Index

ABANDONMENT

Formalities, **6:45** Licenses, **5:154**, **5:155**

ABDIN V. CBS BROADCASTING, INC.

Substantial similarity, 9:164.20

ABSORPTION

Monetary damages, 22:141

ABSTRACTING AND INDEXING

Fair use defense, 10:24 to 10:27.50 Noncopyrightable material, 4:10

ABSTRACTION - FILTRATION - COMPARISON

Reproduction right, **9:93**, **9:94** Scenes a faire, **4:27**

ABUSE OF DISCRETION

Preliminary injunctions, 22:8

ACCESS

Anti-circumvention. Technological Protection Measures and Copyright Rights Management Information (this index)

Berne Implementation Act of 1988, **6:76 Reproduction Right** (this index)

ACCOUNTING

Economic consequences of joint ownership, claims between co-owners, **5:9**

Limitation of actions, **20:42.60** Preemption, **18:24, 18:35**

ACCRUAL OF CLAIM

Author and authorship, 5:41, 5:41.50 Limitation of actions, 20:17 to 20:20, 20:33, 20:43

Standing to sue, 21:22

"A COPY"

Computer programs, 11:40

ACQUISITION COSTS

Damages (this index)

ACTUAL DAMAGES

Damages (this index)

ACTUAL FAIR USE

Aggregate assessment, 10:157

ADAPTATION

Berne Convention Implementation Act of 1988, 23:32, 23:34

Derivative works, 3:48

ADDISON - WESLEY PUBLISHING v. NEW YORK UNIVERSITY

Fair use defense, 10:104

ADDITIONS

Derivative works, 12:10

ADEQUACY OF REMEDY AT LAW

Preliminary injunctions, 22:35

AD INTERIM ACT OF 1905

Copyright Act of 1790 revisions, formalities, **6:28**

First Copyright Act revisions, **1:43**International copyright, U.S. protection of foreign authors, **23:7**

AD INTERIM PROTECTION DURING WORLD WAR II

Copyright Act of 1909 amendments, **1:58**

ADMINISTRATION IN LIBRARY OF CONGRESS

Copyright Act of 1790 revisions, formalities, **6:25**

ADMINISTRATION RIGHTS

Licenses and licensing, **5:125**Standing to sue, exclusive rights, Section 501(b), **21:21**

ADMINISTRATIVE PROVISIONS

Berne Convention Implementation Act of 1988, Article 22 through 38, 23:44

ADOBE SYSTEMS INC. v. CANUS PRODUCTIONS, INC.

Vicarious liability, 21:71

ADVERTISING AND ADVERTISEMENTS

Corrective advertising, 22:109.50
Derivative works, 12:17 to 12:19
Fair Use Defense (this index)
Online sales, fair use defense, 10:29.10
Personal jurisdiction, 17:175
Visual Artists' Rights Act of 1990,
16:13.50

ADVICE

Infringement, advice from Register of Copyrights, 17:125.50

Monetary damages, advice of counsel, 22:182

AFFILIATE RELATIONSHIPS

Contributory infringement, Copyright Act of 1976. 21:48.60

AFFIRMATIVE DEFENSE

Author and authorship, 5:43.50
Distribution of copies of work, 13:16
Fair use defense, 10:9, 10:9.50
Licenses and licensing, 5:118
Preemption, 18:8.50
Preliminary injunctions, 22:70
Reproduction right, 9:36
Standing to sue, 21:3
Work made for hire, 5:95.50

AFFIRMATIVE RIGHT

Fair use defense, 10:8.60

AFTER THE FACT TRANSFERS

Assignment, writing requirement, Section 204(a), **5:111**

AGEE v. PARAMOUNT COMMUNICATIONS

Sound recordings, 11:18

AGENCY RIGHTS

Licenses and licensing, 5:125

AGGREGATE ASSESSMENT

Fair use defense, 10:157

AGGREGATE COPYING

Reproduction right, prima facie case of infringement, **9:66**

AGRICULTURAL AND HORTICULTURAL FAIRS

Public performance, Section 110(6), **14:46**

AIRCRAFT TECHNICAL PUBLISHERS v. CESSNA AIRCRAFT CORP.

Fair use defense, 10:115

ALIEN PROPERTY CUSTODIAN

Uruguay Round Agreements Act, 24:30

ALLARCOM PAY TELEVISION, LTD. v. GENERAL INSTRUMENT CORP.

Extraterritoriality, 25:94

ALTERATIONS

Modification or Change (this index)

ALTER EGO CORPORATIONS

Work made for hire, 5:71.25

"A MACHINE"

Computer programs, 11:39

AMENDMENTS AND REVISIONS

Cable television and other secondary transmissions, **14:53**

Computer programs, 3:74, 3:76

Construction and interpretation, 2:4, 2:5

Copyright Act of 1790 (this index)

Copyright Act of 1909 (this index)

Copyright Act of 1976 (this index)

Ephemeral-recording exemption, 11:10

Exclusive rights, **8:20**

Exercisive rights, 0.20

First Copyright Act (this index)

Formalities (this index)

Government works, 4:65

International copyright, 23:12, 23:15

Limitation of actions, 20:14

Monetary damages, 22:157, 22:158, 22:160

Preemption, 18:5 to 18:7

Public Performance (this index)

Rental Rights (this index)

AMENDMENTS AND REVISIONS —Cont'd

Revision bills

cable television and other secondary transmissions, **14:53**

Copyright Act of 1976, **7:31**, **7:32** monetary damages, **22:157**

1964 revision bill, **7:31, 18:5**

1965 revision bill, **7:32**, **18:6**

preemption, 18:6

Preemption, 18:5

Public Performance (this index) term, 7:31, 7:32

Sound recordings, **5:92**, **8:20**, **14:88** Term, **7:8**, **7:9**, **7:51**

AMERICA INVENTS ACT

Subject-matter jurisdiction, 17:6

AMERICAN GEOPHYSICAL UNION v. TEXACO

Fair Use Defense (this index)

AMERICAN HOSPITAL SUPPLY CORP. v. HOSPITAL PRODUCTS LTD.

Preliminary injunctions, 22:55

AMERICAN WELL WORKS CO. v. LAYNE BOWLER CO.

Arising under jurisdiction, 17:37 Subject-matter jurisdiction, 17:11, 17:12

AMNESTY ACT OF 1893

First Copyright Act revisions, 1:39

A&M RECORDS, INC. v. NAPSTER, INC.

Contributory infringement, **21:57** Vicarious liability, **21:74**

AMSINCK v. COLUMBIA PICTURES INDUSTRIES

Fair use defense, 10:72

ANALOGICAL REASONING

Noncopyrightable material, 4:22

ANCILLARY ISSUES

Jurisdiction (this index)

ANDEAN TRADE PREFERENCE ACT

International copyrights, 23:69

ANDERSON V. STABILITY AI

Litigation over AI, 3:60.54

"AND" OR "OR"

Construction and interpretation, **2:62** Preliminary injunctions, **22:35**

ANIMALS

Pictorial, graphic, and sculptural works, 3:117.10

ANONYMOUS WORKS

Copyright Act of 1976, **7:37**Sonny Bono Copyright Term Extension Act, **7:55**Term, **7:37**

ANSEHL v. PURITAN PHARMACEUTICAL CO.

Substantial similarity, 9:226

ANTEDATED NOTICES

Copyright Act of 1790 revisions, 6:39

ANTI - ASSIGNMENT ACT

Standing to sue, 21:23

ANTI - DOCTRINE

Reproduction right, 9:38

ANTI-SLAPP LEGISLATION

Preemption, 18:21.50

ANTITRUST EXEMPTION

Sound recordings, Section 114(e), 14:96

APA REVIEW

Infringement, 17:95

APPARENT AUTHORITY

Vicarious liability, 21:82

APPEAL AND REVIEW

Abuse of discretion, 22:8
Arising under jurisdiction, 17:45
Damages, 22:127, 22:152, 22:207, 22:208

Extraterritoriality, 25:97

Fair use defense, 10:85, 10:160

First Copyright Act, 1:29

Infringement, 9:88, 17:95, 17:97

Preliminary injunctions, 22:8, 22:9

Reproduction right, 9:88

Subject-matter jurisdiction, 17:95, 17:97

Substantial similarity, 9:278

APPEAL AND REVIEW—Cont'd

T.B. Harms case, **17:32**

Temporary restraining orders, 22:9

APPENDIX

Berne Convention Implementation Act of 1988, Article 21, **23:43**

APPLE COMPUTER, INC. v. MICROSOFT CORP.

Substantial similarity, 9:241

APPORTIONMENT

Damages (this index)

APPROPRIATION ART

Fair use defense, 10:35.20

ARAMCO

Extraterritoriality, 25:91

ARBITRATION

Generally, **17:194 to 17:196**Jurisdiction, **17:59**Motions to compel, **17:195**Remedies, **17:196**

ARCHITECTURAL DRAWINGS

Generally, **3:103 to 3:105.50**Registration, **3:106**

ARCHITECTURAL PLANS

Generally, 3:103 to 3:105.50

Fair use defense, 10:35.50

Infringement, 3:105

Limitations and restrictions, Section 113, **11:14**

Monetary damages, 22:123

Orignality, **3:105.50**

Preliminary injunctions, 22:73

Registration, 3:106

Relationship between copyright in architectural work, **3:116**

ARCHITECTURAL WORKS

Architectural plans, relationship, **3:105**, **3:116**

Architectural Works Copyright Protection Act of 1990

generally, 3:107 to 3:115

exclusive rights, 3:111

exemption under section 120(a) and section 120(b), **3:111.10**

ARCHITECTURAL WORKS-Cont'd

Architectural Works Copyright Protection Act of 1990—Cont'd preemption of state and local laws, 3:113

protected subject matter, 3:108

registration, 3:115

remedies, 3:112

retroactivity, 3:114

significance of classification of works in statute, **3:109**

standard of infringement, 3:115.50

works of art incorporated in works, **3:110**

Berne Convention Implementation Act of 1988, Article 4, 23:20

Derivative works, Section 120(b), 12:31

Display publicly, 15:16

Exemption under section 120(a) and section 120(b) of Architectural Works Copyright Protection Act of 1990, **3:111.10**

Formalities, 6:31.50

Infringement standard, 3:115.50

Limitations and restrictions, Section 113, **11:14**

Monetary damages, 22:123

Preemption, Section 301(b)(4), **18:53**

Preliminary injunctions, 22:73

Publication, 6:31.50

Reproduction right, 9:28, 11:46

Standard of infringement, 3:115.50

ARCHITECTURAL WORKS COPYRIGHT PROTECTION ACT OF 1990

Architectural Works (this index)

ARCHIVES

Copyright Act of 1976, 1:103

Distribution of copies of work, exceptions, 13:14

Section 108 Study Group report, 11:8.50

ARC MUSIC CORP. v. LEE

Substantial similarity, 9:142

ARICA INSTITUTE v. PALMER

Fair use defense, 10:64

ARISING UNDER JURISDICTION

Subject Matter Jurisdiction (this index)

ARISTA RECORDING, INC. v. MP3BOARD, INC.

Contributory infringement, 21:59

ARMED FORCES

Public performance, 14:49

ARM OF THE STATE

Parties, 21:91

ARNSTEIN v. EDWARD B. MARKS MUSIC GROUP

Reproduction right, 9:35

ARNSTEIN v. PORTER

Reproduction right, 9:38, 9:118

ARRANGEMENT

Electronic databases, 3:67

ART ACT

Copyright Act of 1976 amendments, 1:113

ARTIFICIAL INTELLIGENCE (AI)

AI registration attempts, **3:60.51**

Copyrightable material, 3:60.50

Copyright office, 3:60.51

Copyright office's AI policy decision, 3:60.52

Digital means, works created by, **3:60.50**

Litigation over AI

Anderson v. Stability AI, 3:60.54

Kadrey v. Metaplatfors, Inc., 3:60.55

Thomson Reuters v. Ross Intelligence, **3:60.53**

Technological means, works created by, 3:60.50

ARTISTIC WORKS

Berne Convention Implementation Act of 1988, Article 14, **23:34**

ASAHI METAL INDUSTRY CO. v. SUPERIOR COURT OF CALIFORNIA

Personal jurisdiction, 17:146

AS A PART OF

Copyright Act of 1976, government employees, **4:73**

ASSESSMENT

Fair use defense, 10:157

ASSIGNMENT

Generally, 5:101 to 5:117

Act applicable, works published before 1978, transfer after, **5:120.50**

After-the-fact transfers, 5:111

Cause of action, 5:113

Challenges, 5:114

Check endorsements, 5:110

Choice of Law (this index)

Construction and interpretation, **5:115**Copyright Act of 1909 general revision, **7:12**

Corbello v. DeVito, 5:103

Derivative works, 5:117

Exploitation, 5:115

Fallacy of "one copyright," 5:102

Futures, **5:115**

Gardner v. Nike, 5:103

Government works, 4:76

Inheritance and marital property divisions, **5:116.50**

Licensees, transfer of interest, **5:103**

Licenses, 5:112, 5:129

Ninth circuit, 5:105

Operation of law, Section 201(e), 5:116

Preexisting causes of action, 5:113

Renewal, jurisdiction, 7:10.50

Retroactive licenses, 5:103, 5:112

Signature, 5:110

Silvers v. Sony Pictures Entertainment, 5:104

Standing to sue, **5:104**, **21:5**, **21:23**

Structure of ownership, generally, **5:101** to **5:117**

Sufficiency, 5:114

Sybersound Records, Inc. v. UAV Corporation, **5:103**

Technologies, 5:115

Third parties, challenging sufficiency of transfer under Section 204(a), 5:114

Transfer of rights, generally, **5:101 to 5:117**

ASSIGNMENT—Cont'd

Uruguay Round Agreements Act, 24:41
Work made for hire, 5:59
Writing requirement, Section 204(a)
generally, 5:106 to 5:111
after-the-fact transfers, 5:111
check endorsements, 5:110
content of transfer, 5:108
formalities of transfer, 5:109
form of transfers, 5:107

ASSISTANTS

Work made for hire, 5:62

ASSOCIATED PRESS v. MELTWATER U.S. HOLDINGS, INC.

Fair use defense, 10:80.70

ASSOCIATIONAL STANDING TO SUE

Generally, **21:28**

ASSOCIATION OF AMERICAN MEDICAL COLLEGES v. CUOMO

Fair use defense, 10:107

ASSOCIATION OF AMERICAN MEDICAL COLLEGES v. MIKAELIAN

Fair use defense, 10:106

ASSUMPTIONS

Copyright Act of 1976 amendments, **1:105**

ATARI, INC. v. AMUSEMENT WORLD

Substantial similarity, 9:178

ATARI, INC. v. NORTH AMERICAN PHILIPS CONSUMER ELECTRONICS CORP.

Substantial similarity, 9:217

ATHLETIC EVENTS

Noncopyrightable material, 4:21

ATHLETIC ROUTINES

Noncopyrightable material, 4:22

ATKINS v. FISCHER

Substantial similarity, 9:277

ATTACHMENT

Berne Convention Implementation Act of 1988, 23:19, 23:20
Infringement, 17:94

ATTIA v. SOCIETY OF THE NEW YORK HOSPITAL

Substantial similarity, **9:163**

ATTORNEYS

Monetary damages, 22:182

ATTORNEYS' FEES

Generally, 22:209 to 22:221 Conflict of laws, 22:215 Construction and interpretation, 22:217, 22:218

Contracts, attorneys' fees in, 22:210.50 Costs of action, 22:216 to 22:218, 22:221

Declaratory judgments, **22:210.25**Definition of prevailing party, **22:211**Final judgment, offer to relief obtained in, **22:220**

FRCP 68, generally, **22:214**Joint and several liability, **22:222.50**Judgment. Offer of judgment, Rule 68, below

Marek v. Chesny, 22:216 to 22:218 Nonelection of statutory damages, 22:212.50

Offer of judgment, Rule 68 generally, 22:213 to 22:220 conflict of laws, 22:215 construction and interpretation, 22:217, 22:218

costs of action, 22:216 to 22:218 final judgment, offer to relief obtained in, 22:220

FRCP 68, generally, 22:214

Marek v. Chesny, 22:216 to 22:218

"properly awardable," construction and interpretation, 22:218

Section 505 and FRCP 68, conflict of

Pleadings, 19:14

Prevailing party defined, 22:211

laws, 22:215

"Properly awardable," construction and interpretation, 22:218

Rule 68. Offer of judgment, Rule 68, above

Index-6

ATTORNEYS' FEES-Cont'd

Section 412, 22:212

Section 505 and FRCP 68, conflict of laws, 22:215

Statutory damages nonelection, 22:212.50

ATTRIBUTION

Burden of proof, 22:118

Lack of, 22:107, 22:108

Profits, 22:118

Visual Artists Rights Act of 1990, 16:17

AUCTIONS

Personal jurisdiction, 17:188

AUDIENCE

Reproduction right, 9:70

AUDIO HOME RECORDING ACT OF 1992

Exclusive rights, 8:26

Parties, 21:84

Reproduction right exceptions, 11:47

AUDIOVISUAL WORKS

Motion Pictures and Other Audiovisual Works (this index)

AUTHOR AND AUTHORSHIP

Generally, **5:3**

Accounting claims between co-owners, **5:9**

Accrual in ownership claims, **5:41**, **5:41.50**

Affirmative defense, **5:3.10**, **5:43.50**

Authorial estoppel, 4:7, 4:8

Berne Convention Implementation Act of 1988, 23:22, 23:37

Certificate of registration, 5:94

Childress case, **5:15**, **5:16**

Choice of Law (this index)

Collective works, 5:5

Computer programs, 3:80

Constitutional Law (this index)

Construction and interpretation, **5:15**, **5:16**

Contracts and agreements, 5:26

Contribution, 5:15, 5:17

Controlled composition clauses, 5:8

Copyright Act of 1909 general revision,

7:13, 7:14, 7:16 Copyright Act of 1976, 7:35, 7:36

AUTHOR AND AUTHORSHIP

-Cont'd

Copyright Office, 5:27

Costs and expenses, **5:25**

Covenants, 5:10, 5:11

Credit, 5:25

Definition of joint authorship, 5:4

Derivative works, **5:43**, **12:16**, **12:23**

Discovery accrual, 5:41.50

Dominant author theory, 5:24

Economic consequences. **Joint Author- ship** (this index)

Expression, 5:17, 5:18

Fiduciary relationship, 5:10, 5:11, 5:13

Foreign authors. International Copy-

right (this index)

History, 5:34

Implied negative covenants, 5:10, 5:11

Infringement, 5:39, 17:61

Intent. **Joint Authorship** (this index)

Interdependent and inseparable joint works, **5:6**

International Copyright (this index)

Interviews, 5:19

Joint Authorship (this index)

Joint ventures, 5:12

Joint works and collective works contrasted, **5:5**

Kling v. Hallmark Cards, Inc., **5:40**

Legislative history of Section 507(b), 5:34

Limitation of actions. **Joint Authorship** (this index)

Merchant v. Levy, 5:37, 5:38

Noncopyrightable material, 4:33

Obviousness of owners, Kling v.

Hallmark Cards, Inc., 5:40

Originality, 3:45, 5:14 to 5:16

Ownership, generally, 5:3 to 5:95.50

Physical proximity, **5:30**

Question of fact, 5:31

Registration, **5:27**, **5:94**

Section 507(b), 5:33, 5:34

Separation, 5:6

Sonny Bono Copyright Term Extension Act, **7:53**, **7:54**, **7:56**

Sound recordings, 3:161

Title and ownership, generally, **5:3 to 5:95.50**

AUTHOR AND AUTHORSHIP

—Cont'd

Tolling, **5:42**

Violation accrual, 5:41.50

Visual Artists Rights Act of 1990, **16:5**, **16:6**

Waste, 5:10, 5:11

Work Made for Hire (this index)

Work of an infringing derivative work, 12:16.10

Written agreement, **5:26**

Zuill v. Shanahan, 5:36, 5:38

AUTHORIAL ESTOPPEL

Noncopyrightable material, 4:7, 4:8

AUTOMATIC

Preliminary injunctions, 22:14

AUTOMATIC PROTECTION

Berne Convention Implementation Act of 1988, Article 5, 23:21

AUTOMATIC RENEWAL ACT OF 1992

Infringement, 17:117

AUTOMATIC RESTORATION

Uruguay Round Agreements Act, 24:29

AUTOSKILL INC. v. NATIONAL EDUCATIONAL SUPPORT SYSTEMS, INC.

Substantial similarity, 9:251

AVAILABILITY

Reproduction right, 9:26

AWARENESS

Preemption, 18:20

BACKPACKS

Useful articles, designs of, 3:152.60

BACKUP COPIES AND ADAPTATIONS EXEMPTION

Computer Programs (this index)

BACKWARDS - LOOKING REGISTRATIONS

Infringement, 17:89

BAKER v. SELDEN

Computer programs, **3:84**Noncopyrightable material, Section 102(b), **4:42**, **4:43**

"BALANCE" METAPHOR

History, generally, 1:1.50

BALLROOM LINE OF DECISIONS

Vicarious liability, 21:65

BANCROFT & MASTERS, INC. v. AUGUSTA NATIONAL, INC.

Personal jurisdiction, 17:164

BANKRUPTCY

Forfeiting statutory damages, **22:165.50** Licenses, Copyright Act of 1976, **5:149** Subject matter jurisdiction, **17:39.05**

BANKS v. MANCHESTER

Government works, noncopyrightable material, **4:55**, **4:56**

BARABAN v. TIME WARNER

Fair use defense, 10:63

BARBIE DOLL

Fair use defense, 10:97

BASIC BOOKS v. GNOMON CORP.

Fair use defense, 10:110

BASIC BOOKS v. KINKO'S GRAPHICS CORP.

Fair use defense, 10:117

BASSET v. MASHANTUCKET PEQUOT TRIBE

Arising under jurisdiction, 17:35

BATEMAN v. MNEMONICS, INC.

Substantial similarity, 9:263

BAXTER v. MCA, INC.

Substantial similarity, 9:237

BELLSOUTH ADVERTISING & PUBLISHING CORP. v. DONNELLEY INFORMATION PUBLISHING INC.

Substantial similarity, 9:261

BELT - AND - SUSPENDERS AGREEMENTS

Work made for hire, **5:51**

BENCH AWARD

Monetary damages, 22:164

BENEFICIAL OWNERS

Licenses, **5:152**

BENEFICIAL OWNERS—Cont'd **BERNE CONVENTION** Standing to sue, 21:25 to 21:27 IMPLEMENTATION ACT OF 1988—Cont'd BENEFICIARY Article 11—Cont'd Jukebox, 14:107 public performance, right of, 23:29 public recitation, right of, 23:31 BENEFITS Article 12, right to prepare adaptations, Work made for hire, 5:65 BENSON v. COCA - COLA CO. Article 13, mechanical compulsory Substantial similarity, 9:262 license, 23:33 Article 14 BENTON v. DECOTEX, INC. adaptation of literary and artistic Substantial similarity, 9:202 works in cinematographic works, **BEOUESTS** 23:34 Copyright Act of 1909 general revision, droite de suite, 23:36 7:14 protection of cinematographic works, 23:35 BERNE CONVENTION Article 15, presumption of authorship, IMPLEMENTATION ACT OF 23:37 1988 Article 16, seizure of infringing goods, Generally, 23:16 to 23:45 23:38 Adaptations, 23:32, 23:34 Article 17, government censorship, Administrative provisions, 23:44 23:39 Appendix, 23:43 Article 18, retroactive application of Architecture works, 23:20 Convention, 23:40 Article 2 Article 19, national legislation, 23:41 limitations on certain subject matter, Article 20, bilateral agreements, **23:42** 23:18 Article 21, appendix for developing protected subject matter, 23:17 countries, 23:43 Article 3, points of attachment, 23:19 Article 22 through 38, administrative Article 4, special points of attachment and transitional provisions, 23:44 for cinematographic works and Artistic works, 23:34 works of architecture, 23:20 Attachment, 23:19, 23:20 Article 5 Authorship, presumption of, 23:37 choice of law, authorship, 25:29 Authors, non-union, 23:22 national treatment, automatic protec-Automatic protection, 23:21 tion, country of origin, 23:21 Bilateral agreements, 23:42 Article 6 Broadcasting, 23:30 moral rights, 23:23 Censorship, 23:39 retaliation against works of non-union Charming Betsy canon of construction, authors, 23:22 25:43 Article 7, term of protection, 23:24 Choice of law, 25:29, 25:43 Article 8, right of translation, 23:25 Cinematographic works, 23:20, 23:34, Article 9, right of reproduction and 23:35 exceptions to right, 23:26 Compulsory license, 23:33 Article 10 Contracts and agreements, 23:42 exceptions, 23:27

exceptions for press, 23:28

broadcasting and communication to public, right of, 23:30

Article 11

Copyright Act of 1976, 1:89

Developing countries, 23:43

Country of origin, 23:21

Droite de suite. 23:36

BERNE CONVENTION IMPLEMENTATION ACT OF 1988—Cont'd

Exceptions

Article 9, 23:26

Article 10, 23:27, 23:28

Formalities (this index)

Government, 23:39

Importation, rights of, Section 602,

13:37

Infringement, 17:79, 23:38

Jukebox, 14:103

Legislation, 23:41

License, 23:33

Limitations and restrictions, 23:18

Literary works, 23:34

Mechanical compulsory license, 23:33

Monetary damages, 22:162

Moral rights, 23:23

National legislation, 23:41

National treatment, 23:21

Performance, 23:29

Pictorial, graphic, and sculptural works, 3:101

Preemption, 18:57

Press, 23:28

Presumptions, 23:37

Public, **23:30**

Public performance, 23:29

Public recitation, 23:31

Recitation, 23:31

Registration, 17:79

Reproduction, 23:26

Retaliation, 23:22

Retroactivity, 23:40, 24:18, 24:21

Seizure, 23:38

Self-executing, 23:1.50

Subject-matter jurisdiction, 17:79

Term. 23:24

Transitional provisions, 23:44

Translation, 23:25

TRIPS, Article 9, 23:62

Union, 23:22

United States adherence, 23:45

Uruguay Round Agreements Act, retroactivity, Section 514, **24:18**,

24:21

U.S. protection of foreign authors, early efforts, 23:10

BERNE CONVENTION

IMPLEMENTATION ACT OF

1988—Cont'd

Visual Artists Rights Act of 1990, **16:3**

BILATERAL AGREEMENTS

Berne Convention Implementation Act of 1988, Article 20, 23:42

International copyrights, 23:71

BILE DEM CABBAGE DOWN

Reproduction right, 9:94

BILZERIAN DECISION

Monetary damages, 22:182

BIOGRAPHIES

Fair Use Defense (this index)

BLACKWELL PUBLISHING INC. v. EXCEL RESEARCH GROUP, LLC

Fair use defense, 10:118.50

BLANK FORMS "RULE"

Noncopyrightable material, Section 102(b), **4:52**, **4:53**

BLEHM v. JACOBS

Substantial similarity, **9:257.70**

BLIND PERSONS

Fair use defense, 10:52

Public performance, 14:48

Reproduction right, 11:49

BLUMCRAFT OF PITTSBURGH v. NEWMAN BROTHERS, INC.

