double seminars will be from 18h00 to 20h00 (see calendar below).

Special Events

During the course, several special events will be organised by Harvard Law School. Live webcasts of these events can be streamed at copyx.org/live/ and will later be made available on the CopyrightX website. The special events will be announced at the weekly Seminars.

Online discussion forums

The discussion forum is available at <https://forums.copyx.org/>. By now, you should have received your login details directly from Harvard.

Please contact copyrightx@cyber.law.harvard.edu if you have not yet received your login details.

Exam and certificate

A certificate of *attendance* (from UCT) and a certificate of *participation* (from Harvard) will be awarded to participants fulfilling the minimum attendance requirements of 80%. This means that a student must attend at least 7 out of the 9 seminars, of which 3 double seminars.

In addition, participants will have the option to take an exam at the end of the course (currently scheduled between 27 April and 6 May 2016). The exam will consist of one or more questions derived from the Harvard Law School exam and one or more questions related to South African law. Participants will have 4 days to send the completed exam back to the CopyrightX:UCT convener for examination.

Harvard will award a *CopyrightX Certificate* if a participant passes the exam (50% or more) and fulfils the attendance requirements (80%).

The University of Cape Town will award no academic credit for this course.

Calendar

DATE	SEMINAR
17/02	Seminar 1*
24/02	Seminar 2
02/03	Seminar 3*
09/03	No seminar
16/03	Seminar 4
23/03	Seminar 5*
30/03	Seminar 6
06/04	No seminar
13/04	Seminar 7*
20/04	Seminar 8
25/04	Special event**
27/04 - 06/05	Exam window

* double seminar

** this event will take place on a Monday

Seminar 1 – Foundations of Copyright & Fairness and Personality Theories (*double seminar*)

Prescribed video lectures

- Lecture 1: Foundations of copyright
- Lecture 2: Fairness and Personality Theories

Prescribed readings

US

- 17 U.S.C. 102
- Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1991)
- Mannion v. Coors Brewing Co., 377 F.Supp. 2d 444 (S.D.N.Y. 2005)
- Alexander v. Haley, 460 F.Supp. 40 (S.D.N.Y. 1978)
- Justin Hughes, “The Philosophy of Intellectual Property,” 77 Georgetown L.J. 287 (1988)
- A.A. Hoehling v. Universal City Studios, Inc., 618 F.2d 972 (2d Cir. 1980)

South Africa

- Section 2 and 3 of the South African Copyright Act
- Appleton & another v Harnischfeger Corporation & another 1995 (2) SA 247 (A)

Seminar 2 – The Subject Matter of Copyright

Prescribed video lectures

- Lecture 3: The Subject Matter of Copyright

Prescribed readings

US

- Pivot Point, Int’l v. Charlene Products, 372 F.3d 913 (7th Cir. 2004)
- Oracle v. Google

South Africa

- Section 1 of the South African Copyright Act (definition of “work”)
- Section 2 of the South African Copyright Act
- Section 6 – 11B of the South African Copyright Act
- Rapid Phase Entertainment CC and others v SABC [1997] JOL 393 (W)
- Bress Designs (Pty) Ltd v G Y Lounge suite Manufacturers (Pty) Ltd and another 1991 (2) SA 455 (W)

Seminar 3 – Authorship & Welfare Theory (*double seminar*)

Prescribed video lectures

- Lecture 4: Welfare Theory
- Lecture 5: Authorship

Prescribed readings

US

- William Fisher, *Promises to Keep: Technology, Law and the Future of Entertainment* (2004), Chapter 6
- *Lindsay v. The Wrecked and Abandoned Vessel R.M.S. Titanic*, 52 U.S.P.Q.2d 1609 (S.D.N.Y. 1999)
- *Aalmuhammed v. Lee*, 202 F.3d 1227 (9th Cir. 1999)

South Africa

- Section 1(1) of the South African Copyright Act (“author”, “work of joint authorship”)
- Section 3(1)(b) of the South African Copyright Act (meaning of “qualified person”)
- Section 21 of the South African Copyright Act
- *Peter-Ross v Ramesar* 2008 (4) SA 168 (C)
- *Haupt t/a Softcopy v Brewers Marketing Intelligence (Pty) Ltd* 2006 (4) SA 458 (SCA)
- *King v The South African Weather Service* 2009 (3) SA 13 (SCA)

Seminar 4 – Mechanics of Copyright

Prescribed video lectures

- Lecture 6: Mechanics of Copyright

Prescribed readings

US

- *Stewart v. Abend*, 495 U.S. 207 (1990)
- *Eldred v. Ashcroft*, 537 U.S. 186 (2003)