Substantial similarity, 9:196

BOATS

Copyright Act of 1976 amendments, 1:106

BOBBS - MERRILL IN 1909 COPYRIGHT ACT

Distribution of copies of work, 13:19

BONDING INJUNCTION

Preliminary injunctions, 22:72

BONITO BOATS, INC. v. THUNDER CRAFT BOATS, INC.

Construction and interpretation, 2:51

BONNEVILLE v. PETERS

Sound recordings, 14:88

BONO

Sonny Bono Copyright Term Extension Act (this index)

BOOKSELLERS

Term, 7:4, 7:6

BOOK TRADE

England and Statute of Anne, 1:8

BOOTLEGS OF LIVE MUSICAL PERFORMANCES

Uruguay Round Agreements Act (this index)

BOUCHAT v. BALTIMORE RAVENS, INC.

Substantial similarity, 9:185

BOWERS v. BAYSTATE TECHNOLOGIES, INC.

Preemption, 18:26

BRACKEN v. ROSENTHAL

Reproduction right, 9:108

BRADY v. DALY

Limitation of actions, 20:10

BRIDGEPORT MUSIC, INC. v. DIMENSION FILMS

Reproduction right, **9:61** Substantial similarity, **9:209**

BRIDGEPORT MUSIC, INC. v. UMG RECORDINGS, INC.

Substantial similarity, 9:209.20

BRIEFS

Government works, 4:85

BROADCASTING ORGANIZATIONS

TRIPS, Article 14, 23:67

BROADCASTING STATIONS

Derivative works, 12:30

BROADCASTS AND BROADCASTING

Generally, 3:159

Berne Convention Implementation Act of 1988, Article 11, 23:30

Copyright Act of 1976 amendments,

1:102

Display publicly, 15:14

BROADCASTS AND

BROADCASTING—Cont'd

Ephemeral digital sound recordings exemption, 1:102

Fair Use Defense (this index)

Jukebox, 14:104

Personal jurisdiction, 17:186.50

Public broadcasting compulsory license, Section 118, **11:45**

Public performance, 14:35

Sound recordings, 11:19, 14:86

BROWN BAG SOFTWARE v. SYMANTEC CORP.

Substantial similarity, 9:240

BRUSSELS SATELLITE CONVENTION

International copyright, 23:14

BRUZZONE v. MILLER BREWING

Fair use defense, 10:81

BUENOS AIRES CONVENTION OF 1910

International copyright, 23:9

BUILDINGS, WORKS CONTAINED

IN

Visual Artists Rights Act of 1990, **16:32 to 16:34**

BURDEN OF PROOF

Damages (this index)

Foreign laws, 25:79

Jukebox, 14:117

Licenses, **5:133**

Preliminary injunctions, 22:70

BUSINESS AGREEMENTS

Computer programs, 11:33

BUSINESS REPUTATION

Preemption, 18:38

BUSINESS TRENDS CASE

Monetary damages, 22:129

"BUT FOR" TEST

Personal jurisdiction, 17:153

CABLE NEWS NETWORK v. VIDEO MONITORING SERVICES OF AMERICA

Fair use defense, 10:76

CABLE TELEVISION AND OTHER SECONDARY TRANSMISSIONS	CABLE TELEVISION AND OTHER SECONDARY TRANSMISSIONS
Generally, 14:50 to 14:80	—Cont'd
Cable compulsory license, 14:73	Internet streaming of television
Cable forms and rates, Section	programming, 14:79.50
111(d)(1)(B) and (D), 14:75	Jukebox (this index)
Cable systems, wireless included, defini-	License, 14:73, 14:74
tion, 14:65	License fees, 14:76 to 14:78
Compulsory license, 14:73	Limitations and restrictions, 14:73
Compulsory license fees, 14:74 , 14:76 to 14:78	Local service area of primary transmitter, 14:62
Conditions for and limitations on cable	Network station defined, 14:63
compulsory license, Section 111(c),	1966 and 1967 revision bills, 14:53
14:73	1969-1971, 14:55
Consent, 14:80	1972-1973, 14:56
Controlled groups, Section 111(b), 14:72	1974, 14:58
Copyright Act of 1976, 1:78	1976 passage of Act, 14:59
Definitions	
cable systems, wireless included,	Nonprofit organizations, 14:71
14:65 distant signal equivalents, 14:64	Nonsimultaneous cable secondary transmissions, Section 111(e),
local service area of primary transmit-	14:79
ter, 14:62	Operation of Section 111, generally, 14:60
network station, 14:63	
primary transmissions, 14:61	Passive carriers, Section 111(a)(3), 14:69
secondary transmissions, 14:61	1.00
Display publicly, 15:12 , 15:15	Primary transmissions, 14:61
Distant signal equivalents defined, 14:64	Publicly perform, right to, generally, 14:50 to 14:80
Distribution of compulsory license fees,	Rates, 14:75
Section 111(d)(2) to (4), 14:76 to	· ·
14:78	Retransmission
Earth stations, 14:70	consent, 14:80
Fees, 14:74 , 14:76 to 14:78	Section 111(a), 14:70
Fortnightly decision, 14:54	Revision bills, 14:53
Governmental bodies, 14:71 History	Right to publicly perform, generally, 14:50 to 14:80
generally, 14:51 to 14:80	Satellite, 14:70
Fortnightly decision, 14:54	Section 111(a)
1966 and 1967 revision bills, 14:53	generally, 14:66 to 14:71
1966 freeze, 14:52	hotel relaying, Section 111(a)(1),
1969-1971, 14:55	14:67
1972-1973, 14:56	instructional secondary transmissions
1974, 14:58	Section 111(a)(2), 14:68
1976 passage of Act, 14:59	noncable secondary transmissions by
pre-1966 era, 14:51	governmental bodies and non-
Teleprompter decision, 14:57	profit organizations, Section
Hotel relaying, Section 111(a)(1), 14:67	111(a)(5), 14:71
Instructional secondary transmissions, Section 111(a)(2), 14:68	passive carriers, Section 111(a)(3), 14:69

CABLE TELEVISION AND OTHER SECONDARY TRANSMISSIONS —Cont'd

Section 111(a)—Cont'd private home viewing by earth stations, retransmission by satellite carriers, **14:70**

retransmission by satellite carriers for private home viewing by earth stations, Section 111(a)(4), **14:70**

satellite carriers, 14:70

Section 111(b), 14:72

Section 111(c), 14:73

Section 111(d)(1), 14:74

Section 111(d)(1)(B) and (D), **14:75**

Section 111(d)(2) to (4), 14:76 to 14:78

Section 111(e), 14:79

Section 111, generally, 14:50 to 14:80

Teleprompter decision, 14:57

Wireless cable, 14:65

CAFTA - DR

Generally, 23:70

CALDER v. JONES

Personal jurisdiction, 17:161

CALLAGHAN v. MYERS

Substantial similarity, 9:122

CALLIGRAPHERS

Fair use defense, 10:56

CAMPBELL v. ACUFF - ROSE MUSIC, INC.

Construction and interpretation, 2:56

CANADA

United States-Canada Free Trade Agreement (CFTA), 23:54

CANCELLATION

Infringement, 17:85, 17:108

CANON

Construction and interpretation, 2:22.10

CAPITAL CITIES CABLE, INC. v. CRISP

Construction and interpretation, 2:47

CAPITAL RECORDS, INC. v. NAXOS AMERICA, INC.

Preemption, 18:55

CARIBBEAN BASIN ECONOMIC RECOVERY ACT (CBI)

International copyrights, 23:50

CARR v. NATIONAL CAPITAL PRESS, INC.

Substantial similarity, 9:269

CARTIER v. JACKSON

Substantial similarity, 9:253

CARTOON NETWORK LP, LLLP v. CSC HOLDINGS, INC.

Reproduction rights, 9:63.50

CASE OR CONTROVERSY

Jurisdiction, 17:49, 17:49.50, 17:50

CASES AFTER ZUILL: CONFUSION WORSE CONFOUNDED

Limitation of actions, 20:38

CASS COUNTY TEST

Public performance, 14:42

CASTLE ROCK ENTERTAINMENT v. CAROL PUBLISHING GROUP

Fair use defense, 10:66

CASUAL LINK

Monetary damages, 22:104

CAUSE OF ACTION

Assignment, 5:113

C - BAND GRANDFATHER CLAUSE

Jukebox, Section 119(a)(2)(b)(iii), **14:115**

CEASE AND DESIST LETTERS

Personal jurisdiction, 17:176

CENSORSHIP

Berne Convention Implementation Act of 1988, **23:39**

CENTRAL AMERICAN -

DOMINICAN REPUBLIC FREE TRADE AGREEMENT (CAFTA-DR)

Generally, **23:70**

CERTIFICATE OF REGISTRATION

Author and authorship, **5:94**

Infringement (this index)

Reproduction right, 9:7, 9:13, 9:14

CESSATION

Preliminary injunctions, 22:65

CHACE ACT

U.S. protection of foreign authors, 23:4

CHALLENGES

Assignment, 5:114

Personal jurisdiction, 17:135, 17:136

CHAMPERTY

Licenses, 5:136

CHAMPION MAP CORP. v. TWIN PRINTING CO.

Substantial similarity, 9:177

CHANGE

Modification and Change (this index)

CHARACTERS

Generally, 3:164

Copyrightable material, generally, 3:164

CHARLES W. ROSS BUILDER, INC. v. OLSEN FINE HOME BUILDING, LLC

Substantial similarity, 9:185.50

CHARMING BETSY CANON OF CONSTRUCTION

Choice of law, 25:42, 25:43

CHATTELS

Preemption, 18:45, 18:46

CHECK ENDORSEMENT

Assignment, 5:110

Work made for hire, 5:77

CHEVRON CASE

Infringement, 17:99

CHICAGO BOARD OF EDUCATION v. SUBSTANCE, INC.

Fair use defense, 10:68

CHICAGO BUILDING DESIGN, P.C. v. MONGOLIAN HOUSE, INC.

Limitation of actions, ongoing infringement, **20:33.50**

CHICAGO LAWYER v. FORTY -SIXTH WARD REGULAR DEMOCRATIC ORGANIZATION

Fair use defense, 10:129

CHICAGO RECORD - HERALD CO. v. TRIBUNE ASSOCIATION

Substantial similarity, 9:211

CHILDREN AND MINORS

Limitation of actions, 20:52 Renewal of term. 7:17

CHILDRESS CASE

Author and authorship, 5:15, 5:16

CHOICE OF LAW

Generally, **25:0.50 to 25:74, 25:80 to 25:85**

Absence of choice of law within United States. **25:0.50**

Arising under analysis, 25:67

Article 14(2)(a), 25:55

Assignment. Authorship, below

Authorship

generally, 25:29 to 25:68

assignment

generally, 25:56 to 25:64

contracts and agreements, **25:60 to 25:64**

domicile, 25:64

limitations and restrictions, 25:57

location of subject matter, 25:63

nationality, 25:64

operation of law, 25:59

place of contract, 25:61

place of performance, 25:62

residency, 25:64

Berne Convention Implementation Act of 1988, Article 5, **25:29**

CIL. Customary International Law (CIL), below this group

common law. Federal common law, below this group

Customary International Law (CIL)

generally, 25:32 to 25:41

canon of construction, 25:34

extraterritoriality, 25:35

independent source of law, 25:33 to 25:35

international scope, 25:40

interpretative federal common law,

as. 25:32

modern, 25:37, 25:38

origin, 25:36, 25:37

sources of authority, 25:39

CHOICE OF LAW—Cont'd CHOICE OF LAW—Cont'd Authorship—Cont'd Authorship—Cont'd Customary International Law (CIL) federal common law-Cont'd —Cont'd place of first publication or first traditional vs. modern, 25:37 availability to public, 25:49 Renvoi, 25:68 duration of protection statutory rules on ownership, 17 generally, 25:69 to 25:74 USCA 104A, **25:30** Copyright Act of 1909 work, death time and date. Duration of protection, before vesting of renewal, above this group assignment, 25:73 Berne Convention, 25:29, 25:43 foreign author and assignee, Characterization, 25:65 to 25:68 contract between, 25:72 Charming Betsy canon of construction, foreign country, public domain, 25:42, 25:43 failure to renew, 25:71 renewal, 25:70 to 25:73 CIL. Customary International Law (CIL), below termination of transfer, 25:74 Cinematographic works, 25:54 federal common law Common law. Authorship, above generally, 25:31 to 25:68 Connecting factors, 25:52, 25:53 arising under analysis, 25:67 Construction and interpretation Article 14(2)(a), 25:55 Charming Betsy canon of construcassignment, above this group tion, 25:42, 25:43 Berne Convention and Charming Customary International Law (CIL), Betsy canon of construction, 25:32, 25:34 Contracts and agreements, 25:60 to characterization, 25:65 to 25:68 25:64, 25:66, 25:72 Charming Betsy canon of construc-Convention minima, 25:24 tion, 25:42, 25:43 Copyright Act of 1909 work, death CIL. Customary International Law before vesting of renewal, assign-(CIL), above this group ment, 25:73 cinematographic works, 25:54 Country of origin, law of applies, computer servers location, transfers, **25:80.10** 25:49.50 Customary International Law (CIL) connecting factors, 25:47 to 25:50, authorship, above 25:52, 25:53 infringement, 25:82 creation, place of, 25:50 Death. 25:73 Definition of national treatment, 25:22 Customary International Law (CIL), above this group Discrimination, 25:25 depecage (applying law of more Domicile, 25:48, 25:64 than one jurisdiction), 25:45 Duration of protection. Authorship, domicile versus nationality, 25:48 above Egyptians, 25:5 duration of protection, above this Enforcing foreign copyright judgments, 25:81.50 Itar-Tass Russian News Agency v. Russian Kurier, Inc., 25:31, Evidence, prima facie case, elements of, 25:44 generally, 25:14 to 25:74 married women's contracts, 25:66 Extraterritoriality, 25:35 Federal common law. Authorship, above multiple authors, 25:51 First availability, 25:49 ownership determined by country of origin, 25:46 First publication, 25:49

CHOICE OF LAW—Cont'd	CHOICE OF LAW—Cont'd
First Restatement of Conflict of Laws,	International scope, 25:40
25:7	Itar-Tass Russian News Agency v. Rus-
Foreign author and assignee, contract	sian Kurier, Inc., 25:31, 25:44
between, 25:72	Jurisdiction, retaining, 25:85
Foreign claims, dismissing, 25:84	Limitations and restrictions, 25:57
Foreign copyright judgments, 25:81.50	Location and place, 25:49
Foreign country, public domain, failure	Married women's contracts, 25:66
to renew, 25:71	Multinational infringements, 25:81
Foreign laws, 25:12, 25:68, 25:73,	Multiple authors, 25:51
25:83	National eligibility, 25:21
Foreign work, 25:26	Nationality, 25:48, 25:64
Hasbro-Bradley, 25:20	National treatment, 25:18
Historical theories	generally, 25:19 to 25:28
generally, 25:2 to 25:10	claiming protection, 25:28
contemporary theories, 25:9	convention minima, 25:24
Egyptians, 25:5	definition, 25:22
First Restatement of Conflict of Laws,	foreign work, 25:26
25:7	Hasbro-Bradley, 25:20
Savigny, 25:6	national eligibility, 25:21
Second Restatement of Conflict of	nondiscrimination principle, 25:25
Laws, 25:8	reciprocity, 25:23
statutes, 25:6	rights subject to, 25:27
Talmud, 25:4	Number of copyrights, 25:17
unilateral versus multilateral, 25:6	Operation of law, 25:59
Independent source of law, 25:33 to 25:35	Originality, 25:15
Infringement	Performance, 25:62
generally, 25:80 to 25:85	Place and location, 25:61 to 25:63
country of origin, law of applies,	Prima facie case, elements of, generally,
transfers, 25:80.10	25:14 to 25:74
Customary International Law (CIL),	Proposed unilateral methodology, gener-
25:82	ally, 25:13 to 25:74
foreign claims, dismissing, 25:84	Public, 25:49
foreign law to foreign claims, 25:83	Publication, 25:49
jurisdiction, retaining, 25:85	Public domain, 25:71
multinational infringements, 25:81	Reciprocity, 25:23
supranational copyright law infringe-	Renewal, 25:70 to 25:73
ment, 25:82	Renvoi, 25:68
transfers, law of country of origin	Residency, 25:64
applies, 25:80.10	Russia, 25:31
United States laws, 25:80	Savigny, 25:6
U.S. claims, retaining, 25:84	Second Restatement of Conflict of
U.S. laws, application of, 25:85	Laws, 25:8
U.S. laws, application to originality	17 USCA, 25:30
and infringement in U.S., 25:80	Situs of intangible property, 25:11
Infringement, determined by U.S. law,	Spouses, 25:66
25:46.50	Statutes, 25:6
Intangible property, 25:11	Statutory rules on ownership, 17 USCA
International law, 25:32 to 25:35	104A, 25:30

CHOICE OF LAW—Cont'd Subject matter generally, 25:16 to 25:74

authorship, above

duration of protection, above

national treatment, 25:18

national treatment, above

number of copyrights, 25:17

simultaneous publication on Internet, **25:18.50**

territorial copyrights, **25:18** territoriality, **25:18**

Supranational copyright law infringement, 25:82

Talmud, 25:4

Termination of transfer, 25:74

Territorial copyrights, 25:18

Territoriality, 25:18

Time and date. Authorship, above

Title and ownership, 25:30, 25:46

Transfers

generally, 25:74

law of country of origin applies, **25:80.10**

Unilateral methodology, proposed, generally, **25:13 to 25:74**

United States, absence of choice of law, **25:0.50**

United States and foreign laws, conflicts between, **25:12**

United States claims, retaining, **25:84** United States laws, generally, **25:80**

Vesting, 25:73

Women, 25:66

CHOLVIN v. B. & F. MUSIC CO.

Substantial similarity, 9:215

CHOREOGRAPHY

Pantomimes and Choreographic Works (this index)

CHRISTIANSON v. COLT INDUSTRIES OPERATING CORP.

Subject-matter jurisdiction, 17:18

CIL

Choice of Law (this index)

CINEMATOGRAPHIC WORKS

Berne Convention Implementation Act of 1988, 23:20, 23:34, 23:35 Choice of law, 25:54

CIRCULARITY ARGUMENT

Fair use defense, 10:152

CIRCUMVENTION

Copyright Act of 1976 amendments, **1:99**

Technological Protection Measures and Copyright Rights Management Information (this index)

CIVIL REMEDIES

Federal Rules of Civil Procedure (this index)

Technological protection measures and copyright rights management information, **16A:5**

CLAIM PRECLUSION

Jurisdiction, 17:59.10

CLASS ACTIONS

Generally, 21:29 to 21:31

Copyrightable material, 3:60.56

Defendant classes, 21:31

Plaintiff classes, 21:30

CLASSIFICATION

Pictorial, graphic, and sculptural works, 3:109

CLASSIFICATION PROPOSAL

Federal question jurisdiction, 17:28

CLASS THEORY

Jurisdiction, 17:36

CLOTHING

Pictorial, graphic, and sculptural works, 3:151

CMM CABLE REP v. OCEAN COAST PROPERTIES, INC.

Substantial similarity, 9:133

CODIFICATION

Copyright Act of 1909, **1:59**Distribution of copies of work, **13:19**Fair use defense, **10:8**

COGNITIVE SCIENTISTS

Reproduction right, 9:85

COLLECTIVE WORKS

Author and authorship, **5:5**

Copyright Act of 1909 amendments, **1:56**

Formalities, 6:43, 6:65

Infringement, 17:91

Licenses (this index)

Monetary damages, 22:203

Sound recordings, 5:90

COLLEGE ENTRANCE EXAMINATION BOARD v. CUOMO

Fair use defense, 10:108

COLOR

Visual works, 4:16

COLORADO RIVER CASE

Jurisdiction, 17:57 to 17:59

COMMENCEMENT OF ACTION

Limitation of actions, 20:16

COMMERCE

Contributory infringement, 21:49 to 21:51

Personal jurisdiction over nonresidents, 17:146, 17:146.50

Vicarious liability, 21:78, 21:79

COMMERCIAL BROADCASTS

Fair use defense, 10:54

COMMERCIAL ESTABLISHMENTS

Jukebox, 14:114

COMMERCIAL IMMORALITY

Preemption, 18:20

COMMERCIAL USES

Fair use defense, 10:14 to 10:16.50

COMMISSIONED WORK

Work Made for Hire (this index)

COMMITTEE REPORTS

Pictorial, graphic, and sculptural works, 3:135

COMMON LAW

Choice of Law (this index)

Construction and interpretation, 2:1, 2:16

Exclusive rights, 8:9

COMMON LAW-Cont'd

Fair use defense, 10:8.50

Government works, 4:87

Preemption, 18:22.50

COMMONLY USED IN PRIVATE HOMES

Public performance, 14:43

COMMON SOURCES

Reproduction right, 9:67

COMMUNITY FOR CREATIVE NON - VIOLENCE v. REID

Construction and interpretation, 2:52

Work Made for Hire (this index)

COMPARATIVE ADVERTISING

Fair use defense, 10:30

COMPENSATION AND WAGES

Government works, 4:59

Work Made for Hire (this index)

COMPETITION

Infringement, 17:120

International copyrights, 23:53

Preemption, 18:47 to 18:50

COMPILATIONS

Derivative works distinguished, 3:47.50

Electronic Databases and Compila-

tions (this index)

Infringement, 17:112

Monetary damages, 22:185

Sound recordings, 5:91

TRIPS, Article 10, 23:63

COMPLAINT

Subject-matter jurisdiction, 17:6

COMPLEMENT

Sound recordings, 14:93

COMPLETE PREEMPTION

Federal question jurisdiction, 17:23

COMPLETION

Visual Artists Rights Act of 1990, 16:27

COMPLIANCE

Infringement, 17:82.50

COMPOSITE WORKS

Term, 1909 general revision, 7:22

COMPULIFE SOFTWARE. V. NEWMAN

Substantial similarity, 9:266.80

COMPULSORY LICENSES AND LICENSING

Berne Convention Implementation Act of 1988, Article 13, 23:33

Cable television and other secondary transmissions. **14:73**

Derivative works, 12:28, 12:30

Distribution of copies of work, 13:23

Exclusive rights, 8:5

Fees, **14:74**, **14:76** to **14:78**, **14:118** to **14:120**

Jukebox (this index)

Phonorecords of nondramatic musical works, **11:25**

Public broadcasting compulsory license, Section 118, **11:45**

Rates, sound recordings, 14:98

Sound recordings, 14:91 to 14:94, 14:97, 14:98

COMPUTER ASSOCIATES CASE

Computer programs, 3:87

COMPUTER FRAUD AND ABUSE ACT

Preemption, 18:45, 18:46

COMPUTER MAINTENANCE AND REPAIR

Copyright Act of 1976 amendments, 1:101

COMPUTER PROGRAMS

Generally, 3:70 to 3:91, 11:29 to 11:44

"A copy," **11:40**

"A machine," 11:39

Amendments, 3:74, 3:76

Author, 3:80

Backup copies and adaptations exemp-

generally, 11:29 to 11:44

"a copy," 11:40

adaptation right, generally, 11:42

"a machine," 11:39

business agreements, 11:33

consumer agreements, 11:34

CONTU report, 11:30

COMPUTER PROGRAMS—Cont'd

Backup copies and adaptations exemption—Cont'd

essential step in conjunction with machine, generally, **11:35 to 11:40**

"in no other manner," 11:38

input as making copy, 11:36

owner of copy, 11:32

right to make, 11:41

Section 117, generally, 11:29 to 11:44

Section 117(b), transfer of copies

made under Section 117, **11:43**

Section 117(c), computer maintenance or repair, 11:44

structure of Section 117, 11:31

Baker v. Selden, 3:84

Business agreements, 11:33

Case law, 3:76

Computer Associates case, 3:87

Consumer agreements, 11:34

Contracts and agreements, 11:33, 11:34

CONTU report, 11:30

Copyrightable material, generally, **3:70** to **3:91**

Copyright Act of 1909, **3:71**

Copyright Act of 1976, **3:72**

Copyright Office practices under Copyright Act of 1909, **3:71**

Definitions, 3:81

Derivative works, 12:29

Distribution of copies of work, 13:25

Dun & Bradstreet Software Services case, **3:90**

Entire work, 3:77

First circuit, Lotus Development Corp. case, **3:91**

Idea-expression dichotomy, 3:82 to 3:85

Infringement, 17:130

"In no other manner," 11:38

Input as making copy, 11:36

Lotus Development Corp. case, 3:91

Lower courts, 3:85

Maintenance and repair, 11:44

Merger doctrine, 3:83

National Commission on New

Technological Uses of Copyrighted Works, 3:73

Nonliteral elements: structure, sequence, and organization, **3:78**

COMPUTER PROGRAMS—Cont'd

Organization, 3:78

Original works of authorship, 3:80

Proper approach to determining copyrightability, **3:79 to 3:81**

Registration for entire work, **3:77**

Rental Rights (this index)

Report, 11:30

Scenes a faire, 4:26

Second circuit, 3:87, 3:89

Section 117, generally, 11:29 to 11:44

Section 117(b), transfer of copies made under Section 117, 11:43

Section 117(c), computer maintenance or repair, 11:44

Sequence, 3:78

Softel, Inc. case, 3:89

Software amendments of 1980, 3:74

Statutory subject-matter definitions, 3:81

Structure, 3:78

Technology, 3:73

Tenth circuit, 3:88

Third circuit, **3:86, 3:90**

Title and ownership, 11:32

Transfer of copies, 11:43

Transfer of copies, 11:43

TRIPS, Article 10, **23:63**

Typeface generation, 3:75

Uruguay Round Agreements Act, 24:20

Whelan Associates case, 3:86

COMPUTERS

Fair use defense, 10:57 to 10:60, 10:121.50

Programs. **Computer Programs** (this index)

COMPUTER SERVERS

Choice of law, authorship, **25:49.50** Extraterritoriality, server location and display and making available rights, **25:87.50**

COMPUTER SOFTWARE

Computer Programs (this index)

COMPUTER SOFTWARE AMENDMENTS OF 1990

Rental Rights (this index)

COMPUTING DEVICES

Noncopyrightable material, 4:9

CONCEALMENT

Limitation of actions, 20:50

CONCEPTUAL SEPARABILITY

Pictorial, graphic, and sculptural works, 3:139

CONCRETE MACHINERY CO. v. CLASSIC LAWN ORNAMENTS, INC.

Substantial similarity, 9:130

CONDITIONAL DISMISSALS

Forum non conveniens, 17:223

CONDITIONS

Cable television and other secondary transmissions, **14:73**

Jurisdiction, 17:43

Licenses, 5:126

CONFEDERACY

First Copyright Act revisions, 1:30

CONFERENCES

Trade Shows and Conferences (this index)

CONFIDENCE

Preemption, 18:22

CONFLICTING TRANSFERS

Licenses, 5:146 to 5:148

CONFLICT OF LAWS

Attorneys' fees, 22:215

CONFUSION

Derivative works, 12:14.50

CONFUSION IN MARKET

Preliminary injunctions, 22:41

CONGRESS

Copyright Act of 1976 (this index)
Uruguay Round Agreements Act (this index)

CONNECTING FACTORS

Choice of law, 25:52, 25:53

CONSENT

Cable television and other secondary transmissions, **14:80**

Personal jurisdiction, 17:142

Uruguay Round Agreements Act, 24:8

CONSOLIDATIONS	CONSTITUTIONAL LAW—Cont'd
Monetary damages, 22:166	tive writings." Exclusive Rights
CONSPIRACY	(this index)
Preemption, 18:23	Structure of clause, 3:4
•	Symbolic authorship defined, 3:21
CONSTITUTIONAL LAW	Term, 7:6
Generally, 3:1 to 3:25	"To promote the progress of science"
Article I, Section 8, Clause 8, 3:9	generally, 3:5 to 3:8
Authors and authorship	progress defined, 3:6
Exclusive Rights (this index)	promote defined, 3:5
fixation, 3:22	science defined, 3:7
Basis and purpose of clause, 3:2	Uruguay Round Agreements Act, 24:7, 24:51
Clause, generally, 3:1 to 3:4	
Copies, 3:23	Visual Artists Rights Act of 1990, 16:36
Copyrightable material, generally, 3:1 to 3:25	CONSTRUCTION AND
Definitions	INTERPRETATION
Exclusive Rights (this index)	Generally, 2:1 to 2:63
progress, 3:6	Amendments, 2:4, 2:5
promote, 3:5	Anchoring problem with judicial
science, 3:7	supremacists' tunnel vision, 2:61
"to promote the progress of science,"	"And" versus "or," 2:62
below	Approaches to statutory construction,
Derivative works, 3:25	generally, 2:23 to 2:25
Exclusive Rights (this index)	Assignment, 5:115
Federal question jurisdiction, 17:27	Attorneys' fees, 22:217, 22:218
Fixation	Author and authorship, 5:15, 5:16
generally, 3:22 to 3:25	Bonito Boats, Inc. v. Thunder Craft
authorship, 3:22	Boats, Inc., 2:51
copies, 3:23	Campbell v. Acuff-Rose Music, Inc., 2:56
derivative works, 3:25	Canons of construction, 2:22.10
infringement, 3:24	Capital Cities Cable, Inc. v. Crisp, 2:47
Formalities, 6:18	
History, 1:18 , 3:3	Choice of Law (this index) Common law, 2:16
Infringement, 3:24	Common law nature of Act, 2:1
Limitations and restrictions	Community for Creative Non-Violence
Article I, Section 8, Clause 8, 3:9	v. Reid, 2:52
Exclusive Rights (this index)	Consultative legislating, 2:7
Noncopyrightable material, 4:44	Copyright Act of 1790, 2:3
Original work, 3:16 , 3:20 , 3:20.50	Copyright Act of 1909, 2:6
Progress. "To promote the progress of	Copyright Act of 1976, 2:2 , 2:7
science," below	Delegating statutes, 2:8
Promotion. "To promote the progress of science," below	Dictionaries, use in connection with
	legislative history, 2:29 to 2:36
Purpose of clause, 3:2 Science. "To promote the progress of	Display publicly, 15:3
science," below	Dowling v. United States, 2:50
"Securing for limited times, to authors	Eldred v. Ashcroft, 2:59
the exclusive right to their respec-	Equity of statute, 2:13
	* *

CONSTRUCTION AND

INTERPRETATION—Cont'd

Equity of statute and plain meaning, 2:14

Examination of statute's purpose, generally, **2:11 to 2:20**

Feist Publications, Inc. v. Rural Telephone Service Company, **2:54**

Fogerty v. Fantasy, Inc., 2:55

Fortnightly Corporation v. United Artists Television, Inc., **2:44**

Fred Fisher Music Co. v. M. Witmark & Sons. **2:41**

Golan v. Holder, 2:59.50

Goldstein v. California, 2:45

Harper & Row, Publishers, Inc. v. Nation Enterprises, **2:49**

History. Legislative history, below

Holistic approach to resolution of ambiguity, **2:21**

Importation, 13:44

Jewell-LaSalle Realty Company v. Buck. **2:39**

Kirtsaeng v. John Wiley & Sons, Inc., 2:59.20

L.A. Westermann Co. v. Dispatch Printing Company, 2:38

Legislative history

generally, 2:27 to 2:60

accepted methodology for using dictionary definitions, lack of, 2:35

acontextual nature of dictionary definitions, 2:34

bait and switch approach to use of legislative history, **2:60**

Bonito Boats, Inc. v. Thunder Craft Boats, Inc., **2:51**

Campbell v. Acuff-Rose Music, Inc., **2:56**

Capital Cities Cable, Inc. v. Crisp, **2:47**

cases, generally, 2:37 to 2:59

Community for Creative Non-Violence v. Reid, **2:52**

dictionaries, use of, 2:29 to 2:36

Dowling v. United States, 2:50

Eldred v. Ashcroft, 2:59

English language general use dictionaries, history, **2:30**

CONSTRUCTION AND

INTERPRETATION—Cont'd

Legislative history—Cont'd errors in relying on law dictionaries for word meaning in statutes, 2:32

Feist Publications, Inc. v. Rural Telephone Service Company, 2:54

Fogerty v. Fantasy, Inc., 2:55

Fortnightly Corporation v. United Artists Television, Inc., 2:44

Fourth Estate Public Benefit Corp. v. Wall-Street.com, **2:59.80**

Fred Fisher Music Co. v. M. Witmark & Sons, 2:41

Golan v. Holder, 2:59.50

Goldstein v. California, 2:45

Google LLC v. Oracle America, **2:59.90**

Harper & Row, Publishers, Inc. v. Nation Enterprises, **2:49**

history of legislative committees and generation of committee reports, 2:27

Jewell-LaSalle Realty Company v. Buck, **2:39**

judicial supremacists' dictionary shopping, **2:33**

Kirtsaeng v. John Wiley & Sons, Inc., 2:59.20

law dictionaries, 2:31, 2:32

L.A. Westermann Co. v. Dispatch Printing Company, **2:38**

Mazer v. Stein, 2:42

Miller Music Corp. v. Charles N. Daniels, Inc., **2:43**

Mills Music, Inc. v. Snyder, 2:48

New York Times Company, Inc. v. Tassini, **2:58**

non-delegation argument, 2:28

Petrella v. Metro-Goldwyn-Mayer, **2:59.60**

prescriptive versus descriptive dictionaries, 2:36

Quality King Distributors, Inc. v. L'Anza Research International, Inc., 2:57

Star Athletica, L.L.C. v. Varsity Brands, **2:59.70**

Stewart v. Abend, 2:53

CONSTRUCTION AND INTERPRETATION—Cont'd

Legislative history—Cont'd Twentieth Century Music Corporation v. Aiken, 2:46

Unicolors, Inc. v. H & M Hennes & Mauritz, 2:59.95

Washingtonian Publishing Co., Inc. v. Pearson, **2:40**

Licenses and Licensing (this index) Limitation of Actions (this index)

Literary criticism to approaches, 2:24 "May," 2:63

Mazer v. Stein, 2:42

Micromanaging versus delegating statutes, 2:8

Miller Music Corp. v. Charles N. Daniels, Inc., 2:43

Mills Music, Inc. v. Snyder, 2:48 Motion pictures and other audiovisual works. 3:157

Nature of statutes, 2:10

New York Times Company, Inc. v. Tassini, **2:58**

Noncopyrightable material, 4:5 "Or," 2:62

Order of interpretation and plain meaning, 2:15

Ordinary meaning canard, 2:22 Originality, 3:27

Pictorial, Graphic, and Sculptural Works (this index)

Plain meaning disputes, 2:14 to 2:20 Political power play, 2:26

Preemption (this index)

Public Performance (this index)

Quality King Distributors, Inc. v. L'Anza Research International, Inc., 2:57

Revision of 1831, review of, 2:4

Revision of 1870, review of, 2:5

"Shall" versus "may," 2:63

Statutory interpretation, generally, 2:1 to 2:63

Stewart v. Abend, 2:53

Straw man, 2:26

Structure of Copyright Act, 2:9

Supreme Court, plain meaning disputes, 2:18

Textualism, 2:26

CONSTRUCTION AND

INTERPRETATION—Cont'd

Twentieth Century Music Corporation v. Aiken, 2:46

Washingtonian Publishing Co., Inc. v. Pearson, 2:40

Work made for hire, **5:68**, **5:69**

CONSTRUCTIVE TRUST

Licenses, **5:153**

Preemption, 18:24

CONSUMER AGREEMENTS

Computer programs, 11:34

CONTINENTAL CASUALTY CO. v. BEARDSLEY

Substantial similarity, **9:139**

CONTINENTAL CONGRESS

Exclusive rights, 8:11

CONTINUING INFRINGEMENT

Uruguay Round Agreements Act, 24:40

CONTINUING OBLIGATIONS

Standing to sue, 21:27

CONTINUING VIOLATIONS

Limitation of actions, 20:27 to 20:32

CONTINUING WRONG THEORY OF THIRD PARTY ACTS

Limitation of actions, 20:34

CONTRACTS AND AGREEMENTS

Attorneys' fees in, **22:210.50**

Author and authorship, **5:26**

Berne Convention, 23:42

Choice of law, 25:60 to 25:64, 25:66, 25:72

Computer programs, 11:33, 11:34

Copyright Act of 1976, 1:105, 7:46

Distribution of copies of work, 13:24

Fair use defense, 10:152

Formalities, **6:70**, **6:80**

Government works, 4:75 to 4:78

International copyrights, 23:71

Jurisdiction, 17:40, 17:41, 17:46

Licenses, **5:125**

Limitation of actions, 20:45

Personal jurisdiction, 17:177

Preemption (this index)

Preliminary injunctions, 22:59

CONTRACTS AND AGREEMENTS —Cont'd

Rental rights, 13:32

Standing to sue, 21:16, 21:20

Term, 7:51

Third party standing, work made for hire, **5:49.10**

Vicarious liability, 21:80

Work made for hire. **5:44 to 5:95.50**

CONTRIBUTIONS

Author and authorship, **5:15**, **5:17**, **5:23**

Copyright Act of 1909, **1:56**

Formalities, **6:43**

Licenses and Licensing (this index)

Noncopyrightable material, 4:2

Preemption, 18:31 to 18:33

Relative contributions of parties and decision-making authority over joint work, 5:23

Sound recordings, 5:90

CONTRIBUTORY INFRINGEMENT

Generally, 21:42 to 21:61

Affiliate relationships, Copyright Act of 1976, **21:48.60**

A&M Records, Inc. v. Napster, Inc., 21:57

Arista Recording, Inc. v. MP3Board, Inc., 21:59

Case law, **21:45**, **21:49**, **21:54**, **21:56** to **21:61**

Commerce, 21:49 to 21:51

Copyright Act of 1976

generally, 21:43, 21:46 to 21:48

affiliate relationships, 21:48.60

knowledge, 21:47

material contribution, 21:48, 21:48.50

Enterprise liability, 21:44

Extraterritoriality, 25:87

Financial contribution, 21:48.50

Fonovisa, Inc. v. Napster, Inc., 21:58

History, 21:51

In re Aimster Copyright Litigation, **21:60**

Internet

generally, 21:55 to 21:61.50

A&M Records, Inc. v. Napster, Inc., 21:57

Arista Recording, Inc. v. MP3Board, Inc., 21:59

CONTRIBUTORY INFRINGEMENT —Cont'd

Internet—Cont'd

Fonovisa, Inc. v. Napster, Inc., 21:58

In re Aimster Copyright Litigation,

21:60

LLC v. AT&T Mobility, LLC, **21:61.50**

MGM Studios, Inc. v. Grokster, Ltd, **21:61**

Religious Technology Center v. Netcom On-Line Communication Services, Inc., **21:56**

volitional act requirement, generally, 21:55 to 21:61.50

LLC v. AT&T Mobility, LLC, 21:61.50

Material contribution, 21:48, 21:48.50

MGM Studios, Inc. v. Grokster, Ltd, 21:61

Notice and knowledge, 21:47, 21:53

Post-Sony case, 21:54

Pre-1976 Copyright Act case law, 21:45

Religious Technology Center v. Netcom On-Line Communication Services, Inc., 21:56

Sony case, 21:49

Sony Music Entertainment v. Cox Communications, Inc., 21:61.60

Staple article of commerce doctrine, 21:49 to 21:51

Substantial noninfringing uses, 21:52, 21:53

Uruguay Round Agreements Act, **24:44** Volitional act requirement. Internet, above

CONTROLLED COMPOSITION CLAUSES

Author and authorship, 5:8

CONTROLLED GROUPS

Cable television and other secondary transmissions, **14:72**

CONTU REPORT

Computer programs, 11:30

CONVENTION MINIMA

Choice of law, 25:24

CONVERSION

Preemption, 18:34

COORDINATION

Electronic databases, 3:67

CO - OWNERS

Licensing, 21:38.50 Monetary damages, 22:205

COPELAND v. BIEBER

Substantial similarity, 9:185.60

COPY

Computer programs, reproduction right exception, 11:40

COPY CENTER PHOTOCOPYING

Fair use defense, 10:117, 10:118

COPYRIGHTABLE MATERIAL

Generally, **3:1 to 3:164**

See also **Noncopyrightable Material** (this index)

AI registration attempts, 3:60.51

Audiovisual works. Motion Pictures and Other Audiovisual Works (this index)

Broadcasts (this index)

Characteristics of subject matter, generally, **3:60**

Characters (this index)

Choreography. **Pantomimes and Choreographic Works** (this index)

Class actions, 3:60.56

Compilations. **Electronic Databases** and **Compilations** (this index)

Computer Programs (this index)

Constitutional Law (this index)

Copyright office, 3:60.51

Copyright office's AI policy decision, 3:60.52

Derivative Works (this index)

Digital means, works created by, **3:60.50**

Dramatic Works (this index)

Electronic Databases and Compilations (this index)

Graphic works. **Pictorial, Graphic, and Sculptural Works** (this index)

Literary Works (this index)

Litigation over AI

Anderson v. Stability AI, **3:60.54**Kadrey v. Metaplatfors, Inc., **3:60.55**

COPYRIGHTABLE MATERIAL

-Cont'd

Litigation over AI—Cont'd
Thomson Reuters v. Ross Intelligence, **3:60.53**

Motion Pictures and Other Audiovi-

sual Works (this index)

Musical Works (this index)

Noncopyrightable Material (this index)

Originality (this index)

Pantomimes and Choreographic Works (this index)

Pictorial, Graphic, and Sculptural Works (this index)

Sound Recordings (this index)

Technological means, works created by, 3:60.50

COPYRIGHT ACT

See also more specific topics in this index

Construction and interpretation, 2:9

DMCA. Digital Millennium Copyright Act of 1998 (this index)

Enactments, App A

Extraterritoriality, **25:86, 25:86.10**, **25:86.20**

COPYRIGHT ACT OF 1790

Construction and interpretation, 2:3

Distribution of copies of work, 13:6

Formalities (this index)

Infringement, subject-matter jurisdiction, **17:64.30**

Limitation of actions, 20:7

Monetary damages, 22:89

Term, 7:7

COPYRIGHT ACT OF 1802

Derivative works, 12:4

Exclusive rights, 8:13

Formalities, 6:20

Monetary damages, 22:90

COPYRIGHT ACT OF 1831

Exclusive rights, 8:14

Limitation of actions, 20:8

Monetary damages, 22:91

COPYRIGHT ACT OF 1856

Derivative works, 12:5

COPYRIGHT ACT OF 1856—Cont'd COPYRIGHT ACT OF 1909—Cont'd Exclusive rights, 8:15 Amendments—Cont'd statute of limitations amendment of Monetary damages, 22:92 1957, **1:65 COPYRIGHT ACT OF 1870** Townsend Amendment of 1912, 1:47 Derivative works, 12:6 Trading with the Enemy Act, 1962 Exclusive rights, 8:16 Acts, 1:68 Limitation of actions, 20:9, 20:10 Universal Copyright Convention, Monetary damages, 22:93 adherence to, 1:63 University Professor's Act of 1926, **COPYRIGHT ACT OF 1895** 1:51 Monetary damages, 22:94 U.S. government liability for infringement, 1:66 **COPYRIGHT ACT OF 1897** Choice of law, 25:73 Exclusive rights, 8:17 Codification, 1:59 **COPYRIGHT ACT OF 1909** Collective works, 1:56 Generally, 1:45 to 1:70, 26:2 Computer programs, 3:71 Ad interim protection during WWII, Construction and interpretation, 2:6 1:58 Contributions, 1:56 Amendments Copyright Act of 1962 amendments. generally, 1:46 to 1:70 1:67, 1:68 ad interim protection during WWII, Derivative works, 12:7 1:58 Distribution of copies of work, 13:7, codification of 1947, 1:59 13:19 Copyright Act of 1962, **1:67, 1:68** Enemy, 1:68 extension of renewal term, 1962 Acts, Exclusive rights, 8:18 1:67 Extension of renewal term, 1962 Acts, Fee Increase Act of 1928, 1:52 1:67 fee increase of 1948, 1:60 Fee, 1:52, 1:60 Housekeeping Amendment of 1913, Formalities, **6:29**, **6:36** 1:48 Government works, 4:63 identifying material amendment of Housekeeping, 1:48 1956, **1:64** Identification, 1:64 importation, 1940 amendments, 1:57 Importation, 1:57, 13:41 international amendments of 1914, Impoundment, seizure, and destruction, 1:49 22:82 1940 amendments, **1:55 to 1:57** Infringement, 1:66, 17:64.40, 17:115 nondramatic literary works amend-Interim amendment, 1:50 ment of 1952, 1:62 International amendments, 1:49 Postal Act of 1983, 1:53 International copyright, 23:8 Prints and Labels Act of 1939, 1:54 Jukebox, 14:100 relaxation of manufacturing clause of Labels, 1:54 1949, **1:61** Licenses, 5:120 renewal of contributions to collective Limitation of actions, 1:65, 20:11, 20:28 works, 1940 amendments, 1:56 Literary works, 1:62 retroactive protection and ad interim Manufacturing, 1:61 amendment of 1919, **1:50** Monetary damages, 22:95, 22:115, Sound Recording Act of 1971, 1:70

22:154, 22:207

Nondramatic literary works, 1:62

1:69

Standard Reference Data Act of 1968,

ART Act, 1:113

Berne Implementation Act of 1988,

100th Congress, **1:89**Courts Amendment of 2004, **1:112**

COPYRIGHT ACT OF 1909—Cont'd COPYRIGHT ACT OF 1976—Cont'd Phonorecords of nondramatic musical Amendments and revisions—Cont'd works, 11:20 **Intellectual Property Protection** Pictorial, graphic, and sculptural works, Amendment of 2004, 1:112 3:99, 3:103, 3:126, 11:12, 11:13 legislative phase of revision effort, Postal act, 1:53 generally, 1:74 to 1:82 Prints, 1:54 1964 revision effort, legislative phase, **Public Performance** (this index) Relaxation of manufacturing clause of 1965 revision effort, legislative phase, 1949, **1:61** 1:75 Remedies, 22:4 1966-1972 revision effort, legislative Renewal of contributions to collective phase, 1:78 works, 1940 amendments, 1:56 1966 revision effort, legislative phase, Renewal term. 1:67 1:76 Retroactive protection and ad interim 1967 revision effort, legislative phase, amendment of 1919, **1:50** Retroactivity, 1:50 1973 revision effort, legislative phase, Sound recordings, 1:70, 5:84 Standard reference data act, 1:69 1974 revision effort, legislative phase, Subject matter jurisdiction, infringe-1:80 ment, 17:64.40 1975 revision effort, legislative phase, Time, 1:65, 1:67 1:81 Townsend Amendment of 1912, 1:47 1976 revision effort, legislative phase, Trading with the Enemy Act, 1962 Acts, 1:82 1:68 1977-1978, 95th Congress, 1:83 Universal Copyright Convention, adher-1979-1980, 96th Congress, 1:84 ence to, 1:63 1981-1982, 97th Congress, 1:85 University Professor's Act of 1926, 1:51 1983-1984, 98th Congress, 1:86 U.S. government liability for infringe-1985-1986, 99th Congress, 1:87 ment, 1:66 1987-1988, 100th Congress, 1:88 to Vicarious liability, 21:63 to 21:65 1:90 Work made for hire, 5:45 1989-1990, 101st Congress, 1:91 WWII. 1:58 1991-1992, 102d Congress, 1:92 **COPYRIGHT ACT OF 1952** 1993-1994, 103d Congress, **1:93** Public performance, 14:10 1995-1996, 104th Congress, 1:94 1997-1998, 105th Congress **COPYRIGHT ACT OF 1957** generally, 1:95 to 1:107 Limitation of actions, 20:12 anti-circumvention measures, 1:99 **COPYRIGHT ACT OF 1962** assumption of contractual obliga-Copyright Act of 1909 amendments, tions upon transfers of rights 1:67, 1:68 in motion pictures, 1:105 **COPYRIGHT ACT OF 1976** broadcasters' ephemeral digital Generally, 1:71 to 1:116, 26:3 sound recordings exemption, Amendments and revisions 1:102 generally, 1:83 to 1:115 computer maintenance and repair,