South Africa

- Section 3 of the South African Copyright Act
- Section 22 of the South African Copyright Act
- *Prism Holdings Ltd and another v Liversage* 2004 (2) SA 478 (W) 486A–D
- *Klep Valves (Pty) Ltd v Saunders Valve Co Ltd* 1987 (2) SA 1 (A)

Seminar 5 – Economic and moral rights (*double seminar*)

Prescribed video lectures

- Lecture 7: The Rights to Reproduce and Modify
- Lecture 8: The Rights to Distribute, Perform, and Display

Prescribed readings

US

- Three Boys Music Corp. v. Michael Bolton, 212 F.3d 477 (9th Cir. 2000)
- Steinberg v. Columbia Pictures Industries, Inc., 663 F.Supp. 706 (S.D.N.Y. 1987)
- Castle Rock Entertainment, Inc. v. Carol Publishing Group, Inc., 150 F.3d 132 (2d Cir. 1998) [Parts I & II]
- Kirtsaeng v. John Wiley & Sons (U.S. Supreme Court, March 19, 2013)
- American Broadcasting Companies v Aero (2014)

South Africa

- Section 6–11B of the South African Copyright Act
- Jacana Education (Pty) Ltd v Frandsen Publishers (Pty) Ltd 1998 (2) SA 965 (SCA)
- Fax Directories. (Pty) Ltd v SA Fax Listings CC 1990 (2) SA 164 (D)
- Laubscher v Vos & others 3 JOC (W)
- Southern African Music Rights Organisation Ltd v Svenmill Fabrics (Pty) Ltd 1983 (1) SA 608 (C)

Seminar 6 – Copyright exceptions and limitations

Prescribed video lectures

- Lecture 9: Fair use

Prescribed readings

US

- Campbell v. Acuff–Rose Music, Inc., 510 U.S. 569 (1994)
- Cariou v. Prince, Docket No. 11–1197–cv (2nd Cir. April 14, 2013)
- Author’s Guild v. Google, 05 Civ. 8136 (S.D.N.Y. November 14, 2013)

South Africa

- Section 12–19B of the South African Copyright Act
- Beecham Group Plc Ltd Liability Co & another v Biotech Laboratories (Pty) Ltd JOC (T)
- Fraser–Woodward Ltd v British Broadcasting Corporation & another [2005] EWHC 472 (ch) 64 IPR 187 (UNITED KINGDOM)

Seminar 7 – Copyright infringement and Cultural Theory *(double seminar)*

Prescribed video lectures

- Lecture 10: Cultural Theory
- Lecture 11: Supplements to Copyright: Secondary Liability and Para-copyright

Prescribed readings

US

- Metro-Goldwyn-Mayer, Inc. v. Grokster, 545 U.S. 913 (2005)
- Viacom v. YouTube, 676 F.3d 19 (CA2 2012)
- Martin v. City of Indianapolis, 192 F.3d 608 (7th Cir. 1999)
- Dastar Corporation v. Twentieth Century Fox Film Corporation, 539 U.S. 23 (2003)

South Africa

- Section 23 of the South African Copyright Act
- Section 27 of the South African Copyright Act
- Gramophone Co Ltd v Music Machine (Pty) Ltd @ others 1973 (3) SA 188 (W)
- Frank and Hirsch (Pty) Ltd v Roopanand Bros (Pty) Ltd 1993 (4) 279 (A)

Seminar 8 – Remedies

Prescribed video lectures

- Lecture 12: Remedies

Prescribed readings

US

- Salinger v. Colting, 607 F.3d 68 (2d Cir. 2010)
- United States v. Moran, 757 F.Supp. 1046 (D.Neb. 1991)

South Africa

- Section 24 of the South African Copyright Act
- South African Music Rights Organisation Ltd v Trust Butchers (Pty) Ltd 1978 (1) SA 1052
- Metro Goldwyn-Mayer Inc & other v Ackerman @ another 558 JOC (SEC)
- Ara Oy v Pascall and others 364 (JOC) (W)

Special event – Copyright, Innovation and Development

Prescribed video lectures

- Innovation & IP – Collaborative Dynamics in Africa
- Knowledge & Innovation in Africa – Scenarios for the Future

Prescribed readings

US

None

South Africa

J de Beer, C Oguamanam and T Schonwetter 'Innovation, Intellectual Property and Development Narratives in Africa' in J de Beer et al Innovation & Intellectual Property: Collaborative Dynamics in Africa (2014) Chapter 1 (1– 31) and Chapter 16 (373 – 393).

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