1:101

effective dates. 1:107

copyright management information, chapter 12, **1:99**

COPYRIGHT ACT OF 1976—Cont'd COPYRIGHT ACT OF 1976—Cont'd Amendments and revisions—Cont'd Amendments and revisions—Cont'd 1997-1998, 105th Congress—Cont'd 2017-2018, 115th Congress, 1:119 first session: 1997 "technical" 2019-2020, 116th Congress, **1:120** amendments, 1:96 2021-2022, 117th Congress, **1:121** library and archives exemption, 2023-2024, 118th Congress, 1:122 1:103 Anonymous works, 7:37 MAI v. Peak, computer mainte-Archives. **1:103** nance and repair, 1:101 ART Act. 1:113 online copyright infringement Assumption of contractual obligations liability limitation, Section upon transfers of rights in motion 512, **1:100** pictures, 1:105 protecting boat hull designs, 1:106 Authors and authorship, 7:35, 7:36 second session: 1998, year of Berne Implementation Act of 1988. DMCA and term extension, 100th Congress, 1:89 1:97 to 1:107 Boats, 1:106 second session: 1998, year of Broadcasters' ephemeral digital sound DMCA and term extension, recordings exemption, 1:102 generally, 1:97 to 1:107 Cable television, legislative phase of webcasting statutory license, 1:104 revision effort, 1:78 WIPO Treaties and implementation Chapter 12, 1:99 legislation, 1:98 Circumvention, 1:99 WIPO treaties implementation Computer maintenance and repair, 1:101 legislation, 1:101 Computer programs, 3:72 106th Congress, 1999-2000, **1:109** Congress. Amendments and revisions, 107th Congress, 2001-2002, 1:109 above 108th Congress, 2003-2004, 1:110 Construction and interpretation, 2:2, 2:7 109th Congress, 2005-2006, 1:111 to Consultative legislating, 2:7 1:113 Contracts and agreements, 1:105, 7:46 110th Congress, 2007-2008, 1:114 Contrary agreements, termination of 111th Congress, 2009-2010, 1:115 transfers and licenses, 7:46 112th Congress, 2011-2012, 1:116 **Contributory Infringement** (this 113th Congress, 2013-2014, 1:117 index) 114th Congress, 2015-2016, 1:118 Copyright management information, 115th Congress, 2017-2018, 1:119 chapter 12, 1:99 116th Congress, 2019-2020, **1:120** Courts Amendment of 2004, 1:112 117th Congress, 2021-2022, **1:121 Damages** (this index) study phase of revision effort, 1:72 **Derivative Works** (this index) term, revision bill of 1964, 7:31 Design, 1:106 term, revision bill of 1965, 7:32 Digital sound, 1:102 1999-2000, 106th Congress, 1:108 Distribution of copies of work, 13:8 2001-2002, 107th Congress, 1:109 **Distribution of Copies of Work** (this 2003-2004, 108th Congress, 1:110 index) 2005-2006, 109th Congress, 1:111 to DMCA, 1:97 to 1:107 1:113 Effective dates, 1:107 2007-2008, 110th Congress, **1:114** Entitlement, 7:44 2009-2010, 111th Congress, 1:115 Ephemeral-recording exemption, 11:9 2011-2012, 112th Congress, 1:116 Exclusive rights, 8:21 to 8:24 2013-2014, 113th Congress, 1:117 Exemptions, 1:102, 1:103 2015-2016, 114th Congress, 1:118 Extension of term, 1:97 to 1:107, 7:28

COPYRIGHT ACT OF 1976—Cont'd	COPYRIGHT ACT OF 1976—Cont'd
Formalities (this index)	Mills Music, Inc. v. Snyder, 7:44
Future grants, 7:47	"Moment of freedom" theory, 7:46.50
Government Works (this index)	Monetary damages
Hearings, legislative phase of revision	generally, 22:96 to 22:98
effort, 1:79	due process considerations, 22:208.50
History. Term, below	profits, 22:116 , 22:147
Hull design, 1:106	statutory damages, 22:161, 22:208
Importation (this index)	unrealized profits, 22:137.20
Impoundment, seizure, and destruction,	Motion pictures, 1:105, 3:156
22:84	Musical works, 3:93
Infringement, 1:100, 17:64.50, 17:116	Noncopyrightable material, 4:53
Intellectual Property Protection Amend-	Notice, content of, 7:45
ment of 2004, 1:112 Interim extensions, 7:28	Online copyright infringement liability
International copyright, 23:15	limitation, Section 512, 1:100
Jukebox, 14:101 et seq.	Originality, 3:26
Legislative history	Passage of Act, legislative phase of revi-
infringement, subject matter jurisdic-	sion effort, 1:82
tion, 17:64.50	Phonorecords of nondramatic musical
term, below	works, 11:21
Legislative phase of revision effort, gen-	Pictorial, Graphic, and Sculptural
erally, 1:74 to 1:82	Works (this index)
Libraries, 1:103	Preliminary draft bill, 1:73, 7:30
Licenses and licensing	Pseudonymous works, 7:37
generally, 5:121 to 5:123, 5:145 to	Publication, 7:39 , 7:40 , 7:41
5:151	Public Performance (this index)
bankruptcy, priority in cases, 5:149	Register's 1961 report and preparation
exclusive license and nonexclusive	of preliminary draft bill, 1:73,
license, conflict between, Section	5:142.50
205(d), 5:148	Registration, 7:29, 7:38
exclusive rights, conflicting transfers	Remedies, 22:5
of, 5:147	Renewal of term, 7:25 to 7:27, 7:41
IRS liens, 5:150	Reports and reporting, 1:73, 7:29
recordation as establishing priority	Royalties, 7:44
between conflicting transfers,	Section 203. Term, below
generally, 5:146 to 5:148 Section 205(d), exclusive rights,	Section 302(b), 7:36
conflicting transfers of, 5:147	Section 302(c), 7:37
suit, recordation as prerequisite to,	Section 303(a), 7:38
5:151	Section 304, 7:39 , 7:40 , 7:41
termination of transfers and licenses,	Section 304(c). Term, below
Sections 203 and 304(c). Term,	Section 305, generally, 7:34 to 7:41
below	Section 512, 1:100
Limitation of actions, 20:13, 20:14,	Sound recordings, 5:85, 5:89
20:29 to 20:31	Statutory license, 1:104
Limitations and restrictions, 1:100	Study phase of revision effort, 1:72
Maintenance and repair, 1:101	Subject-matter jurisdiction, 17:64.50
MAI v. Peak, computer maintenance and	Technical amendments, 1:96
repair, 1:101	Television, 1:78

COPYRIGHT ACT OF 1976—Cont'd

Generally, 28:1-28:36

Term-Cont'd 203 and 304(c), below this group duration of term, 7:33 Section 305. End of year expiration of end of year expiration of term, Secterm, Section 305, above this tion 305 group generally, 7:34 to 7:41 termination of transfers and licenses, January 1, 1978, unpublished and Sections 203 and 304(c) unregistered, Section 303(a), 7:38 generally, 7:42 to 7:49 January 1, 1978, works created on contrary agreements, section or after, individual authors, 304(d), 7:46 Section 302(a), 7:35 derivative works, entitlement to January 1, 1978, works created on royalties from, 7:44 or after, joint authors, Section distinctions between sections 203 302(b), **7:36** and 304(c), 7:49 January 1, 1978, works created on future grants, Section 304(c)(6)(D), or after, works for hire, anony-7:47 mous and pseudonymous Mills Music, Inc. v. Snyder, 7:44 works, Section 302(c), 7:37 "moment of freedom" theory, January 1, 1978, works published 7:46.50 before, Section 304, 7:39 notice, content of, 7:45 January 1, 1978, works published statutory, 7:43 to 7:49 before, Section 304, works in statutory Section 203, 7:48 renewal term on January 1, statutory, Section 304(c), 7:43 1978, Section 304(b), **7:41** transfers. Termination of transfers and January 1, 1978, works published licenses, Sections 203 and before, Section 304, works in 304(c), above this group their first term of January 1, vesting of renewal, 7:26 1978, Section 304(a), **7:40** works first published overseas, history. Legislative history, below this 7:24.50 group Termination and effect on foreign rights, legislative history 7:47.50 generally, 7:28 to 7:32 Termination of transfers and licenses, interim extensions, 7:28 Sections 203 and 304(c). Term, preliminary draft bill of 1963, above 5:142.60, 7:30 Time and date, 1:107 register of copyrights' 1961 report, Transfers. Term, above 7:29 Unpublished, 7:38 revision bill of 1964, 7:31 Unregistered, 7:38 revision bill of 1965, 7:32 Vesting of renewal, 7:26 licenses. Termination of transfers and Webcasting statutory license, 1:104 licenses, Sections 203 and WIPO, 1:98, 1:101 304(c), below this group Work Made for Hire (this index) proper time to renew, 7:25 **COPYRIGHT ACT OF 1992** renewal, 7:25 to 7:27 Infringement, 17:118 rights of renewal, 7:26 Section 203. Termination of transfers COPYRIGHT ALTERNATIVE IN and licenses, Sections 203 and SMALL-CLAIMS 304(c), below this group **ENFORCEMENT ACT (CASE** Section 304(c). Termination of ACT)

transfers and licenses, Sections

COPYRIGHT ACT OF 1976—Cont'd

COPYRIGHT ALTERNATIVE IN SMALL-CLAIMS **ENFORCEMENT ACT (CASE** ACT)—Cont'd Appointments clause, 28:9 Arbitration compared, 28:4 As-applied versus facial challenge, 28:14 Board, remedying particularized problem by a limited, specialized court, 28:5 Copyright Claims Board, Article I powers, 28:3 Copyright Claims Board in action, 28:36 Copyright Office implementation, 28:35 Due process, 28:10 Library of Congress, 28:16 Nondelegation doctrine, 28:7 Personal jurisdiction, 28:10 Provisions, 28:21 Section 1501, definitions, 28:22 Section 1502, Board staffing, 28:22 Section 1503, Board funcition, 28:24 Section 1504(a) damage awards, 28:25 Section 1505, registration requirement, 28:26 Section 1506, conduct of proceedings, 28:27 Section 1507, Claims Board proceedings, effect, 28:28 Section 1508, District Court review, 28:29 Section 1509, District Court review, 28:30 Section 1510, Register of Copyrights, 28:31 Section 1512, mop-up provisions, 28:32 severability, 28:33 Section 1501, definitions, 28:22 Section 1502, Board staffing, 28:22 Section 1503, Board function, 28:24 Section 1504(a) damage awards, 28:25 opt-out, 28:25 statute of limitations, 28:25

Section 1505, registration requirement,

28:26

COPYRIGHT ALTERNATIVE IN SMALL-CLAIMS ENFORCEMENT ACT (CASE ACT)—Cont'd Section 1506, conduct of proceedings, 28:27 Section 1507, Claims Board proceedings, effect, **28:28** Section 1508, District Court review, 28:29 Section 1509, District Court review, 28:30 Section 1510, Register of Copyrights, 28:31 Section 1512, mop-up provisions, 28:32 Separation of powers, 28:8, 28:12, 28:15 Severability, 28:33 Small claims, 28:6 Standing, **28:13** Stray cats, 28:17 Striking down, 28:34 Supreme Court, 28:12 Voluntariness, 28:19 What's in a name?, 28:2 **COPYRIGHT LAW** The Treatment of Humor in U.S. Copyright Law with a Comparative Glance at the EU, App N **COPYRIGHT OFFICE** Author and authorship, 5:27 Computer programs, 3:71 Deference to, interpretation of 1976 Copyright Act, **3:139.10** Disclosure of trade secret, 17:132.50

Infringement (this index) Originality, **3:44** Origins, 26:1 Patent bar following registration, 17:132.60 Personal jurisdiction, 17:178 Pictorial, Graphic, and Sculptural **Works** (this index) Pleading fraud on the copyright office, 19:2.50 Public performance, 14:12

Registering a claim, 17:133.75 Trade secret disclosure, 17:132.50

COPYRIGHT OFFICE—Cont'd

Uruguay Round Agreements Act (this index)

COPYRIGHT REFORM ACT OF 1993

Infringement, 17:80

COPYRIGHT RENEWAL ACT OF 1992

Bankruptcy, **7:50.50** Termination rights, 7:50.50 Term renewal, 7:50

COOUICO, INC. v. RODRIGUEZ -**MIRANDA**

Substantial similarity, 9:136.20

CORBELLO v. DEVITO

Transfer of interest of exclusive licensee, **5:103**

CORPORATE BODY

Term, general revision of 1909, 7:23

CORPORATE PHOTOCOPYING

Fair Use Defense (this index)

CORPORATE RECEIPT DOCTRINE

Reproduction right, 9:30

CORPORATE VEIL, PIERCING

Personal jurisdiction, 17:183

CORPORATIONS

Reproduction right, 9:30 Standing to sue, **21:4.50** Vicarious liability, 21:83

CORRECTIVE ADVERTISING

Damages, 22:109.50

CORRESPONDENCE

Personal jurisdiction, 17:176

COSTELLO v. LOEW'S, INC.

Substantial similarity, 9:272

COSTS AND EXPENSES

Author and authorship, **5:25**

Damages (this index)

Monetary damages, 22:109, 22:139 to 22:144

Noncopyrightable material, 4:35

Sound recordings, 5:87

Work made for hire, 5:70

COSTS OF ACTION

Attorneys' fees, 22:216 to 22:218, 22:221

Joint and several liability, 22:222.50

COSTUMES

Pictorial, graphic, and sculptural works, 3:153

COUNTERCLAIM

Federal question jurisdiction, 17:25

COUNTERFEIT GOODS

TRIPs, Uruguay Round Agreement on Trade-Related Aspects of IP Rights, Including Trade in Counterfeit Goods, App 24-A

COUNTRY KIDS 'N CITY SLICKS, INC. v. SHEEN

Substantial similarity, 9:254

COUNTRY OF ORIGIN

Berne Convention Implementation Act of 1988, 23:21

Transfers, infringement, law of applies, 25:80.10

COURT OF APPEALS

Substantial similarity, 9:278

COURT REPORTER TRANSCRIPTS

Government works, 4:88

COVENANTS

Author and authorship, 5:10, 5:11 Condition to license or independent covenant, 17:43

CREATIONS UNLIMITED, INC. v. MCCLAIN

Substantial similarity, 9:192

CREATIVITY

Commentary: creativity and innovation, fair use is good for, 10:1.60

Originality (this index)

CREDIT

Author and authorship, 5:25

CRIMINAL PENALTIES

Remedies, 22:223

CRIMINAL PROVISIONS

Preemption, 18:43.10

22:108

DAMAGES—Cont'd CRIMINAL PROVISIONS—Cont'd Uruguay Round Agreements Act, 24:16 Actual damages—Cont'd overlapping awards, 22:112 CRITICISM AND COMMENT presumption, 22:102 Fair Use Defense (this index) registration requirement, 22:100.50 CRUME v. PACIFIC MUTUAL LIFE relation to infringement, 22:103 INSURANCE CO. review, 22:101.50 Substantial similarity, **9:213** speculation, 22:103 statutory damages, double recovery, **CURATIVE NOTICE** 22:112.50 Formalities, **6:77** United States government, recovery **CUSTOMARY INTERNATIONAL** against, 22:101.25 LAW (CIL) Advertising, corrective, 22:109.50 **Choice of Law** (this index) Advice of counsel, 22:182 **CUSTOMS SERVICE** Amended pleadings, 19:15 International copyright, 23:73, 23:74 Amendments, 22:157, 22:158, 22:160 Appeal and review, 22:127, 22:152, **CUTOFF** 22:207, 22:208 Uruguay Round Agreements Act, 24:42 Apportionment CYBERSELL, INC. v. CYBERSELL, deductible expenses, 22:139 to INC. 22:144 Personal jurisdiction, 17:162 evidence of deductible expenses and apportionment of noninfringing DALY v. PALMER profits, 22:139 to 22:147 Reproduction right, 9:113 profits, generally, 22:198 DAMAGES Architectural plans, 22:123 Generally, 22:88 to 22:223 Architectural works, 22:123 Absorption, incremental or full, 22:141 Attorneys, 22:182 Acquisition costs. Profits, below **Attorneys' Fees** (this index) Actual damages Attribution, lack of, 22:107, 22:108 generally, 22:101 to 22:114 Attribution of profits, 22:118 attribution, lack of, 22:107, 22:108 Bankruptcy, forfeiting statutory dam-Copyright Act of 1976, Sections ages, 22:165.50 504(a) and (b), **22:96 to 22:98** Bench award, 22:164 corrective advertising, 22:109.50 Berne Convention Implementation Act costs of development, 22:109 of 1988, **6:75**, **6:78**, **22:162** deductions from plaintiff's recovery, Bilzerian decision, 22:182 22:110 Burden of proof destruction of market, 22:106 generally, 22:117 double recovery, 22:112, 22:112.50, attribution to infringement, 22:118 22:113 defendant's burden, 22:121 evidence of casual link, 22:104 plaintiff's burden, generally, 22:117 goodwill, lack of, 22:107, 22:108 profits, 22:118 joint and several liability, 22:114 resolution of doubts, 22:120 lost licensing fees, 22:111 Business Trends case, 22:129 market, destruction of, 22:106 Casual link, 22:104 market saturation, 22:105 Collective work registration, 22:203 noninfringing acts, lack of, 22:107,

Compilations, 22:185

DAMAGES—Cont'd	DAMAGES—Cont'd
Consolidations, right to jury, Rule 65(a)(2), 22:166	Educational works and training materials, 22:187
Co-owners, Section 412, 22:205	Eighth circuit, indirect profits, 22:134
Copyright Act of 1790, 22:89	Election of damage. Statutory damages,
Copyright Act of 1802, 22:90	below
Copyright Act of 1831, 22:91	Embodiments, 22:186
Copyright Act of 1856, 22:92	Evidence
Copyright Act of 1870, 22:93	actual damages, 22:104
Copyright Act of 1895, 22:94	burden of proof, above
Copyright Act of 1909, 22:95 , 22:115 , 22:154 , 22:207	profits, 22:117 , 22:118 , 22:139 to 22:144
Copyright Act of 1976	Fees, 22:111
generally, 22:96 to 22:98	Fifth circuit, indirect profits, 22:134
statutory damages, generally, 22:155	Fixed expenses, 22:141
to 22:161	Foreign revenues, 22:150
Copyright damages and trolls, 22:88.50 Corrective advertising, 22:109.50	Forfeiting statutory damages in bank- ruptcy action, 22:165.50
Costs and expenses	Formalities, 6:75 , 6:78
actual damages, 22:109	Fourth circuit, indirect profits, 22:133
deductible expenses, 22:139 to	Generally
22:144	pleadings, 19:13.50
profits, below	Goodwill, 22:107, 22:108, 22:138
Davis case, 22:129	Graphic works, 22:188
Deductions	Gross revenue, definition, 22:121.50
actual damages, 22:110	History, legislative, generally, 22:89 to 22:208.50
expenses, 22:139 to 22:144	House Judiciary Committee report of
profits, 22:143, 22:198	1966, 22:159
taxes, 22:144	Independent economic life theory,
Defendant's profits. Profits, below	22:190
Definition of gross revenue, 22:121.50	Innocent infringers, 22:177 , 22:178
Deltak, Inc. v. Advanced Systems, Inc., 22:126, 22:127	Joint and several liability, 22:114, 22:194 to 22:197
Derivative works, 22:185	Joint or several recovery for statutory
Destruction of market, 22:106	damages, 22:198.50
Deterrence, 22:181	Judgments, summary, 22:183
Digital Theft Deterrence and Copyright	Jury trial, 22:149, 22:164 to 22:167
Damages Improvement Act of 1999, 22:163, 22:192.25	Legislative history, generally, 22:89 to 22:208.50
Direct expenses, 22:140	Licensing fees, 22:111
Discovery, 22:199	Limitation on remedies where notice
District court, Deltak, Inc. v. Advanced	omitted, 22:99
Systems, Inc., 22:126	Lost licensing fees, 22:111
Double recovery, 22:112, 22:112.50,	Market, destruction of, 22:106
22:113 De 61:11 61062 de 14 6 22 156	Market saturation, 22:105
Draft bill of 1963, register of, 22:156 Due process, 22:193.50 , 22:208.50	Monetary damages, generally, 22:89 to 22:208.50
Economic life theory, independent, 22:190	Multiple awards for different violations by different defendants, 22:193

DAMAGES—Cont'd	DAMAGES—Cont'd
Multiple defendants, 22:192.50	Profits—Cont'd
Multiple violations, 22:191	costs and expenses. Value of use and
Multiple works, 22:185	saved acquisition costs, below
Musical works and sound recordings	this group
embodied in phonorecords, 22:186	definition, 22:122
Ninth circuit, indirect profits, 22:137	evidence of deductible expenses and
Noninfringing acts, lack of, 22:107, 22:108	apportionment of noninfringing profits
Notice, 22:99, 22:178	generally, 22:139 to 22:144
Number of registrations, 22:189 Omissions, 22:99 , 22:178	absorption, incremental or full, 22:141
One award for multiple violations of	deduction of taxes, 22:144
single work, 22:191	direct expenses, 22:140
One award for multiple works, 22:185	overhead deductions and willful
One work, one award, 22:184 to 22:188,	infringement, 22:143
22:188	unsold goods, 22:142
Ordinary infringers, 22:179	foreign revenues, 22:150
Original acts in U.S., extraterritoriality,	goodwill to defendant, 22:138
25:92.60	indirect profits
Overhead, 22:141, 22:143	generally, 22:131 to 22:137
Overlapping awards, 22:112	Eighth circuit, 22:136
Phonorecords, 22:186	Fifth circuit, 22:134
Pleadings, 19:14	Fourth circuit, 22:133
Preemption, 18:21	Ninth circuit, 22:137
Preliminary injunctions, 22:42	Second circuit, 22:132
Presumption, 22:102	Sixth circuit, 22:135
Prevailing defendants, Section 412,	Tenth Circuit, 22:137.20
22:204	indirect profit. Value of use and saved
Profits	acquisition costs, below this group
generally, 22:115 to 22:150	jury trial, 22:149
acquisition costs. Value of use and	plaintiff's burden of proof, 22:117,
saved acquisition costs, below this group	22:118
actual damages and profits, 22:96 to	purposes for awarding, 22:100 saved acquisition costs. Value of use
22:98	and saved acquisition costs,
appeal and review, 22:152 apportionment, 22:145 to 22:147	below this group
architectural plans, 22:123	several liability, 22:148
architectural works, 22:123	speculation, 22:119
attribution of profits, 22:118	unrealized profits, 22:137.20
burden of proof	value of use and saved acquisition
attribution of profits, 22:118	costs
defendant's burden, 22:121	generally, 22:124 to 22:130
plaintiff's burden, 22:117	appeals court, Deltak, Inc. v.
resolution of doubts, 22:110	Advanced Systems, Inc.,
Copyright Act of 1909, 22:115	22:127 Business Trends case, 22:129
Copyright Act of 1909, 22:113	Davis case, 22:129
CODVITEIR ACT OF 19/0, 22.14/	Davis Case, 22.129

DAMAGES—Cont'd	DAMAGES—Cont'd
Profits—Cont'd	Speculation
value of use and saved acquisition	actual damages, 22:103
costs—Cont'd	profits, 22:119
Deltak, Inc. v. Advanced Systems,	Statutory damages
Inc., 22:126, 22:127	advice of counsel, 22:182
district court, Deltak, Inc. v.	appeal and review, 22:207 , 22:208
Advanced Systems, Inc., 22:126	apportionment, 22:198
origins of approach, 22:125	award factors, 22:174
overhead and other fixed expenses,	bankruptcy, forfeiting statutory dam-
22:141	ages, 22:165.50
post-Deltak decision, 22:128	bench award, 22:164
Second circuit, 22:129	Berne Convention Implementation
Seventh circuit, 22:128	Act of 1988, 22:162
Sheldon v. MGM Pictures Corp.,	Bilzerian decision, 22:182
22:146	categories of infringers, 22:175 to 22:183
Publication, Section 412, 22:202	collective work registration, 22:203
Punitive damages, 22:151	compilations, 22:185
Registration, 22:100.50, 22:189, 22:203	consolidations, right to jury, Rule
Reports	65(a)(2), 22:166
Copyright Act of 1976 Judiciary	co-owners, Section 412, 22:205
Committee reports, 22:161	Copyright Act of 1909, 22:154,
House Judiciary Committee report of 1966, 22:159	22:207 Copyright Act of 1976, generally,
legislative report, actual damages and	22:155 to 22:161
profits, 1976 Copyright Act,	Copyright Act of 1976 Judiciary
22:98	Committee reports, 22:161
register of report and recommendation	deductions, 22:198
of 1961, 22:155	derivative works, 22:185
revision bill of 1965, 22:158	deterrence, 22:181
Review of actual damages, 22:101.50	Digital Theft Deterrence and Copy-
Revision bills	right Damages Improvement Act
1964, 22:157	of 1999, 22:163, 22:192.25
1965, 22:158 1969, 22:160	discovery, 22:199
Rule 65(a)(2), 22:166	draft bill of 1963, register of, 22:156
Saved acquisition costs. Profits, above	due process, 22:193.50 , 22:208.50
Second circuit, 22:129 , 22:132	educational works and training
Section 101, 22:154	materials, 22:187
Section 412, 22:201 to 22:202, 22:204,	election of damages, generally, 22:168 to 22:173
22:205	failure to mitigate damages defense
Section 504(c), statutory damages, gen-	unavailable, 22:192.25
erally, 22:153 to 22:208.50	foreign works, 22:201.50
Seventh circuit, 22:128	formalities, 6:78
Several liability, 22:148	graphic works, 22:188
Sheldon v. MGM Pictures Corp., 22:146	history of 1976 Copyright Act, gener-
Single work, 22:191	ally, 22:155 to 22:161
Sixth circuit, indirect profits, 22:135	House Judiciary Committee report of
Sound recordings, 22:186	1966, 22:159

DAMAGES—Cont'd DAMAGES—Cont'd Statutory damages—Cont'd Statutory damages—Cont'd independent economic life theory, Section 504(c), generally, 22:153 to 22:190 22:208.50 statutory language, 22:153 innocent infringers, 22:177, 22:178 joint and several liability, 22:194 to summary judgment, 22:183 22:197, 22:201.25 time period of infringement, 22:192 trial, generally, 22:200 joint or several recovery, 22:198.50 unelection of damages, 22:173 jury trial, 22:164 to 22:167 United States, damages against, legislative history of 1976 Copyright 22:206 Act, generally, 22:155 to 22:161 Uruguay Round Agreements Act, legislative history of joint and several 24:44 liability, 22:195 VARA actions, jury trial, 22:167 liability, joint and several, 22:201.25 willful infringers, 22:180 to 22:183, multiple awards for different viola-22:197 tions by different defendants, Statutory language, actual damages and 22:193 profits, 1976 Copyright Act, 22:97 multiple defendants, 22:192.50, Summary judgment, 22:183 22:193 Supplementary report, 22:158 musical works and sound recordings embodied in phonorecords, Taxation, 22:144 22:186 Time period of infringement, 22:192 no statutory damage award, 22:176 Title and ownership, 22:205 number of registrations, 22:189 Training materials, 22:187 omission of notice and innocent United States, damages against, infringers, 22:178 22:101.25, 22:206 one award for multiple violations of Unrealized profits, 22:137.20 single work, **22:191** Unsold goods, 22:142 one award for multiple works, 22:185 Uruguay Round Agreements Act, 24:44 one defendant as willful infringer, Value of use and saved acquisition costs. 22:197 Profits, above one work, one award, 22:184 to VARA actions, jury trial, 22:167 22:188, 22:188 Willfulness, 22:143, 22:180 to 22:183, ordinary infringers, 22:179 22:197 pleadings, 19:14 DASTAR CASE post-registration, 22:201.25 Preemption, 18:50 preclusion of other recovery, 22:171.50 DAVIDSON & ASSOCIATES v. JUNG preliminary injunctions, 22:42 Preemption, 18:26 prevailing defendants, Section 412, 22:204 **DAVIS CASE** profits, above Monetary damages, 22:129 publication, Section 412, 22:202 DAWSON v. HINSHAW MUSIC, INC. report and recommendation of 1961, Substantial similarity, 9:181 register of, **22:155** revision bill of 1964, **22:157 DEATH** revision bill of 1965, 22:158 Choice of law, 25:73 revision bill of 1969, 22:160 Sonny Bono Copyright Term Extension Section 412, 22:201 to 22:202 Act. 7:56

DEATH—Cont'd

Term, general revision of 1909
executor as proper renewal claimant,
7:18
next of kin as proper renewal claimant,
ant, 7:19
posthumous works, 7:21
vesting of renewal, 7:13
widow, widower, or children as
proper renewal claimant, 7:17

DECEPTIVE TRADE PRACTICES

Preemption, 18:36

DECLARATORY JUDGMENT

Discretionary nature, **17:50**Jurisdiction, **17:49**, **17:49.50**, **17:50**Personal jurisdiction, **17:191 to 17:193**

DECLARATORY JUDGMENT OF OWNERSHIP AS DEFENSE

Limitation of actions, 20:39

DECLARATORY JUDGMENTS

Attorneys' fees, 22:210.25

DEDUCTIONS

Damages (this index)

DEFENDANTS

Generally, **21:37 to 21:90** Generally, **21:37 to 21:90**

See also more specific topics in this index

Sovereign immunity

generally, **21:88.4-21:88.26** colonial bills, **21:88.12**

Congress, 21:88.11

Constitutional Convention, 21:88.13

Copyright Act of 1790, 21:88.14 Fourteenth Amendment, 21:88.17,

21:88.18 misuse of language, 21:88.7-21:88.14

state governments

generally, **21:88.1-21:88.26** background principles, **21:88.5**

congressional actions, 21:88.2-21:88.3

fundamental aspect, **21:88.5** general practice of mankind, **21:88.6**

language misuse, 21:88.4

DEFENDANTS—Cont'd

Sovereign immunity—Cont'd Supreme Court jurisprudence, 21:88.16

trademark cases

generally, 21:88.19-21:88.25

Allen v. Cooper, 21:88.25

Atascadero State Hospital v. Scanlon, **21:88.21**

Central VA Community College v. Katz, **21:88.24**

Fitzpatrick v. Bitzer, 21:88.20

Seminole Tribe of Florida v. Florida, **21:88.22**

State governments

generally, **21:88.1-21:88.26**

background principles, 21:88.5

congressional actions, 21:88.2-21:88.3

fundamental aspect, 21:88.5

general practice of mankind, 21:88.6

language misuse, 21:88.4

sovereign immunity, **21:88.4**-**21:88.26**

generally, **21:88.4-21:88.26**

Allen v. Cooper, 21:88.25

Atascadero State Hospital v. Scanlon, **21:88.21**

Central VA Community College v. Katz, **21:88.24**

Constitutional Convention, 21:88.13

Copyright Act of 1790, **21:88.14**

Fitzpatrick v. Bitzer, 21:88.20

Fourteenth Amendment, **21:88.17**, **21:88.18**

misuse of language, 21:88.7-21:88.14

Seminole Tribe of Florida v. Florida, **21:88.22**

Supreme Court jurisprudence, 21:88.16

DEFENSES

Affirmative Defense (this index)

Berne Implementation Act of 1988, **6:75, 6:76**

Failure to mitigate unavailable, statutory damages sought, **22:192.25**

Fair Use Defense (this index)

Formalities, **6:75**, **6:76**

INDEX

DEFENSES—Cont'd

Preliminary injunctions, 22:70 Standing to sue, 21:3

DEFENSIVE INDEPENDENT CREATION

Originality, 3:30

DEFERRAL AND ARBITRATION

Jurisdiction, 17:59

DEFINING MARKET

Preliminary injunctions, 22:51

DEFINITIONS

Access, 9:23

Cable systems, wireless included, 14:65

Copy, **9:62**, **16:26**

Derivative works, 3:47

Discovery, 20:20.50

Distant signal equivalents, 14:64

Distribution to public, 13:10

Employee, 4:70

Fair use defense, 10:89, 10:144

Fixed, 9:63

Formalities, 6:49

For-profit performances, 14:9

Gross revenue, 22:121.50

Importer, 13:43

Infringement, 12:12

Joint authorship, 5:4

Literary works, 3:61

Local service area of primary transmitter, 14:62

National treatment, 25:22

Network station, 14:63, 14:111

Not pervading the entirety of the work, 3:59

Officer, 4:70

Perform. 14:22

Performance, 14:6

Prevailing party, 22:211

Primary transmissions, 14:61

Profits, 22:122

Progress, 3:6

Promote, 3:5

Public performances, 14:8

Restored work, 24:32

Science, 3:7

Secondary transmissions, 14:61

DEFINITIONS—Cont'd

Special orders and commissioned works, 5:73

Statutory subject-matter, 3:81

Striking similarity, 9:44

Within the subject matter of copyright, 18:13 to 18:15

Superstation, 14:111

Technological measure that controls access to protected work, 16A:2

United States, 4:72 to 4:74

"Work of the United States Government," **4:69, 4:70**

DELAY

Preliminary injunctions, 22:56

DELETIONS

Derivative works, 12:10

DELTAK, INC. v. ADVANCED SYSTEMS, INC.

Monetary damages, 22:126, 22:127

DELUSIONAL PLAINTIFFS

Reproduction right, 9:39

DE MINIMIS CONTRIBUTIONS

Noncopyrightable material, **4:2**

DE MINIMIS USES

Fair use defense, 10:10

Reproduction right, 9:60

DEMOCRATIC POLITICAL THEORY

Government works, 4:61

DEPOSIT

First Copyright Act revisions

1846 deposit amendment, 1:25

1859 deposit amendment, 1:28

1865 photography and deposit amendments, **1:31**

1867 Library of Congress deposit amendment, **1:32**

Formalities, **6:6**, **6:11**

Infringement, 17:87, 17:119

Reproduction right, 9:9, 9:31

DEPOSIT AMENDMENT OF 1846

First Copyright Act revisions, **1:25**

DEPOSIT AMENDMENT OF 1859

First Copyright Act revisions, 1:28

DERIVATIVE WORKS	DERIVATIVE WORKS—Cont'd
Generally, 3:46 to 3:59.50, 12:1 to	Definitions
12:31	infringement, 12:12
Adapting, 3:48	not pervading the entirety of the
Additions, 12:10	work, 3:59
Advertisements, 12:17 to 12:19	statutory definition, 3:47
Alterations, 3:56	Deletions, 12:10
Architectural works, Section 120(b), 12:31	Derivative and nonderivative works, 3:55
Assignment, 5:117	Distribution, 12:28
Author and authorship, 5:43 , 12:16 , 12:23	Early case law, 12:3 Editing, 3:55.10
Broadcasting stations, 12:30	Entirety of work, 3:59
Case law, 3:52 to 3:54, 12:3	Ephemeral records, Section 112(e),
Choreography and derivative works,	12:26
12:20.10	Examples, 12:9 to 12:11
Compilations distinguished, 3:47.50	Exceptions
Compulsory license exception, 12:28,	generally, 12:24 to 12:31
12:30	architectural works, Section 120(b),
Computer programs, Section 117, 12:29	12:31
Confusion, 12:14.50	compulsory license for making and distributing phonorecords of
Constitutional law, 3:25	nondramatic musical works, Se
Copyrightable material, generally, 3:46 to 3:59.50	tion 115(a)(2), 12:28
Copyright Act of 1802, 12:4	compulsory license for public
Copyright Act of 1856, 12:5	broadcasting stations, Section
Copyright Act of 1870, 12:6	118(f), 12:30
Copyright Act of 1909, 12:7	computer programs, Section 117,
Copyright Act of 1976	12:29
generally, 12:8 , 12:12 to 12:20	ephemeral records, Section 112(e), 12:26
advertisements, 12:17 to 12:19	fair use, Section 107, 12:25
authorship of original, 12:16	sound recordings, Section 114(b),
choreography and derivative works, 12:20.10	12:27
	Fair use, Section 107, 12:25
confusion, 12:14.50	Fixed, 12:14
fixed, 12:14	Formalities, 6:35 , 6:55
framing, 12:17 to 12:19	Framing, 12:17 to 12:19
infringement defined, 12:12 inline linking, 12:17 to 12:19	History, 3:51 Infringement
Ç.	
internet, 12:17 to 12:19	generally, 12:12
pop-ups, 12:17 to 12:19	Copyright Act of 1976 definition, 12:12
preparation right, infringement, 12:14.50	ownership of rights in infringing
reproduction, 12:15	work, 3:59.50
substantially similar, 12:13	preparation right, 12:14.50
termination of transfers and licenses,	Section 103 limitations, 3:58
Sections 203 and 304(c), 7:44	subject-matter jurisdiction, 17:88, 17:112
three-dimensional versus two- dimensional works, 12:20	Inline linking, 12:17 to 12:19

DERIVATIVE WORKS—Cont'd Internet, 12:17 to 12:19 Joint authors, 12:23 Legislative history, Section 103, 3:51 Limitations and restrictions, 3:58 Linking, inline, 12:17 to 12:19 Monetary damages, 22:185 Musical works, 12:28 Ninth circuit. 3:54.50 Nondramatic musical works, 12:28 "Not pervading the entirety of the work" defined, 3:59 Object depicted in photographs, 12:11 One standard of originality, 3:55 Originality, generally, 3:50 to 3:56 Original work, relationship to, **12:21** Owner of copyright possessing rights in infringing derivative, 12:22 Phonorecords, 12:28 Photographs, 3:49, 3:119.50, 12:11 Pop-ups, 12:17 to 12:19 Public broadcasting stations, 12:30 Recasting, 3:48 Records and recording, 12:26 Registration, 12:8.50 Reproduction right, 9:13, 12:15 Rights in infringing work, ownership, 3:59.50 Second circuit, 3:53 Section 103, **3:51, 3:58** Section 106(2), **12:1** Section 107, **12:25** Section 112(e), **12:26** Section 114(b), **12:27** Section 115(a)(2), **12:28** Section 117, **12:29** Section 118(f), **12:30** Section 120(b), 12:31 Seventh circuit, 3:54 Sound recordings, 3:162, 12:27 Standing to sue, 21:12 Statutory definition, **3:47** Statutory language, 3:51, 12:2 Substantially similar, 12:13

Substitutions, 12:10

Technology-driven alternatives, **3:57** Three-dimensional versus two-

dimensional works, 12:20

Title and ownership, 12:22

DERIVATIVE WORKS—Cont'd

Transforming, **3:48**Two-dimensional works, **12:20**Uruguay Round Agreements Act, **24:43**Work of an infringing derivative work, **12:16.10**

DESIGN

Copyright Act of 1976 amendments, 1:106

Originality, 3:38

Pictorial, Graphic, and Sculptural Works (this index)

Visual works, 4:17

DESIGN BASICS, LLC v. LEXINGTON HOMES, INC.

Substantial similarity, 9:223.70

DESIGN BASICS, LLC v. SIGNATURE CONSTRUCTION, INC.

Substantial similarity, 9:223.80

DESTRUCTION

Visual Artists Rights Act of 1990, **16:24**, **16:26**

DESTRUCTION OF MARKET

Monetary damages, 22:106

DETERRENCE

Monetary damages, 22:181

DEVELOPING COUNTRIES

Berne Convention Implementation Act of 1988, Article 21, **23:43**

DEVELOPMENT COSTS

Damages, 22:109

DICTIONARIES

Construction and interpretation of statutes, legislative history, **2:29 to 2:36**

DIGITAL DISTRIBUTION

Distribution of copies of work, 13:11, 13:23

Section 108 Study Group report, 11:8.50

DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

Copyright Act of 1976 amendments, 1:97 to 1:107

Ephemeral-recording exemption, 11:10

DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

—Cont'd

Exclusive rights, 8:29

Fair use, 10:157.30

Library photocopying, 11:6

Parties, 21:85, 21:85.10

Preemption of state law claims, **18:52.60**

Preliminary injunctions, 22:58

Sound recordings, 14:88

Sovereign immunity, 21:87

Take down notices, preemption of state law claims, **18:52.60**

Technological Protection Measures and Copyright Rights Management Information (this index)

DIGITAL PERFORMANCE RIGHT IN SOUND RECORDINGS ACT OF 1995

Exclusive rights, 8:28

Phonorecords of nondramatic musical works, **11:27**

Reproduction right, 11:48

DIGITAL SOUND

Copyright Act of 1976 amendments, 1:102

DIGITAL THEFT DETERRENCE AND COPYRIGHT DAMAGES IMPROVEMENT ACT OF 1999

Failure to mitigate damages defense unavailable, **22:192.25**

Monetary damages, 22:163

DIRECT BROADCAST SATELLITES

Jukebox, 14:108

DIRECT EXPENSES

Monetary damages, 22:140

DIRECT INFRINGEMENT

Extraterritoriality, **25:87** Secondary liability, **21:40**

DIRECT PROOF

Reproduction right, 9:21

DISCERNING OBSERVER

Reproduction right, 9:73, 9:74

DISCLOSURE

Infringement, 17:112

Trade secrets, filing with copyright office, **17:132.50**

DISCOVERY

Authorship, **5:41.50**

Definition, 20:20.50

Limitation of actions, 20:17 to 20:20, 20:43

Monetary damages, 22:199

Noncopyrightable material, 4:9

DISCRETION

Declaratory judgment, 17:50

Fair use defense, 10:90

Limitation of actions, 20:26

Title and Ownership (this index)

Work made for hire, 5:60

DISCRIMINATION

Choice of law, 25:25

DISMISSAL

Fair use defense, Rule 12(b)(6) motions, **10:159**

Federal question jurisdiction, 17:25, 17:27

Forum non conveniens, **17:222.50**, **17:223**

Reproduction rights, 9:86.50

DISPLAY PUBLICLY

Generally, **15:1 to 15:18**

Architectural works, 15:16

Broadcasting, 15:14

Case law, **15:5 to 15:7**

Construction and interpretation, 15:3

Earth stations, 15:15

Embedding, 15:7

Exemptions, 15:18

Exhaustion doctrine, Section 109, 15:10

Fair use, Section 107, 15:8, 15:9

Formalities, 6:51

Framing, 15:7

History, **15:2**

Infringement, 15:4 to 15:7

Instructional displays, Section 110,

15:11

Legislative history of Section 106(5), **15:2**

DISPLAY PUBLICLY—Cont'd DISPLAY PUBLICLY—Cont'd Limitations and restrictions Section 122, 15:17 generally, 15:8 to 15:18 Section 512, 15:18 exhaustion doctrine, Section 109, Statute, generally, **15:1** 15:10 Superstations, 15:15 fair use, Section 107, **15:8, 15:9** Two-dimensional reproductions of instructional displays, Section 110, architectural works, Section 120, 15:11 15:16 online service providers, exemption Visual Artists Rights Act of 1990, 16:23 for, Section 512, 15:18 DISSOLVED CORPORATIONS pictorial, graphic, and sculptural Work made for hire, 5:80 works embodied in useful articles, Section 13, 15:13 DISTANT SIGNAL EQUIVALENTS public broadcasting stations, Section Cable television and other secondary 118, **15:14** transmissions. 14:64 satellite retransmission of local DISTORTION signals, Section 122, **15:17** Visual Artists Rights Act of 1990, 16:20, secondary transmissions, 15:12, 16:22 15:15 two-dimensional reproductions of DISTRIBUTION architectural works, Section 120, Generally, **13:1 to 13:54** 15:16 Affirmative defense, existence of autho-Linking and framing, 15:7 rized first sale as. 13:16 Linking, embedding, and framing, 15:7 Archives, Section 108, 13:14 Local signals, 15:17 Bobbs-Merrill in Copyright Act of 1909, Network signals, 15:15 13:19 Online displays, **15:6** Cable television and other secondary Online service providers, exemption for, transmissions, 14:76 to 14:78 Section 512. 15:18 Codification of Bobbs-Merrill in Copy-Pictorial, graphic, and sculptural works right Act of 1909, 13:19 embodied in useful articles, Section Compulsory license for making and 13, **15:13** distributing phonorecords, Section Private viewing, 15:15 115, **13:23** Public broadcasting stations, Section Compulsory license under Section 115, 118, **15:14** 13:33 Right to display publicly, generally, 15:1 Computer programs, 13:25 to 15:18 Contracts and agreements, 13:24 Satellite carrier, 15:15 Copies, generally, 13:1 to 13:54 Satellite retransmission of local signals, Copyright Act of 1790, **13:6** Section 122, 15:17 Copyright Act of 1909, **13:7**, **13:19** Secondary transmissions, 15:12, 15:15 Copyright Act of 1976 Section 106, 15:2 generally, 13:8, 13:20 to 13:25 Section 107, 15:8, 15:9 computer programs, 13:25 Section 109, 15:10 contractual restrictions, Section Section 110, 15:11 109(d), **13:24** Section 111, **15:12** digital distribution, first sale doctrine, Section 113, 15:13 13.23 Section 118, 15:14 first sale doctrine, 13:23 Section 119, 15:15 lawfully made under title, 13:22 legislative history, 13:20 Section 120, **15:16**

DISTRIBUTION—Cont'd	DISTRIBUTION—Cont'd
Copyright Act of 1976—Cont'd	Just reward, 13:17
passage, 13:21	Lawfully made under title, 13:22
place of sale, 13:22.50	Legislative history, 13:20
relevance of place of sale, 13:22.50	Libraries, reproductions by, Section 108,
Definition of distribution to public,	13:14
13:10	Licenses, 13:23
Derivative works, 12:28	License under Section 115, 13:33
Digital distribution, 13:11 , 13:23	Limitations and restrictions, 13:24,
Elizabethan privileges, 13:3	13:54
English Statute of Anne, 13:4	"Make available" right, 13:11.50
Exceptions	Nature of right, generally, 13:9
generally, 13:13 to 13:25	On-line service providers, 13:54
archives, Section 108, 13:14	Performance rights distinguished, 13:12
fair use, Section 107, 13:13	Phonorecords (this index)
first sale/exhaustion doctrine, Section 109, below	Pictorial, graphic, and sculptural works, 3:111
libraries, reproductions by, Section	Place of sale, 13:22.50
108, 13:14	Pre-1790 state statutes, 13:5
Exhaustion. First sale/exhaustion doctrine, Section 109, below	Pre-1976 Copyright Act federal statutes, 13:6, 13:7
Fair use defense, electronic distribution,	Privileges, 13:3
10:143.50	Public, distribution to, defined, 13:10
Fair use, Section 107, 13:13	Public performance, 14:21
First sale/exhaustion doctrine, Section	Relevance of place of sale, 13:22.50
109	Renaissance privileges, 13:3
generally, 13:15 to 13:19	Rental Rights (this index)
affirmative defense, existence of	Right to distribute, Section 106(3), gen-
authorized first sale as, 13:16 Pobbs Marrill in Converight Act of	erally, 13:1 to 13:54
Bobbs-Merrill in Copyright Act of 1909, 13:19	Sales
codification of Bobbs-Merrill in	First sale/exhaustion doctrine, Section
Copyright Act of 1909, 13:19	109, above
Copyright Act of 1909, 13:19	place of sale, 13:22.50
Copyright Act of 1976, 13:23	Section 106(3), generally, 13:1 to 13:54
exceptions to distribution right, 13:24	Section 107, 13:13
importation, 13:46	Section 108, 13:14, 13:46.40
judicial origins of doctrine, 13:18	Section 109. First sale/exhaustion doc-
just reward, 13:17	trine, Section 109, above
statute, generally, 13:15	Section 113, 13:48
Formalities, 6:54	Section 114, 13:49
Grant of right, generally, 13:2	Section 115, 13:23, 13:50
History, 13:20	Section 115 license, 13:33
Importation, exhaustion of distribution	Section 117, 13:51
right, 13:36.50	Section 118, 13:52
Importation (this index)	Section 120, 13:53
International Copyright Act of 1891,	Section 512, 13:54
13:6.50	Standing to sue, 21:20
Judicial origins of doctrine, 13:18	State statutes, 13:5
Jukebox, 14:109	Statute, generally, 13:1

DISTRIBUTION—Cont'd

Statute of Anne, 13:4

Title and ownership, 13:22

Uruguay Round Agreements Act, 24:10

DISTRICT COURT

Deltak, Inc. v. Advanced Systems, Inc., 22:126

Sony Corp. of America v. Universal City Studios, 10:84

Substantial similarity, 9:250

DISTRICT OF COLUMBIA CIRCUIT

Preliminary injunctions, 22:31

Reproduction right, 9:57

Substantial Similarity (this index)

DIVISIBILITY

Copyright Act of 1976, 5:121 to 5:123 Standing to sue, 21:9

DMCA

Digital Millennium Copyright Act of 1998 (this index)

DOING BUSINESS

Personal jurisdiction, 17:149

DOLE FOOD CO. v. WATTS

Personal jurisdiction, 17:165

DOLLS

Useful articles, designs of, 3:149

DOMICILE

Choice of law, 25:48, 25:64

DOMINANT AUTHOR THEORY

Intent, 5:24

DOMINICAN REPUBLIC

Central American-Dominican Republic Free Trade Agreement (CAFTA-DR), 23:70

DORSEY v. OLD SURETY LIFE INSURANCE CO.

Substantial similarity, 9:249

DOUBLE RECOVERY

Lanham Act, 22:113

Monetary damages, 22:112, 22:113 Statutory damages, 22:112.50

DOWLING v. UNITED STATES

Construction and interpretation, 2:50

DRAMATIC WORKS

Generally, 3:94

Copyrightable material, generally, 3:94 Nondramatic vs. dramatic works, 3:62

DRAWINGS

Architectural plans and drawings, **3:103** to 3:105.50

DRINKING VESSELS

Pictorial, graphic, and sculptural works, 3:151.60

DROITE DE SUITE

Berne Convention Implementation Act of 1988, Article 14, 23:36

DRURY v. EWING

Reproduction right, 9:106

DSC COMMUNICATIONS CORP. v. DGI TECHNOLOGIES, INC.

Substantial similarity, 9:191

DUE PROCESS

Damages, 22:193.50, 22:208.50 Government works, 4:62 Statutory damage awards, 22:193.50

DUN & BRADSTREET SOFTWARE SERVICES, INC. v. GRACE CONSULTING, INC.

Computer programs, 3:90 Substantial similarity, 9:172

DURATION

Time and Date (this index)

DURESS

Limitation of actions, 20:52

EARTH STATIONS

Cable television and other secondary transmissions, 14:70

Display publicly, 15:15

EATING UTENSILS

Pictorial, graphic, and sculptural works, 3:151.60

EBAY

Advertisements, online sales, 10:29.10

EBAY AND INTERNET AUCTIONS

Personal jurisdiction, 17:188

ECONOMIC ADVANTAGE

Preemption, 18:30

ECONOMIC CONSEQUENCES

Joint authorship, 5:7 to 5:11

ECONOMIC LIFE THEORY

Monetary damages, 22:190

ECONOMICS

Fair use defense, 10:22

EDUCATIONAL BROADCASTING

Public performance, 14:35

EDUCATIONAL PURPOSES

Fair use defense, **10:18**, **10:19**

EDUCATIONAL TESTING SERVICES v. KATZMAN

Substantial similarity, 9:169

EDUCATIONAL WORKS AND TRAINING MATERIALS

Monetary damages, 22:187

EDWARDS & DEUTSCH LITHOGRAPHING CO. v. BOORMAN

Substantial similarity, 9:212

EFFECTIVE DATE

Copyright Act of 1976 amendments, 1:107

TRIPS, 23:68

Visual Artists Rights Act of 1990, 16:47

EFFECTS TEST

Personal jurisdiction, 17:161

EGYPTIANS

Choice of law, 25:5

EIGHTH CIRCUIT

Monetary damages, 22:136

Preliminary injunctions, 22:28

Reproduction right, 9:53

Substantial Similarity (this index)

EISENSCHIML v. FAWCETT PUBLICATIONS, INC.

Fair use defense, **10:38** Substantial similarity, **9:214**

ELDRED v. ASHCROFT

Construction and interpretation, 2:59

ELECTION

Damages (this index)

Jurisdiction, 17:40

Preemption, 18:29

ELECTRONIC COPYING AND DISTRIBUTION

Fair use defense, 10:143.50

ELECTRONIC DATABASES AND COMPILATIONS

Generally, 3:64 to 3:69

Arrangement, 3:67

Coordination, 3:67

Copyrightable material, generally, **3:64** to **3:69**

Feist case, 3:65 to 3:67

Infringement, 3:68

Selection, 3:66

ELEVENTH CIRCUIT

Pictorial, graphic, and sculptural works, 3:144.40

Preliminary injunctions, 22:30

Reproduction right, 9:56

Substantial Similarity (this index)

ELIZABETHAN PRIVILEGES

Distribution of copies of work, 13:3

ELLISON v. ROBERTSON

Vicarious liability, 21:75

ELLIS v. DIFFIE

Substantial similarity, 9:201

ELVIS PRESLEY ENTERPRISES v. PASSPORT VIDEO

Fair use defense, 10:51

EMAIL TRANSMISSIONS

Personal jurisdiction, 17:187

Work made for hire, 5:77.50

EMBEDDING

Display publicly, 15:7

EMBODIMENTS

Formalities, 6:34, 6:53

Monetary damages, 22:186

Pictorial, Graphic, and Sculptural Works Embodied in Useful

Articles (this index)

INDEX

EMERSON v. DAVIES

Reproduction right, 9:103

EMPLOYEE

Definition, 4:70

EMPLOYMENT

General revision of 1909, **7:24** Sound recordings, **5:86**

Standing to sue, **21:7.50**

Vicarious liability8212Individual liability of company officers, employees, shareholders, and agents, 21:81

Work Made for Hire (this index)

ENCYCLOPEDIA BRITANNICA EDUCATIONAL CORP. v. CROOKS

Fair use defense, 10:82

ENEMY

Trading with the Enemy Act of 1962, **1:68**

ENFORCEMENT

Foreign copyright judgments, **25:81.50** Infringement, **17:82**

ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS ACT OF 2008

Infringement, 17:125.50

ENGINEERING DYNAMICS, INC. v. STRUCTURE SOFTWARES, INC.

Substantial similarity, 9:190

ENGLAND

Book trade, exercise and loss of control over. 1:8

Chancery decisions, 22:2

Copyright Act of 1976, history before, **6:16**

Distribution of copies of work, 13:4

Engravings Act of 1735, 1:13

Exclusive rights, 8:10

Formalities, 6:16

Forum non conveniens, 17:212

History before 1976 Copyright Act, **6:16** Importation, rights of, Section 602,

13:36

Jeffrey v. Boosey, 1:10

Licensing Act of 1692, lapse of, 1:9

ENGLAND—Cont'd

Musical works, 1:12 to 1:14

Stationers' Company v. The Royal Patentees, 1:7, 1:8

Statute of Anne

generally, 1:5

book trade, exercise and loss of control over, 1:8

distribution of copies of work, 13:4

Engravings Act of 1735, 1:13

exclusive rights, 8:10

Jeffrey v. Boosey, 1:10

Licensing Act of 1692, lapse of, 1:9

musical works, 1:12 to 1:14

origin of printing in England and consequences for its regulation, generally, **1:6 to 1:9**

Stationers' Company v. The Royal Patentees, **1:7, 1:8**

Talfourd Term Extension Act of 1842, 1:15

unpublished works after Statute of Anne, status of, 1:11

visual works, 1:12 to 1:14

Talfourd Term Extension Act of 1842, 1:15

Unpublished works after Statute of Anne, status of, 1:11

Visual works, 1:12 to 1:14

ENGRAVINGS ACT OF 1735

England and Statute of Anne, 1:13

ENSEMBLE WORKS

Visual Artists Rights Act of 1990, 16:8

ENTERPRISE LIABILITY

Contributory infringement, 21:44

ENTERTAINMENT USES

Fair use defense, 10:20

ENTIRETY OF WORK

Computer programs, 3:77

Derivative works, 3:59

Fair use defense, 10:143

ENTITLEMENT

Copyright Act of 1976, 7:44

License, phonorecords of nondramatic musical works, 11:24

EPHEMERAL RECORDING EXEMPTION

Generally, 11:8 to 11:10 Copyright Act of 1976, 11:9 Derivative works, 12:26 DMCA amendment of 1998, 11:10 Section 108 Study Group report, 11:8.50

EQUITABLE DOCTRINE

Limitation of Actions (this index)

EQUITABLE ESTOPPEL

Limitation of actions, 20:51, 20:57, 20:58

EQUITABLE TRUST THEORY

Standing to sue, 21:26

EQUITY

Construction and interpretation, 2:13, 2:14

Fair use and juries, 10:3

EQUIVALENT REMEDIES

Visual Artists Rights Act of 1990, 16:43

EQUIVALENT RIGHTS

Preemption (this index)

ERRANT STANDARDS AND TESTS

Reproduction Right (this index)

ESIGN ACT

Work made for hire, Copyright Act of 1976 writing requirement, **5:50**

ESSENCE TEST

Jurisdiction, 17:35

ESTATE OF HEMINGWAY v. RANDOM HOUSE

Fair use defense, 10:42

ESTOPPEL

Limitation of actions, 20:51, 20:57, 20:58

Noncopyrightable material, 4:6 to 4:8

EUROPEAN UNION

Database directive, **23:77** Importation, rights of, Section 602,

13:38
International copyright, 23:76

Single market directive, 23:78

EVEREADY BATTERY v. ADOLPH COORS

Fair use defense, 10:32

EVIDENCE

Choice of Law (this index)

Damages (this index)

Foreign law, 25:79

Infringement (this index)

Jukebox, 14:117

Licenses, **5:130**

Noncopyrightable material, Section 102(b), **4:34**

Preliminary injunctions, 22:68

Reproduction Right (this index)

EXAMINATION

Claims, generally, App B

Construction and interpretation, purpose of statute, generally, **2:11 to 2:20**

Pictorial, graphic, and sculptural works, 3:129

EXCEPTIONS, EXCLUSIONS, AND EXEMPTIONS

Berne Convention Implementation Act of 1988, **6:79**, **23:26 to 23:28**

Copyright Act of 1976, 1:102, 1:103

Derivative Works (this index)

Display publicly, 15:18

Distribution (this index)

Exclusive rights, 8:6

Formalities, 6:79

Forum selection, **25:77**

Personal jurisdiction, **17:190 Public Performances** (this index)

Rental rights, 13:29 to 13:31

Reproduction Right (this index)

Sound Recordings (this index)

TRIPS, 23:66

Uruguay Round Agreements Act, 24:30, 24:33

Visual Artists Rights Act of 1990 (this index)

Work made for hire, **5:71**

EXCLUSIONS

Exceptions, Exclusions, and Exemptions (this index)

EXCLUSIVE LICENSE

Copyright Act of 1976, **5:148**

EXCLUSIVE LICENSE—Cont'd	EXCLUSIVE RIGHTS—Cont'd
Revocation, 5:124	Exemptions, 8:6
EXCLUSIVE RIGHTS	Fair-use privilege, 8:7
Generally, 8:1 to 8:29	First Copyright Act, 8:12
Architecture of Copyright Act of 1976,	Granting of rights, 8:8
8:22	Infringement, 17:63
Audio Home Recording Act of 1992, 8:26	Licenses, 5:103, 5:119 to 5:121, 5:147, 8:5
Common law, 8:9	Limitations and restrictions
Compulsory licenses, 8:5	generally, 8:4 to 8:7
Conditional relationship of rights, 8:24	"securing for limited times, to authors
Constitutional law	the exclusive right to their
generally, 8:12	respective writings." Constitutional law, above
own life story, status as author,	Literary works, 8:19
3:20.50	New rights, purpose of, 8:3
"securing for limited times, to authors	New technologies, 8:2
the exclusive right to their	Nondramatic literary works, 8:19
respective writings"	Performance, 8:19, 8:28
generally, 3:10 to 3:21	Pictorial, graphic, and sculptural works,
authors defined, 3:17 to 3:20.50	3:111
constitutional origins of authorship, 3:18	Pleadings, 19:7
enumerated categories of subject	Privilege, 8:7
matter, 3:15	Public performance right for
exclusive rights defined, 3:12	nondramatic literary works, 8:19
limited times defined, 3:11	Simultaneous violations, 8:23
original work, author as those who	Sound recording amendment of 1971, 8:20
created, 3:20 original work of authorship	Sound Recordings Act of 1995, Digital
defined, 3:16	Performance Right in, 8:28
secure defined, 3:10	Standing to Sue (this index)
status as author of self, 3:20.50	State statutes, 8:11
symbolic authorship defined, 3:21	Statute of Anne, 8:10
writings defined, 3:14 to 3:16	Statutes
writings of authors defined, gener-	generally, 8:10 to 8:29
ally, 3:13 to 3:21	architecture, 8:22
Continental Congress, 8:11	Audio Home Recording Act of 1992,
Copyright Act of 1802, 8:13	8:26
Copyright Act of 1831, 8:14	Constitutional law, 8:12
Copyright Act of 1856, 8:15	Continental Congress, 8:11
Copyright Act of 1870, 8:16	Copyright Act of 1802, 8:13
Copyright Act of 1897, 8:17	Copyright Act of 1831, 8:14
Copyright Act of 1909, 8:18	Copyright Act of 1856, 8:15
Copyright Act of 1976, 8:21 to 8:24	Copyright Act of 1870, 8:16
Digital Millennium Copyright Act of	Copyright Act of 1897, 8:17
1998, 8:29	Copyright Act of 1909, 8:18
Digital Performance Right in Sound	Copyright Act of 1976, 8:21 to 8:24
Recordings Act of 1995, 8:28	Digital Millennium Copyright Act of
England, Statute of Anne, 8:10	1998, 8:29

EXCLUSIVE RIGHTS—Cont'd

Statutes—Cont'd

Digital Performance Right in Sound Recordings Act of 1995, **8:28** early statutes, generally, **8:10** to **8:17** First Copyright Act, **8:12**

later statutes, generally, **8:18 to 8:29** public performance right for

nondramatic literary works, **8:19** rights not conditionally related, **8:24** sound recording amendment of 1971, **8:20**

state statutes, **8:11**

Statute of Anne, 8:10

transmissions and simultaneous violation of one or more rights, **8:23**

Uruguay Round Agreements Act, **8:27**

Visual Artists' Rights Act of 1990, **8:25**

Technologies, new, 8:2

Transmissions, 8:23

Uruguay Round Agreements Act, **8:27** Visual Artists' Rights Act of 1990, **8:25**

EXECUTOR

General revision of 1909, 7:18

EXEMPTIONS

Exceptions, Exclusions, and Exemptions (this index)

EXERCISE ROUTINES

Noncopyrightable material, 4:22

EXHAUSTION

Display publicly, 15:10

Distribution of Copies of Work (this index)

First sale/exhaustion doctrine, Section 109. **Distribution of Copies of Work** (this index)

Importation, exhaustion of distribution right, **13:36.50**, **13:37.50**

Public performance, 14:32

TRIPS, Article 6, 23:60

EXHIBITION

Fair use defense, **10:53 to 10:55**Formalities, **6:32**Visual Artists Rights Act of 1990, **16:9**

EX PARTE RELIEF

Impoundment, Seizure, and Destruction (this index)

EXPERT WITNESSES

Reproduction Right (this index)

EXPIRATION OF TERM

Uruguay Round Agreements Act, 24:33

EXPLOITATION

Assignment, 5:115

EXPRESS AIMING

Personal jurisdiction, 17:156

EXPRESSIVE WORKS

Preemption, 18:9.50

EXPRESS PREEMPTION

Generally, 18:2

EXTENSION OF TERM

Copyright Act of 1909 amendment, **1:67** Copyright Act of 1976, **1:97 to 1:107**, **7:28**

Sonny Bono Copyright Term Extension Act (this index)

EXTRACTION OF DATA

Fair use defense, 10:59

EXTRA - ELEMENTS TEST

Preemption, 18:18

EXTRATERRITORIALITY

Generally, 25:86 to 25:104

Allarcom Pay Television, Ltd. v. General Instrument Corp., **25:94**

Appeals court, 25:97

Aramco, 25:91

Choice of law, 25:35

Computer servers, server location and display and making available rights, **25:87.50**

Contributory infringement, 25:87

Copyright Act, **25:86, 25:86.10, 25:86.20**

Damage outside the U.S., original acts in U.S., **25:92.60**

Direct infringement, 25:87

Fourth circuit, Tire Engineering & Distribution, LLC v. Shandong Linglong Rubber Company, Ltd., 25:92.50

EXTRATERRITORIALITY—Cont'd

ing, Ltd., 25:90, 25:91

Importation, **13:44.10** Infringement—Cont'd original acts in U.S., additional Infringement discrete acts overseas not depencomputer server location and display dent upon, 25:102 and making available rights, original acts overseas, additional acts 25:87.50 in U.S., 25:103 contributory infringement, 25:87 original acts overseas, additional direct infringement, 25:87 discrete acts in U.S. not depen-Fourth circuit, Tire Engineering & dent upon, 25:104 Distribution, LLC v. Shandong server location and display and mak-Linglong Rubber Company, Ltd., ing available rights, 25:87.50 25:92.50 transmissions. Original infringement National Football League v. in U.S., additional acts overseas PrimeTime 24 Joint Venture facilitated by U.S. infringement, case law following, 25:99.10 above this group National Football League v. Jurisdiction, 17:48 PrimeTime 24 Joint Venture. Los Angeles News Service v. Conus Original acts in U.S., additional Communications Co. Ltd., 25:101 acts overseas facilitated by, National Football League v. PrimeTime below this group 24 Joint Venture original acts in U.S., additional acts case law following, 25:99.10 overseas facilitated by National Football League v. PrimeTime generally, 25:88 to 25:101 24 Joint Venture. Infringement, Allarcom Pay Television, Ltd. v. General Instrument Corp., Ninth circuit, one-complete-act theory, 25:94 25:92 Aramco, 25:91 One-complete-act theory, Ninth circuit, Los Angeles News Service v. 25:92 Conus Communications Co. Original acts in U.S. Ltd., 25:101 additional discrete acts overseas not National Football League v. dependent upon, 25:102 PrimeTime 24 Joint Venture, damage outside the U.S., 25:92.60 25:95 Original acts overseas generally, 25:95 to 25:100 additional acts in U.S., 25:103 appeals court, 25:97 additional discrete acts in U.S. not case law following, 25:99.10 dependent upon, 25:104 public, 25:98 Predicate Act doctrine, 25:90 receiving transmission, 25:99 Preliminary injunctions, 22:73.50 trial court, 25:96 Public, 25:98 Ninth circuit, one-complete-act Receiving transmission, 25:99 theory, 25:92 Server location and display and making Predicate Act doctrine, 25:90 available rights, 25:87.50 Sheldon v. MGM Pictures, Corp., Sheldon v. MGM Pictures, Corp., 25:89 25:89 Tire Engineering & Distribution, LLC v. transmissions, generally, 25:93 to Shandong Linglong Rubber 25:101 Company, Ltd., 25:92.50 Twentieth Century Fox Film Corp. Transmissions. Infringement, above v. iCrave TV, 25:100 Trial court, 25:96 Update Art, Inc. v. Modiin Publish-Twentieth Century Fox Film Corp. v.

EXTRATERRITORIALITY—Cont'd

iCrave TV, 25:100

EXTRATERRITORIALITY—Cont'd

Update Art, Inc. v. Modiin Publishing, Ltd., 25:90, 25:91

EXTRINSIC EVIDENCE

Licenses, 5:130

FABRIC DESIGNS

Originality, 3:38

Pictorial, graphic, and sculptural works, 3:151

FACE TO FACE INSTRUCTION

Public performance, 14:34

FACIAL CHALLENGES

Personal jurisdiction, 17:135

FACIAL VERSUS FACTUAL ATTACKS

Federal question jurisdiction, 17:26, 17:27

FACTS

Noncopyrightable Material (this index)

FACTUAL CHALLENGES

Personal jurisdiction, 17:136

FACTUAL ESTOPPEL

Noncopyrightable material, 4:6, 4:8

FACTUAL WORKS

Reproduction right, 9:72

FAIR ABRIDGMENT

Reproduction right, 9:98

FAIREY v. ASSOCIATED PRESS

Fair use defense, 10:132.60

FAIR USE

Defense. Fair Use Defense (this index)
Derivative works, 12:25
Display publicly, 15:8, 15:9
Distribution of copies of work, 13:13
Privilege, exclusive rights, 8:7
Public performance, 14:31
Visual Artists Rights Act of 1990, 16:35

FAIR USE DEFENSE

Generally, **10:1 to 10:160**Abstracting and indexing, **10:24 to 10:27.50**

Actual fair use analysis, 10:157

FAIR USE DEFENSE—Cont'd

Addison-Wesley Publishing v. New York University, **10:104** Advertisements, generally, **10:28 to 10:35**

Affirmative

defense, **10:9**, **10:9.50** right, **10:8.60**

Aggregate assessment, actual fair use analysis, 10:157

Aircraft Technical Publishers v. Cessna Aircraft Corp., 10:115

American Geophysical Union v. Texaco amount and substantiality of portion used, **10:124**

corporate photocopying, below nature of copyrighted work, 10:123 potential market for or value of copyrighted work, effect of, 10:125

purpose and character of use, **10:122** Amount and substantiality of taking generally, **10:141**

American Geophysical Union v. Texaco, **10:124**

definition of the "work," 10:144 electronic copying and distribution, 10:143.50

entire work, copying, **10:143** transformative uses, **10:142**

Amsinck v. Columbia Pictures Industries, **10:72**

The Andy Warhol Foundation v. Goldsmith, **10:35.30**

Appeal and review, **10:85**, **10:160** Appropriation art, **10:35.20**

Architectural plans, 10:35.50

Arica Institute v. Palmer, 10:64

Assessment, 10:157

Associated Press v. Meltwater U.S. Holdings, Inc., **10:80.70**

Association of American Medical Colleges v. Cuomo, **10:107**

Association of American Medical Colleges v. Mikaelian, **10:106**

Baraban v. Time Warner, 10:63

Barbie doll, 10:97

Basic Books v. Gnomon Corp., **10:110**Basic Books v. Kinko's Graphics Corp., **10:117**

FAIR USE DEFENSE—Cont'd FAIR USE DEFENSE—Cont'd **Biographies** College Entrance Examination Board v. Cuomo, 10:108 generally, 10:36 to 10:47 Commentary: creativity and innovation, Eisenschiml v. Fawcett Publications, fair use is good for, 10:1.60 10:38 Commercial uses, 10:14 to 10:16.50, Estate of Hemingway v. Random 10:54 House, 10:42 Common law analysis, 10:8.50 Greenbie v. Noble, 10:39 Common law copyright infringment Holdredge v. Knight Publishing, 10:40 actions, 10:8.25 Comparative advertising, 10:30 Iowa State University Research Foundation v. American Computers, **10:57 to 10:60** Broadcasting Cos., 10:45 Computer security research, 10:121.50 Meeropol v. Nizer, 10:43 Contracts and agreements, 10:152 New Era Publications International Copy center photocopying, 10:117, ApS v. Henry Holt & Co., 10:47 10:118 Rokeach v. Avco Embassy Pictures. Corporate photocopying 10:44 generally, 10:110 to 10:116 Rosemont Enterprises v. Random Aircraft Technical Publishers v. House, 10:41 Cessna Aircraft Corp., 10:115 Salinger v. Random House, 10:46 American Geophysical Union v. Toksvig v. Bruce Publishing, 10:37 Texaco Blackwell Publishing Inc. v. Excel generally, **10:121** to **10:126** Research Group, LLC, 10:118.50 amount and substantiality of portion used, 10:124 Blind persons, 10:52 Judge Jacob's dissent, 10:126 Broadcasts and broadcasting nature of copyrighted work, 10:123 generally, 10:53 to 10:55 potential market for or value of news clipping services and copyrighted work, effect of, rebroadcasts, below 10:125 Bruzzone v. Miller Brewing, 10:81 purpose and character of use, Cable News Network v. Video Monitor-10:122 ing Services of America, 10:76 Basic Books v. Gnomon Corp., Calligraphers, 10:56 10:110 Case law after Warhol Foundation V. Harper & Row v. American Cyanamid Goldsmith, 10:35.34 Co., 10:112 Castle Rock Entertainment v. Carol Harper & Row v. Squibb Corp., Publishing Group, 10:66 10:113 Catalogue raisonn0233, 10:55.50 Harper & Row v. Tyco Copy Service, Changing the original, requirements for 10:111 purpose and character of use, Pasha Publications v. Enmark Gas 10:21.50 Corp., 10:119 Chicago Board of Education v. Pfizer case. 10:114 Substance, Inc., 10:68 Schuchart & Associates v. Solo Serve Chicago Lawyer v. Forty-Sixth Ward Corp., 10:116 Regular Democratic Organization, Television Digest v. United States 10:129 Telephone Association, **10:120** Circularity argument against licensing as Criticism and comment market harm, 10:152 generally, 10:61 to 10:68 Codification versus statutory recogni-Arica Institute v. Palmer, 10:64 tion, **10:8**

FAIR USE DEFENSE—Cont'd Criticism and comment—Cont'd Baraban v. Time Warner, 10:63 Castle Rock Entertainment v. Carol Publishing Group, 10:66 Chicago Board of Education v. Substance, Inc., 10:68 Maxtone-Graham v. Burtchaell, 10:62 Twin Peaks Productions v. Publications International. 10:65 Ty, Inc. v. Publications International, 10:67 Definitions parody, 10:89 work, 10:144 Degree in which use may prejudice sale, diminish profits, or supersede objects, of original work, 10:7 De minimis uses. 10:10 Discretion, 10:90 Dismissal motion, 10:159 Disparaging, 10:95 District court, 10:84 DMCA and fair use, 10:157.30 Economics, 10:22 Educational and government photocopygenerally, 10:101 to 10:109.50 Addison-Wesley Publishing v. New York University, 10:104 Association of American Medical Colleges v. Cuomo, 10:107 Association of American Medical Colleges v. Mikaelian, 10:106 College Entrance Examination Board v. Cuomo, 10:108 legislative history of nonprofit educational purposes, 10:18, 10:19 Marcus v. Rowley, 10:105 National Association of Boards of Pharmacy v. Board of Regents of University System of Georgia, 10:109.50

FAIR USE DEFENSE—Cont'd Eisenschiml v. Fawcett Publications, 10:38 Electronic forms of copying and distribution, 10:143.50 Elvis Presley Enterprises v. Passport Video, 10:51 Encyclopedia Britannica Educational Corp. v. Crooks, **10:82** Entertainment uses, 10:20 Entire work, copying, 10:143 Estate of Hemingway v. Random House, 10:42 Eveready Battery v. Adolph Coors, 10:32 Exhibits, 10:53 to 10:55 Expert witnesses, 10:161 Extract data, copying to, 10:59 generally, 10:156 weighing factors, **10:9.10** Fairey v. Associated Press, 10:132.60 Fair use and juries, oracle opinion, 10:3 Folsom v. Marsh, 10:4 to 10:7 Fortuitous and incidental reproduction, 10:69 Fox News Network v. TVEyes, Inc., 10:80.10 FRCP Rule 12(b) motions, 10:159 FRCP Rule 12(c) motions, 10:159 Freedom of Information Act requests, 10:73.25 Funny, 10:95 Good faith, 10:156 Governmental use of defense, 10:73 Government photocopying. Educational and government photocopying, above Grant v. Trump. 10:132.90 Greenbie v. Noble, 10:39 Harm, 10:100, 10:150, 10:150,20, 10:152 Harper & Row case, 10:149 Harper & Row v. American Cyanamid Co., 10:112 Harper & Row v. Squibb Corp., 10:113

Harper & Row v. Tyco Copy Service,

Hill v. Public Advocate of the United

States. 10:132.70

10:111

Newport-Mesa Unified School

Wihtol v. Crow, **10:102**

10:103

District v. California, 10:109

Williams & Wilkins v. United States,

FAIR USE DEFENSE—Cont'd	FAIR USE DEFENSE—Cont'd
Historical uses, 10:69.50	Los Angeles News Service v. Tullo,
History, 10:15 , 10:18 , 10:19	10:77
Holdredge v. Knight Publishing, 10:40	Marcus v. Rowley, 10:105
Homages, use in, 10:73.50	Market
Hopper cases, off-air taping, 10:87	American Geophysical Union v.
House of Bryant Publications, LLC v.	Texaco, 10:125
A&E Television Network, 10:72.25	potential market for or value of
Identifying relevant potential, 10:151	copyrighted work, effect of,
Illustrative uses, preamble to Section	below
107, 10:12	usurp, 10:150.10
Incidental, nonfortuitous uses, 10:70 to	MasterCard International Inc. v. Nader
10:72	2000 Primary Committee, Inc.,
Incidental reproduction, 10:69	10:35, 10:132.50
Indexing, 10:24 to 10:27.50	Maxtone-Graham v. Burtchaell, 10:62
Insurance claims, 10:73.40	Media neutrality, 10:157.20
Internet search engines, 10:27.50	Meeropol v. Nizer, 10:43
Internet uses, 10:60	MGM v. American Honda Motor, 10:34
Iowa State University Research Founda-	Mixed character, many uses, 10:16.50
tion v. American Broadcasting	Mura v. CBS, 10:71
Cos., 10:45	Nash v. CBS, 10:50
Judgment as a matter of law, Rule 50(a), 10:159	National Association of Boards of
Judgment on the pleadings, 10:159	Pharmacy v. Board of Regents of
Judgment, summary, 10:159	University System of Georgia,
Justification for use, 10:13	10:109.50
Karaoke, 10:72.50	"Nature and objects of selections
Keep Thomson Governor Committee v.	made," 10:5
Citizens for Gallen Committee,	Nature of copyrighted work
10:128	generally, 10:138
Legislative history, 10:15, 10:18, 10:19	American Geophysical Union v. Texaco, 10:123
Legislative reports	corporate photocopying, 10:123
fair use, generally, App 10-B	out-of-print works, 10:140
Section 118(f), App 10-F	published works, 10:139.30
Sections 108(f)(2) and (4), App 10-D	social media, 10:137.60
Sections 504(c)(2)(i) and (ii), App	unpublished works, 10:139
unpublished works, App 10-L	New Era Publications International ApS
Visual Artists' Rights Act of 1990	v. Henry Holt & Co., 10:47
(VARA), App 10-J	Newport-Mesa Unified School District
Leibovitz v. Paramount Pictures, 10:33	v. California, 10:109
Libraries and archives, 10:73.60	News clipping services and rebroadcasts
Licensing, 10:152	generally, 10:75 to 10:80
Litigation use, 10:73	Associated Press v. Meltwater U.S.
Los Angeles News Service v. CBS	Holdings, Inc., 10:80.70
Broadcasting, 10:80	Cable News Network v. Video Moni-
Los Angeles News Service v. KCAL-TV	toring Services of America, 10:76
Channel 9, 10:78 Los Angeles News Service v. Reuters	Fox News Network v. TVEyes, Inc.,
Television International, 10:79	10:80.10

FAIR USE DEFENSE—Cont'd	FAIR USE DEFENSE—Cont'd
News clipping services and rebroadcasts	Parody—Cont'd
—Cont'd	harm calculation, 10:100
Los Angeles News Service v. CBS	humor, 10:95
Broadcasting, 10:80	message, 10:94
Los Angeles News Service v.	obscenity, 10:92
KČAL-TV Channel 9, 10:78	original, 10:91
Los Angeles News Service v. Reuters	post-Campbell case, 10:96
Television International, 10:79	second factor, 10:98
Los Angeles News Service v. Tullo,	vulgarity, 10:92
10:77	well-known, 10:93
Pacific & Southern v. Duncan, 10:75	Pasha Publications v. Enmark Gas
Swatch Group Management Services	Corp., 10:119
Ltd. v. Bloomberg L.P., 10:80.30	_
News reporting, 10:74	Penguin Books U.S.A. v. New Christian Church of Full Endeavor, 10:137
New York Times v. Roxbury Data	Peterman v. Republican National Com-
Interface, 10:26	mittee, 10:132.80
New York Tribune v. Otis & Co., 10:130	Pfizer case, 10:114
Nihon Keizai Shimbun v. Comline Business Data, 10:27	Phoenix Hill Enterprises v. Dickerson,
Noncommercial broadcasts, 10:55	10:132
Noncommercial uses, 10:16.50 to 10:19	Photocopying, generally, 10:101 to
Nonfortuitous, 10:70 to 10:72	10:126
Nonprofit educational purposes, 10:18 ,	Pleadings, 10:157.50 , 10:159
10:19	Political uses
Norse v. Henry Holt & Co., 10:49	generally, 10:127 to 10:132.80
Notice and knowledge, 10:93	Chicago Lawyer v. Forty-Sixth Ward
NRA v. Handgun Control Federation of	Regular Democratic Organiza-
Ohio, 10:131	tion, 10:129
Obscenity, 10:92	Fairey v. Associated Press, 10:132.60
Off-air taping	Grant v. Trump, 10:132.90
generally, 10:81 to 10:87	Hill v. Public Advocate of the United
Bruzzone v. Miller Brewing, 10:81	States, 10:132.70
Encyclopedia Britannica Educational	Keep Thomson Governor Committee
Corp. v. Crooks, 10:82	v. Citizens for Gallen Commit-
Hopper cases, 10:87	tee, 10:128
Sony Corp. of America v. Universal	MasterCard International Inc. v.
City Studios, 10:83 to 10:86	Nader 2000 Primary Committee,
Original, parody, 10:91	Inc., 10:132.50
Original work, 10:7	New York Tribune v. Otis & Co.,
Out-of-print works, nature of, 10:140	10:130
Pacific & Southern v. Duncan, 10:75	NRA v. Handgun Control Federation
Parody	of Ohio, 10:131
generally, 10:88 to 10:100	Peterman v. Republican National
appropriation extent, 10:99	Committee, 10:132.80
Barbie doll, 10:97	Phoenix Hill Enterprises v. Dickerson,
definition, 10:89	10:132
discretion, 10:90	Potential market for or value of
disparaging, 10:95	copyrighted work, effect of
funny, 10:95	generally, 10:145 to 10:155

FAIR USE DEFENSE—Cont'd FAIR USE DEFENSE—Cont'd Potential market for or value of Purpose and character of use—Cont'd copyrighted work, effect of changing the original, requirements, 10:21.50 —Cont'd American Geophysical Union v. commercial broadcasts, 10:54 Texaco, 10:125 commerciality not absolute principle, circularity argument against licensing 10:16 as market harm, 10:152 commercial uses, 10:14 to 10:16.50 corporate photocopying, 10:125 comparative advertising, 10:30 favorable impact on market, **10:155** completing the structure, architectural harm, public benefit from copying, plans, 10:35.50 10:150 computers, 10:57 to 10:60 Harper & Row case, 10:149 copy center photocopying, 10:117, identifying relevant potential, 10:151 10:118 presumption, Sony case, 10:148 corporate photocopying, above Sonv case. 10:146 to 10:148 criticism and comment, above widespread harm from small uses, economics, 10:22 10:154 educational and government Preamble to Section 107, **10:11**, **10:12** photocopying, above Prejudice, 10:7 Elvis Presley Enterprises v. Passport Preliminary injunction, 10:9.50 Video. 10:51 Presumption, Sony case, 10:148 entertainment uses, 10:20 Princeton University Press v. Michigan Eveready Battery v. Adolph Coors, Document Services, Inc., 10:118 10:32 Proceedings before the court of appeals, extract data, copying to, 10:59 10:35.32 fortuitous and incidental reproduction, Proceedings before the district court, 10:69 10:35.31 Freedom of Information Act requests, Profits, 10:7 10:73.25 Published works, nature of, 10:139.30 governmental and litigation use, Purpose and character of use 10:73 generally, 10:13 to 10:137.50 government photocopying. abstracting and indexing, 10:24 to Educational and government 10:27.50 photocopying, above advertisements, 10:28 to 10:35 historical uses, **10:69.50** advertisements, online sales, 10:29.10 homages, 10:73.50 advertising parodies, 10:31 to 10:35 House of Bryant Publications, LLC v. American Geophysical Union v. A&E Television Network. Texaco. 10:122 10:72.25 Amsinck v. Columbia Pictures incidental, nonfortuitous uses, 10:70 Industries, 10:72 to 10:72 appropriation art, 10:35.20 indexing, 10:24 to 10:27.50 architectural plans, 10:35.50 internet search engines, 10:27.50 biographies, above internet uses. 10:60 Blackwell Publishing Inc. v. Excel justification for use, 10:13 Research Group, LLC, 10:118.50 legislative history of nonprofit blind persons, 10:52 educational purposes, 10:18, broadcasting and other forms of exhi-10:19 bition, 10:53 to 10:55 legislative history of Section 107(1), calligraphers, 10:56 10:15

FAIR USE DEFENSE—Cont'd FAIR USE DEFENSE—Cont'd Purpose and character of use—Cont'd Religious uses-Cont'd Leibovitz v. Paramount Pictures, Penguin Books U.S.A. v. New Chris-10:33 tian Church of Full Endeavor, libraries and archives, 10:73.60 10:137 Robert Stigwood Group v. O'Reilly, litigation use, 10:73 10:135 MasterCard International v. Nader 2000 Primary Committee, 10:35 Society of the Holy Transfiguration Monastery, Inc. v. Archbishop MGM v. American Honda Motor, Gregory of Denver, Colorado, 10:34 10:137.50 mixed character, many uses, 10:16.50 Wihtol v. Crow, 10:134, 10:137 Mura v. CBS, 10:71 Worldwide Church of God v. Phila-Nash v. CBS, 10:50 delphia Church of God, 10:136 news clipping services and Reports and reporting, 10:74 rebroadcasts, above Reverse engineering, 10:58 news reporting, 10:74 Robert Stigwood Group v. O'Reilly, New York Times v. Roxbury Data 10:135 Interface, 10:26 Rokeach v. Avco Embassy Pictures, Nihon Keizai Shimbun v. Comline 10:44 Business Data, 10:27 Rosemont Enterprises v. Random noncommercial broadcasts. 10:55 House, 10:41 noncommercial uses, 10:16.50 to Rule 12(b)(6) motions, **10:159** 10:19 Rule 12(c) motions, 10:159 Norse v. Henry Holt & Co., 10:49 off-air taping, above Sales, 10:7, 10:29 parody, above Salinger v. Random House, 10:46 photocopying, generally, 10:101 to Schuchart & Associates v. Solo Serve 10:126 Corp., 10:116 political uses, above Section 107, 10:11, 10:12, 10:15, App religious uses, below 10-A, App 10-B reverse engineering, 10:58 Sections 108(f)(2) and (4), App 10-C, sell products, advertisements that, **App 10-D** 10:29 Section 118(f), **App 10-E**, **App 10-F** specific types of uses, generally, Sections 504(c)(2)(i) and (ii), App 10:23 to 10:137 10-G, App 10-H Tin Pan Apple v. Miller Brewing, Small uses, **10:154** 10:32 Social media, 10:137.60 transformative uses, 10:21 Society of the Holy Transfiguration Wainwright Securities v. Wall Street Monastery, Inc. v. Archbishop Transcript Corp., 10:25 Gregory of Denver, Colorado, Wright v. Warner Books, 10:48 10:137.50 Purpose and role of use, 10:1.50 Sony Corp. of America v. Universal City "Quantity and value of materials used," Studios 10:6 court of appeals, 10:85 Rebroadcasts. News clipping services district court, 10:84 and rebroadcasts, above off-air taping, 10:83 to 10:86 Red label music publishing v. chila potential market for or value of productions, 10:51.50 copyrighted work, effect of, Religious uses 10:146 to 10:148 generally, 10:133 to 10:137 Supreme Court, 10:86

FAIR USE DEFENSE—Cont'd FAIR USE DEFENSE—Cont'd Statutes, generally, **10:1, 10:8 to 10:10** Wihtol v. Crow, **10:102**, **10:134**, **10:137** Williams & Wilkins v. United States, Statutory evolution 10:103 Section 107, **App 10-A** Worldwide Church of God v. Philadel-Section 118(f), App 10-E phia Church of God, 10:136 Sections 108(f)(2) and (4), App 10-C Wright v. Warner Books, 10:48 Sections 504(c)(2)(i) and (ii), App 10-G **FALSE FACTS** Substantiality, 10:124 Infringement, 17:113 Summary judgment, 10:159 FAMILIAR SYMBOLS AND DESIGNS Supreme court, 10:86 Visual works, 4:17 Supreme Court decision, 10:35.33 Swatch Group Management Services FEDERAL CIRCUIT Ltd. v. Bloomberg L.P., 10:80.30 Substantial similarity, **9:278** Television Digest v. United States Telephone Association, 10:120 FEDERAL CLAIMS Third-party claims, 10:158 Venue, 17:203, 17:204 Tin Pan Apple v. Miller Brewing, 10:32 FEDERAL CLAIMS COURT Toksvig v. Bruce Publishing, 10:37 Preemption, 18:50 Transformative uses, 10:21, 10:142 Substantial similarity, 9:278 Twin Peaks Productions v. Publications International, 10:65 FEDERAL COMMON LAW OF Ty, Inc. v. Publications International. COPYRIGHT CONFLICTS 10:67 Choice of Law (this index) Unpublished works FEDERAL LAWS fair use, generally, App 10-K Limitation of actions, 20:42.60 legislative reports on fair use, App 10-L FEDERAL QUESTION nature of, 10:139 JURISDICTION Usurp of market, 10:150.10 Generally, 17:22 to 17:28 U.S. v. American Soc. of Composers, Classification proposal, 17:28 Authors and Publishers and Complete preemption, 17:23 Previews, 10:35.10 Constitutional substantiality, 17:27 Value Counterclaim, 17:25 generally, 10:125 Dismissal of properly removed case and potential market for or value of counterclaim arising under copycopyrighted work, effect of, right is pled, **17:25** above Facial versus factual attacks, 17:26, "quantity and value of materials" 17:27 used," 10:6 Forum non conveniens, 17:221 Visual Artists' Rights Act of 1990 FRCP 12(b)(1) and (6), **17:26**, **17:27** legislative reports, App 10-J Hagans v. Lavine, 17:27 text of Act, App 10-I Preemption, 17:23 Vulgarity, 10:92 Removal, generally, 17:22 to 17:28 Wainwright Securities v. Wall Street Section 411(a), 17:24 Transcript Corp., 10:25 Weighing factors, 10:9.10 FEDERAL RULES OF CIVIL Well-known, 10:93 **PROCEDURE** Widespread harm from small uses, Attorneys' fees, Rule 68, 22:213 to 10:154 22:220

FEDERAL RULES OF CIVIL PROCEDURE—Cont'd

Damages, Rule 65(a)(2), 22:166 Federal question jurisdiction, 17:26, 17:27

Joinder and indispensable parties, 21:33 to 21:35, 21:34, 21:35

Motion to dismiss, 9:86.50

Personal jurisdiction, 17:140, 17:141

Pleadings (this index)

Preliminary injunctions, 22:69

Standing to sue, 21:2

FEDERAL RULES OF EVIDENCE

Preliminary injunctions, 22:46, 22:47

FEDERAL - STATE PENDENT VENUE

Generally, **17:202**

FEEDS

Sound recordings, 14:90

Cable television and other secondary transmissions, 14:74, 14:76 to 14:78

Compulsory licenses and licensing, 14:74, 14:76 to 14:78, 14:118 to 14:120

Copyright Act of 1909 amendments, 1:52, 1:60

Jukebox, 14:118 to 14:120

Monetary damages, 22:111

Rates (this index)

FEIST PUBLICATIONS, INC. v. RURAL TELEPHONE SERVICE CO.

Construction and interpretation, 2:54 Electronic databases, 3:65 to 3:67 Substantial similarity, 9:126

FERGUSON v. NATIONAL **BROADCASTING CO.**

Substantial similarity, 9:187

FICTITIOUS ENTRIES AND OTHER **ANOMALIES**

Reproduction right, 9:18

FIDUCIARY RELATIONSHIP

Author and authorship, 5:10, 5:11, 5:13 Preemption, 18:22

FIFTH CIRCUIT

Limitation of actions, 20:33

Monetary damages, 22:134

Pictorial, graphic, and sculptural works, 3:143

Preliminary injunctions, 22:25

Reproduction right, 9:50

Substantial Similarity (this index)

FILTRATION

Reproduction right, 9:94 Scenes a faire, 4:27

FINAL JUDGMENT

Attorneys' fees, 22:220

FINANCIAL BENEFIT

Direct, vicarious liability, 21:68

FINANCIAL CONTRIBUTION

Contributory infringement, 21:48.50

FINANCIAL RUIN

Preliminary injunctions, 22:40

FINE ART LIMITATION

Pictorial, graphic, and sculptural works, 3:126

FINISHING WORK

Visual Artists Rights Act of 1990, 16:27

FINLEY CASE

Jurisdiction, 17:56

FIRST AMENDMENT

Noncopyrightable material, 4:44 Visual Artists Rights Act of 1990, 16:36

FIRST AVAILABILITY

Choice of law. 25:49

FIRST CIRCUIT

Computer programs, 3:91 Preliminary injunctions, 22:22 Reproduction right, 9:46

Substantial Similarity (this index)

Generally, 1:19

Ad Interim Act of 1905 revisions, 1:43

Amendments and revisions

FIRST COPYRIGHT ACT

generally, 1:20 to 1:44

Ad Interim Act of 1905, 1:43

Amnesty Act of 1893, 1:39

FIRST COPYRIGHT ACT—Cont'd FIRST COPYRIGHT ACT—Cont'd Amendments and revisions—Cont'd Library of Congress deposit amendment appeals amendment of 1861, 1:29 of 1867, 1:32 Louisiana Purchase Exposition Act of confederacy, 1:30 1904, 1:42 deposit amendment of 1846, 1:25 Mexico City Convention, 1:44 deposit amendment of 1859, 1:28 Notice revisions, 1:21, 1:35, 1:37 1897, **1:41** Penalties, 1:40 general revision of 1831, 1:23 Performance, 1:27 general revision of 1870, 1:33 Photography and deposit amendments of government works and penalties 1865, 1:31 amendments of 1895, **1:40** Postal amendment of 1855, 1:26 International Copyright Act of 1891, Post office amendment of 1879, 1:36 Print and notice amendments of 1874, jurisdictional amendment of 1819, 1:35 1:22 Prints and notice amendment of 1802, jurisdictional amendment of 1873, 1:21 1:34 Public performance amendment of 1856, Library of Congress deposit amend-1:27 ment of 1867, 1:32 Recordation amendment of 1834, 1:24 Louisiana Purchase Exposition Act of Revisions. Amendments and revisions, 1904. **1:42** above Mexico City Convention, 1:44 Useful-articles notice amendment of photography and deposit amendments 1882, **1:37** of 1865, **1:31** FIRST PUBLICATION postal amendment of 1855, 1:26 Choice of law, 25:49 post office amendment of 1879, 1:36 print and notice amendments of 1874, FIRST REFUSAL 1:35 Licenses, 5:125 prints and notice amendment of 1802, Standing to sue, 21:18 1:21 FIRST RESTATEMENT OF public performance amendment of CONFLICT OF LAWS 1856, **1:27** Choice of law, 25:7 recordation amendment of 1834, 1:24 useful-articles notice amendment of **FIRST SALE** 1882, 1:37 Distribution of Copies of Work (this Amnesty Act of 1893, **1:39** index) Appeals amendment of 1861, 1:29 FIRST TO FILE RULE Confederacy, 1:30 Jurisdiction, 17:50 Deposit revisions, 1:25, 1:28, 1:31, 1:32 Exclusive rights, **8:12** FISHER - PRICE, INC. v. WELLMADE TOY General revision of 1831, 1:23 General revision of 1870. 1:33 MANUFACTURING CORP. Substantial similarity, **9:154** Government works, 1:40 Government works and penalties FISHER v. UNITED FEATURE amendments of 1895, 1:40 SYNDICATE, INC. International Copyright Act of 1891, Substantial similarity, 9:255 1:38 **FIXATION** Jurisdictional amendment of 1819, 1:22 Jurisdictional amendment of 1873. 1:34 **Constitutional Law** (this index)

FIXATION—Cont'd

Preemption, 18:10, 18:11

Uruguay Round Agreements Act, 24:8

FIXED

Derivative works, **12:14** Reproduction right, **9:63**

FIXED EXPENSES

Monetary damages, 22:141

FLEA MARKETS

Vicarious liability, 21:69 to 21:71

FLEETING FAME

Preliminary injunctions, 22:39

FOGERTY v. FANTASY, INC.

Construction and interpretation, 2:55

FOGERTY v. MGM GROUP HOLDINGS CORP., INC.

Substantial similarity, 9:206

FOLIO IMPRESSIONS, INC. v. BYER CALIFORNIA

Substantial similarity, 9:153

FOLSOM v. MARSH

Fair use defense, **10:4 to 10:7** Reproduction right, **9:102**

FONOVISA, INC. v. CHERRY AUCTION INC.

Vicarious liability, 21:70

FONOVISA, INC. v. NAPSTER, INC.

Contributory infringement, 21:58

FOOD

Noncopyrightable material, **4:23.50**

FORD MOTOR CO. v. SUMMIT MOTOR PRODUCTS, INC.

Substantial similarity, 9:171

FOREIGN AUTHORS

Choice of law, 25:72

International Copyright (this index) Visual Artists Rights Act of 1990, **16:5**

FOREIGN CLAIMS

Choice of law, 25:84 Jurisdiction, 17:55

FOREIGN COUNTRIES

Choice of law, 25:71, 25:81.50

FOREIGN COUNTRIES—Cont'd

Formalities, 6:44

Personal jurisdiction, 17:145

Term of copyright, works first published overseas, 7:24.50

FOREIGN DEFENDANTS

Personal jurisdiction, 17:141

FOREIGN GOVERNMENTS

Government works, **4:86** Suits against, **21:90**

FOREIGN JUDGMENTS

Res judicata, 17:39.10

FOREIGN LAWS

Choice of law, 25:12, 25:73, 25:83

Evidence, 25:79

Extraterritoriality (this index)

Pleading and proof, 25:79

FOREIGN LITIGATION

Jurisdiction, 17:57 to 17:59, 17:58

FOREIGN REVENUES

Monetary damages, 22:150

FOREIGN TRANSFERS

Licenses, **5:135**

FOREIGN WORKS

Choice of law, 25:26

Reproduction right, 9:10

Uruguay Round Agreements Act, 24:23

FORFEITURE

Bankruptcy, forfeiting statutory dam-

ages, **22:165.50** Licenses, **5:154, 5:156**

FORMALITIES

Generally, 6:1 to 6:81

Abandonment, 6:45

Access to government works removes innocent infringer defense, **6:76**

Ad interim protection, 6:28

Amendments. Copyright Act of 1790, below

Antedated notices, 6:39

Architectural works, 6:31.50

Berne Implementation Act of 1988 generally, **6:74 to 6:79**

Index-62

FORMALITIES—Cont'd	FORMALITIES—Cont'd
Berne Implementation Act of 1988	Copyright Act of 1790—Cont'd
—Cont'd	revisions—Cont'd
access to government works removes	1954 Universal Copyright Conven-
innocent infringer defense, 6:76	tion, 6:46
Copyright Act of 1976 notice provi-	notice
sions, impact on, 6:74 to 6:76	collective works as covering
innocent infringement defense and	individual contributions, 6:43
mitigation of damages, 6:75	0.10
Section 405(a), curative notice provision, 6:77	Copyright Act of 1909, under, 6:36
Section 405(b), curative notice provi-	first published abroad, 6:44
sion, 6:77	form of, 6:37
17 USCA 401(d) statutory damages,	position of, 6:42
6:78	year date of, 6:38
visual artists' exception, 6:79	postdated notices, 6:40
Collective works, 6:43 , 6:65	publication
Constitutional law, 6:18	Acts before 1976, 6:30
Contracts and agreements, 6:70, 6:80	architectural works, 6:31.50
Contributions, 6:43	derivative works, 6:35
Copyright Act, generally, 6:1 to 6:3	exhibition of works of art, 6:32
Copyright Act of 1790	musical compositions embodied
generally, 6:19	phonorecords, 6:34
amendments. Revisions, below this	performance, 6:33
group	Universal Copyright Convention of
revisions	1954, 6:46
generally, 6:20 to 6:46	Copyright Act of 1802, 6:20
abandonment, 6:45	Copyright Act of 1909, 6:29 , 6:36
ad interim protection of 1905, 6:28	Copyright Act of 1976
antedated notices, 6:39	generally, 6:47 to 6:73 Berne Implementation Act of 1988,
centralization of copyright	6:74 to 6:76
administration in Library of	derivative works, publication of, 6:55
Congress of 1870, 6:25	display, publication by, 6:51
Copyright Act of 1802, 6:20	limited versus general publication,
Copyright Act of 1909, 6:29	6:50
1831 general revision, 6:21	musical compositions embodied in
1846, 6:22	phonorecords, publication of,
1859 deposit requirements, 6:23	6:53
1865, 6:24	notice, generally, 6:56 to 6:73
1870, 6:25	online and internet simultaneous pub-
1874, 6:26	lication, 6:55.40
1891 international copyright, 6:27	performance, publication by, 6:52
general revision of 1831, 6:21	publication, generally, 6:48
international copyright of 1891, 6:27	Section 401(a), general requirements, 6:57
limited versus general publication,	Section 401(b)(1), symbol, 6:59
6:31	Section 401(b)(2), year date, 6:60
name of owner, 6:41	Section 401(b)(3), name, 6:61
1905 ad interim protection, 6:28	Section 401(b), form of notice, 6:58

FORMALITIES—Cont'd FORMALITIES—Cont'd Copyright Act of 1976—Cont'd History before 1976 Copyright Act -Cont'd Section 401(c), position, **6:62** Section 402, phonorecords of sound constitutional law, 6:18 recordings, 6:63 Copyright Act of 1790, **6:19** Section 403, government works, 6:64 England, **6:16** Section 404, collective works, 6:65 France, **6:16** Section 405(a)(1), omission of notice Italy, **6:16** from "relatively small number of pre-1790 state statutes in U.S., 6:17 copies," **6:68** Infringement, 6:71, 6:75, 6:76, 17:64 Section 405(a)(2), registration of Innocence, 6:71, 6:75, 6:76 work within 5 years of publica-International copyright, 6:27 tion without notice but with rea-International laws, 6:80, 6:81 sonable efforts to add notice after Italy, 6:16 omission discovered, 6:69 Library of Congress, 6:25 Section 405(a)(3), notice omitted in Limited publication, 6:31, 6:50 violation of agreement, 6:70 Location and position, 6:62 Section 405(b), effect of omission on Manufacturing clause, 6:14 innocent infringers, 6:71 Mistake and error, 6:73 Section 405(c), removal of notice Mitigation of damages, 6:75 without authority of copyright Musical compositions embodied in phoowner, **6:72** norecords, publication of, 6:34, Section 405, omission of notice, **6:67** 6:53 to 6:71 Names Section 406, errors in name and/or Copyright Act of 1790, revisions, date of notice, 6:73 simultaneous publication, 6:55.40 Copyright Act of 1976, Section sound recordings, publication and 401(b)(3), **6:61** distribution of, 6:54 Copyright Act of 1976, Section 406, statutory definition, 6:49 errors in name and/or date of unit of publication rule, 6:66 notice. **6:73** Curative notice, **6:77** Notice Damages, 6:75, 6:78 generally, 6:5, 6:10 Defenses, 6:75, 6:76 Berne Implementation Act of 1988, Definition, statutory, 6:49 above Deposit, 6:6, 6:11 Copyright Act of 1790, above Derivative works, **6:35**, **6:55** Copyright Act of 1976, above Display, publication by, 6:51 Number. 6:68 Distribution, 6:54 Omissions, Copyright Act of 1976, 6:67 Embodiments, 6:34, 6:53 to 6:71, 6:68 England, **6:16** Online and Internet simultaneous publi-Exceptions, 6:79 cation, 6:55.40 Exhibition, 6:32 Performance, 6:33, 6:52, 6:81 Foreign countries, generally, 6:44 Phonograms, 6:81 France, **6:16** Phonorecords, 6:34, 6:53, 6:63 General publication, 6:31, 6:50 Publication General revision of 1831, 6:21 Copyright Act of 1790, above Government works, **6:64**, **6:76** Copyright Act of 1976, above History before 1976 Copyright Act Reasonable efforts, 6:69 generally, 6:15 to 6:19 Recordation, 6:13

FORMALITIES—Cont'd

Registration, 6:7, 6:12, 6:69

Relatively small number of copies, 6:68

Removal, 6:72, 6:76

Revisions. Copyright Act of 1790, above

17 USCA 401(d) statutory damages, **6:78**

Simultaneous publication, **6:55.40** generally, **6:9**

Sound recordings, 6:54, 6:63

State statutes, 6:17

Statutory damages, 6:78

Statutory definition, 6:49

Symbol, **6:59**

Time and date

Copyright Act of 1790, **6:38**, **6:40**

Copyright Act of 1976, **6:60**, **6:69**, **6:73**

Title and ownership, 6:41, 6:72

Unit of publication rule, 6:66

Universal Copyright Convention, 6:46

Uruguay Round Agreements Act, U.S. implementing legislation, **6:80**

U.S. formalities, 6:3

Visual artists' exception, 6:79

Visual Artists Rights Act of 1990, 16:14,

16:15

WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998, **6:81**

Works of art, 6:32

FORMAT

Noncopyrightable material, **4:11**, **4:11.50**, **4:12**

FOR PROFIT LIMITATION

Public performance, 14:9, 14:20

FORTNIGHTLY CORPORATION v. UNITED ARTISTS TELEVISION, INC.

Cable television and other secondary transmissions, **14:54**

Construction and interpretation, 2:44

FORTUITOUS AND INCIDENTAL REPRODUCTION

Fair use defense, 10:69

FORUM

Personal jurisdiction, 17:159, 17:168

FORUM NON CONVENIENS

Generally, 17:209 to 17:223

Alternate forum, existence of, 17:216 to 17:219

Conditional dismissals, 17:223

Copyright cases, 17:215, 17:222

Dismissals

conditional, 17:223

partial, 17:222.50

Dual rationales, 17:210

English history, 17:212

Federal question jurisdiction, 17:221

Gilbert case, 17:217

History, 17:212

History, Scotland, 17:211

Home town advantage, 17:219

Partial dismissals, 17:222.50

Private factors, 17:218, 17:219

Public factors, 17:220

Rationales, 17:210

Scotland, 17:211

FORUM SELECTION

Generally, 25:75 to 25:78

Clauses, 25:76

Exceptions, 25:77

Noncontractual disputes, 25:78

Personal jurisdiction, 17:179

Public policy exception, 25:77

Venue, 17:206

FORWARDS LOOKING REGISTRATIONS

Infringement, 17:90

FOURTH CIRCUIT

Monetary damages, 22:133

Pictorial, graphic, and sculptural works, 3:142

Preliminary injunctions, 22:24

Reproduction right, 9:49

Substantial Similarity (this index)

FOURTH ESTATE PUBLIC BENEFIT CORPORATION V. WALL-STREET.COM, LLC

Subject-matter jurisdiction, infringement, 17:83

FOURTH ESTATE PUBLIC BENEFIT CORP. V. WALL-STREET.COM

Construction and interpretation, 2:59.80

FOX NEWS NETWORK v. TVEYES,

Fair use defense, 10:80.10

FRAMING

Derivative works, **12:17 to 12:19** Display publicly, **15:7**

FRANCE

Formalities, **6:16** Historical background, **1:3**

FRANCHISE TAX BOARD v. CONSTRUCTION LABORERS VACATION TRUST FOR SOUTHERN CALIFORNIA

Subject-matter jurisdiction, 17:16

FRANKLIN v. NATIONAL WILDLIFE ART EXCHANGE, INC.

Substantial similarity, 9:167

FRATERNAL ORGANIZATIONS

Public performance, 14:49

FRAUD

Infringement, **17:121 to 17:126**Preemption, **18:37, 18:45, 18:46**

FRAUD ON COPYRIGHT OFFICE

Infringement, 17:121 to 17:126

FRAUDULENT CONCEALMENT

Limitation of actions, 20:50

FRAUDULENT WORKS

Originality, 3:41

FRCP

Federal Rules of Civil Procedure (this index)

FRE

Federal Rules of Evidence (this index)

FRED FISHER, INC. v. DILLINGHAM Reproduction right, 9:34

FRED FISHER MUSIC CO. v. M. WITMARK & SONS

Construction and interpretation, 2:41

FREEDOM OF INFORMATION ACT REQUESTS

Fair use defense, 10:73.25

FREELANCERS

Licenses, **5:140**

FREE TRADE AGREEMENTS

Bilateral Agreements, 23:42, 23:71

Central American-Dominican Republic Free Trade Agreement (CAFTA-DR), 23:70

GATT. General Agreement on Tariffs and Trade (GATT) (this index), 23:69

North American Free Trade Agreement (NAFTA), 23:55, 24:22

Regional agreements, 23:69

United States-Canada Free Trade Agreement (CFTA), 23:54

FUNDS AND FUNDING

Contributory infringement, 21:48.50 Government works, 4:60 to 4:62

FUNKHOUSER v. LOEW'S INC.

Substantial similarity, 9:229

FUNNY

Fair use defense, 10:95

FURNITURE

Pictorial, graphic, and sculptural works, 3:154

FURTHER TRANSMISSIONS

Public performance, 14:41

FUTURE GRANTS

Copyright Act of 1976, **7:47**

FUTURES

Assignment, 5:115

FUTURE WORKS

Permanent injunctions, **22:77**Section 411(a) injunctive relief, **22:6**

GAMES

Noncopyrightable material, 4:20

GARDNER v. NIKE

Transfer of interest of exclusive licensee, **5:103**

GASTE v. KAISERMAN

Substantial similarity, 9:152

GATES RUBBER CO. v. BANDO CHEMICAL INDUSTRIES, LTD.

Substantial similarity, 9:252

GATT

General Agreement on Tariffs and Trade (GATT) (this index)

GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

Importation, international exhaustion, 13:37.50

International copyrights, 23:56

Rental rights, 13:32

Uruguay Round Agreements Act (this index)

GENERALIZED SYSTEM OF PREFERENCES (GSP)

International copyrights, 23:51

GENERAL JURISDICTION

Personal jurisdiction, 17:145, 17:148 to 17:150

GENERAL PUBLICATION

Formalities, 6:31, 6:50

GENEVA PHONOGRAMS CONVENTION

International copyright, 23:13

GERMANY

Historical background, 1:4

GIBBS CASE

Jurisdiction, 17:54

GILBERT CASE

Forum non conveniens, 17:217

GOLAN v. HOLDER

Construction and interpretation, 2:59.50

GOLDSTEIN v. CALIFORNIA

Construction and interpretation, 2:45

GOOD FAITH

Fair use defense, 10:156

GOODWILL

Monetary damages, 22:107, 22:108, 22:138

Preliminary injunctions, 22:41

GOODYEAR DUNLOP TIRES OPERATIONS v. S.A.

Personal jurisdiction, 17:146

GOOGLE LLC V. ORACLE AMERICA

Construction and interpretation, 2:59.90

GOVERNMENT AGENCIES

Government works, 4:82 to 4:84

GOVERNMENTAL BODIES

Cable television and other secondary transmissions, **14:71**

Damages, recovery, 22:101.25 Fair use defense, 10:73

GOVERNMENT CENSORSHIP

Berne Convention Implementation Act of 1988, Article 17, 23:39

GOVERNMENT USE

Fair Use Defense (this index)

GOVERNMENT WORKS

Amendment, 4:65

"As a part" of official duties of officer or employee, **4:73**

Assignments of copyright to U.S. Government by contractors, **4:76**

Banks v. Manchester, **4:55**, **4:56**

Briefs, 4:85

Common law, 4:87

Compensation and wages, 4:59

Contractors, works by, **4:75 to 4:78**, **17:46**

Copies, 4:74, 4:87

Copyright Act of 1909, 4:63

Copyright Act of 1976. Noncopyrightable material, below

Court reporter transcripts, 4:88

Definitions

employee, 4:70

officer, **4:70**

United States, 4:72 to 4:74

"work of the United States Government," **4:69, 4:70**

Democratic political theory, private works funded by U.S. government, 4.61

Due process, private works funded by U.S. government, **4:62**

Employee defined, 4:70

GOVERNMENT WORKS—Cont'd GOVERNMENT WORKS-Cont'd First Copyright Act, 1:40 Noncopyrightable material—Cont'd democratic political theory, private Foreign governments, 4:86 works funded by U.S. govern-Formalities, **6:64**, **6:76** ment, 4:61 Funds and funding, 4:60 to 4:62 due process, private works funded by Government agencies, 4:82 to 4:84 U.S. government, 4:62 Incentives, 4:59 1983 Post Office amendment, **4:65** Joint works, 4:78 payment of government salaries and Jury instructions, 4:89 incentives, 4:59 Limitation of actions, 20:45 pre-Copyright Act of 1909 laws, 4:57 Litigation material, 4:85, 17:46 private works funded by U.S. govern-Local government, 4:81 ment, 4:60 to 4:62 Noncopyrightable material public policy, 4:58 generally, 4:54 to 4:88 sovereign immunity, 29 USCA Banks v. Manchester, **4:55**, **4:56** 1498(b), **4:66** Copyright Act of 1909, 4:63 Standard Reference Data Act of 1968, 4:67 Copyright Act of 1976 generally, 4:68 to 4:88 unpublished U.S. government works, "as a part" of official duties of Wheaton v. Peters, **4:55**, **4:56** officer or employee, **4:73** Officer defined, 4:70 assignments of copyright to U.S. Government by contractors, Overseas assertions, 4:80 4:76 Payment of government salaries and briefs and litigation material, 4:85 incentives, 4:59 common-law right to copy public Politics, 4:61 records, 4:87 Postal service. 4:79 contractors, works by, 4:75 to 4:78 Post Office, 4:65 court reporter transcripts, 4:88 Private contractor work for hire, **4:77** defining "work of the United States Private works funded by U.S. govern-Government," **4:69, 4:70** ment, 4:60 to 4:62 employee defined, 4:70 Publications, 4:81, 4:86 filing with or adoption by govern-Public policy, 4:58 ment agencies, 4:82 to 4:84 Public records, 4:87 joint works, 4:78 Records and recording, 4:82 to 4:84, officer defined, 4:70 4:87 overseas assertions. 4:80 Reports, 4:88 ownership of copies, 4:74 Salaries, 4:59 private contractor work for hire, Smithsonian Institute, 4:71 4:77 Sovereign immunity, 29 USCA 1498(b), publications by foreign governments, 4:86 Standard Reference Data Act of 1968, 4:67 Smithsonian Institute, 4:71 State government, 4:81 state and local governmental publications, 4:81 Subject-matter jurisdiction, 17:46 United States defined, 4:72 to 4:74 Title and ownership, 4:74 Transcripts, 4:88 U.S. Postal Service, 4:79 29 USCA. 4:66 "work of the United States Government," defining, 4:69, 4:70 United States defined, 4:72 to 4:74

GOVERNMENT WORKS—Cont'd

Unpublished U.S. government works, **4:64**

U.S. Postal Service, **4:79**Wheaton v. Peters, **4:55**, **4:56**Work for hire, **4:77**, **5:78.50**"Work of the United States Government," defining, **4:69**, **4:70**

GRABLE & SONS METAL PRODUCTS, INC. v. DARUE ENGINEERING & MANUFACTURING

Arising-matter jurisdiction, 17:21

GRANT V. TRUMP

Fair use defense, 10:132.90

GRAPHIC WORKS

Pictorial, Graphic, and Sculptural Works Embodied in Useful Articles (this index)

GRAY V. HUDSON

Substantial similarity, 9:247.50

GREENBERG v. NATIONAL GEOGRAPHIC SOCIETY

Licenses and licensing, 5:142.95

GREENBIE v. NOBLE

Fair use defense, 10:39

GREEN v. HENDRICKSON PUBLISHERS, INC.

Jurisdiction, 17:51

GROKSTAR CASE

Personal jurisdiction, 17:172

GROUP REGISTRATIONS

Infringement, 17:92

GRUBB v. KMS PATRIOTS, L.P.

Substantial similarity, 9:132

GULLY v. FIRST NATIONAL BANK IN MERIDIAN

Subject-matter jurisdiction, 17:15

HAGANS v. LAVINE

Federal question jurisdiction, 17:27

HAM CASE

Personal jurisdiction, 17:192, 17:193

HAMIL AMERICA, INC. v. GFI

Substantial similarity, 9:161

HANAGAMI V. EPIC GAMES, INC.

Substantial similarity, 9:247.60

HARDSHIPS, BALANCE OF

Preliminary injunctions, 22:62, 22:63

HARM

Fair use defense, 10:100, 10:150, 10:150.20, 10:152

Personal jurisdiction, **17:168**Public benefit from copying, **10:150**Visual Artists Rights Act of 1990, **16:21**

HARPER & ROW, PUBLISHERS, INC. v. NATION ENTERPRISES

Construction and interpretation, **2:49** Fair use defense, **10:149** Substantial similarity, **9:125**

HARPER & ROW v. AMERICAN CYANAMID CO.

Fair use defense, 10:112

HARPER & ROW v. SQUIBB CORP.

Fair use defense, 10:113

HARPER & ROW v. TYCO COPY SERVICE

Fair use defense, 10:111

HARTMAN v. HALLMARK CARDS, INC.

Substantial similarity, 9:231

HASBRO - BRADLEY

Choice of law, 25:20

HEIM v. UNIVERSAL PICTURES CO.

Reproduction right, 9:119

HEIN v. HARRIS

Reproduction right, 9:33

HELICOPTEROS NACIONALES DE COLOMBIA, S.A. v. HALL

Personal jurisdiction, 17:145

HELMETS, HEADGEAR, AND SHOES

Useful articles, 3:152.50

HERBERT ROSENTHAL JEWELRY CORP. v. HONORA JEWELRY CO.

Substantial similarity, 9:146

HILL v. PUBLIC ADVOCATE OF THE UNITED STATES

Fair use defense, 10:132.70

HISTORY

Generally, 1:1 to 1:122

Author and authorship, 5:34

"Balance" metaphor, 1:1.50

Choice of Law (this index)

Colonial period, state laws, 1:16, 1:17

Constitutional law, 1:18, 3:3

Construction and Interpretation (this index)

Contribution to collective works, **5:142** to **5:142.90**

Contributory infringement, 21:51

Copyright Act of 1976 (this index)

Derivative works, 3:51

Display publicly, 15:2

Distribution of copies of work, 13:20

England (this index)

Fair use defense, 10:15, 10:18, 10:19, 10:69.50

Formalities (this index)

Forum non conveniens, 17:211, 17:212

France, 1:3

Germany, 1:4

Impoundment, seizure, and destruction, 22:82

Licenses, 5:122

Limitation of Actions (this index)

Monetary damages, 22:115, 22:116

Noncopyrightable Material (this index)

Originality, 3:26

Papal printing privileges, 1:2.50

Pictorial, graphic, and sculptural works, 3:98 to 3:101, 11:13

Preemption, 18:3 to 18:8

Preliminary injunctions, 22:45

Privileges, 1:2

Public Performance (this index)

Reproduction Right (this index)

Sound recordings, 5:89

State laws, 1:16, 1:17

HISTORY-Cont'd

Statute of Anne. **England** (this index)

Subject-matter jurisdiction, 17:5

Term, 7:1, 7:4 to 7:6

Venetian privileges and statutes, 1:2

HOEHLING v. UNIVERSAL CITY STUDIOS, INC.

Substantial similarity, 9:149

HOLDREDGE v. KNIGHT PUBLISHING

Fair use defense, 10:40

HOLISTIC APPROACH TO RESOLUTION OF AMBIGUITY

Construction and interpretation, holistic approach to resolution of ambiguity, **2:21**

HOLMES GROUP, INC. v. VORNADO AIR CIRCULATION

Subject-matter jurisdiction, 17:19

HOMAGES

Fair use defense, 10:73.50

HOME TOWN ADVANTAGE

Forum non conveniens, 17:219

HONOR

Visual Artists Rights Act of 1990, 16:21

HOOKAHS

Pictorial, graphic, and sculptural works, 3:154

HORTICULTURE

Public performance, 14:46

HOTEL RELAYING

Cable television and other secondary transmissions, **14:67**

"HOT" NEWS

Preemption, 18:39, 18:40

HOUSEKEEPING

Copyright Act of 1909 amendments, **1:48**

HOUSE OF BRYANT PUBLICATIONS, LLC v. A&E

TELEVISION NETWORK

Fair use defense, 10:72.25

INDEX

HULL DESIGN

Copyright Act of 1976 amendments, **1:106**

HUMOROUS

Fair use defense, 10:95

HUNGERSTATION LLC V. FAST CHOICE LLC

Personal jurisdiction, 17:166.75

HYPOTHETICAL JURISDICTION

Generally, 17:2

IDEA

Noncopyrightable Material (this index)

IDEA - EXPRESSION DICHOTOMY

Computer programs, **3:82 to 3:85 Noncopyrightable Material** (this index)

IDEAL TOY CORP. v. FAB - LU, LTD.

Substantial similarity, 9:144

IDENTIFICATION

Copyright Act of 1909 amendments, **1:64**

Fair use defense, 10:151

Noncopyrightable material, **4:37** Pleadings, **19:6**

ILLICIT PURPOSES

Originality, **3:40**

ILLUSTRATIVE USES

Fair use defense, 10:12

IMAGES

Infringement, 17:86

IMMORALITY

Preemption, 18:20

IMMORAL OR OBSCENE WORKS

Originality, 3:42 to 3:44

IMMUNITY

DMCA, 21:87

Qualified immunity, 21:88.20

Sovereign immunity, 21:87, 21:88

Territories, 21:88.10

Tribal immunity, 21:89

Uruguay Round Agreements Act, 24:42, 24:50

IMMUNITY—Cont'd

Visual Artists' Rights Act of 1990, 16:48

IMPLIED CONTRACTS

Preemption, 18:28

IMPLIED LICENSES

Generally, **5:131**, **5:132**

Revocation, 5:132

IMPLIED NEGATIVE COVENANTS

Author and authorship, 5:10, 5:11

IMPORTATION

Generally, 13:34 to 13:47

Berne Convention, 13:37

Confusion over extraterritoriality,

13:44.10

Construction and interpretation, 13:44

Copyright Act of 1909, **1:57, 13:41**

Copyright Act of 1976

generally, 13:42 to 13:47

construction and interpretation of Section 109(a) and Section 602(a)(1), **13:44**

distribution within United States,

13:46.40

exportation right, 13:46.50

importer defined, 13:43

L'anza decision, 13:45

Omega S.A. v. Costco Wholesale

Corp., **13:46**

overseas copies, 13:46

Section 603, 13:47

Supreme Court, L'anza decision, 13:45

Definition of importer, 13:43

Distribution of copies of work, generally, **13:34 to 13:47**

Distribution within United States,

13:46.40

England, 13:36

Exhaustion of distribution right,

13:36.50

Exportation right, 13:46.50

Extraterritoriality, 13:44.10

GATT, international exhaustion, 13:37.50

Importer defined, 13:43

International exhaustion, 13:37.50

L'anza decision, 13:45

Modern European Union law, 13:38

IMPORTATION—Cont'd

Omega S.A. v. Costco Wholesale Corp., 13:46

Pre-Copyright Act of 1909, 13:40

Section 109(a), 13:44

Section 602, **13:39**

Section 602(a)(1), 13:44

Section 602, generally, **13:34 to 13:47**

Section 603, 13:47

Statutes, generally, 13:39 to 13:47

Supreme Court, L'anza decision, 13:45

TRIPS, international exhaustion, 13:37.50

U.S. law, 13:39, 13:40

U.S. law, generally, 13:39 to 13:47

WIPO treaties, 13:37

IMPORTER

Definition, 13:43

IMPOUNDMENT, SEIZURE, AND DESTRUCTION

Generally, 22:82 to 22:84

Copyright Act of 1909, 22:82

Copyright Act of 1976, 22:84

Destruction, generally, 22:87

pre-trial asset freeze, 22:87.50

Ex parte relief, seizure, generally, 22:85

History of statutory provisions, 22:82

Impoundment, generally, 22:86

Pre-trial asset freeze, 22:87.50

Section 503, generally, 22:82 to 22:84

Section 509, generally, 22:82 to 22:84

Statutes, generally, 22:82

Supreme Court rules, 22:83

IMPROPER VENUE

Generally, 17:207

INCENTIVES

Government works, 4:59

INCIDENTAL FEEDS

Sound recordings, 14:90

INCIDENTAL, NONFORTUITOUS USES

Fair use defense, 10:70 to 10:72.25

INCIDENTAL REPRODUCTION

Fair use defense, 10:69

INDEMNIFICATION

Preemption, 18:31, 18:33

INDEPENDENT COVENANT

Jurisdiction, 17:43

INDEPENDENT CREATION

Originality (this index)

Reproduction Right (this index)

INDEPENDENT ECONOMIC LIFE THEORY

Monetary damages, 22:190

INDEPENDENT LIABILITY

Vicarious liability, 21:80

INDEPENDENT SOURCE OF LAW

Choice of law, 25:33 to 25:35

INDEXES AND INDEXING

Fair use defense, 10:24 to 10:27.50 Noncopyrightable material, 4:10

INDIRECT PROFITS

Damages (this index)

INDISPENSABLE PARTIES

Joinder and Indispensable Parties (this index)

INDIVIDUAL LIABILITY

Vicarious liability8212Individual liability of company officers, employees, shareholders, and agents, 21:81

INDIVISIBILITY

Licenses, 5:120

INDUCEMENT

Vicarious liability, 21:79

INDUSTRY

Specific jurisdiction copyright cases, 17:170

INFERENCE

Reproduction right, 9:30

INFERENTIAL ACCESS

Reproduction right, 9:25

INFORMERCIALS

Motion pictures and other audiovisual works, 3:158

INFRINGEMENT—Cont'd **INFRINGEMENT** Electronic databases, 3:68 Advice of Register of Copyrights, 17:125.50 Enforcement, 17:82 APA review, 17:95 **Enforcement of Intellectual Property** Rights Act of 2008, 17:125.50 Appeal and review, **17:95**, **17:97** Evidence. Prima facie case, below Architectural plans, 3:105 Exclusive rights in work, unauthorized Attachment, 17:94 exercise of, **17:63** Author and authorship, 5:39, 17:61 Extraterritoriality, 25:87 Automatic Renewal Act of 1992, 17:117 Fair use defense, 10:8.25 Backwards-looking registrations, 17:89 False facts. 17:113 Bad acts, defendant's, 17:82.50 Formalities, 6:71, 6:75, 6:76, 17:64 Berne Convention Implementation Act of 1988, **17:79**, **23:38** Forwards-looking registrations, 17:90 Fraud, 17:121 to 17:126 Cancellation of registration after filing of suit, 17:85 Fraud on copyright office, 17:121 to 17:126 Case law, 17:118 Group registrations, Section 408(c), Certificate of registration. Subject-matter jurisdiction, below 17:92 Images, works consisting of, Section Chevron case, 17:99 411(b), **17:86 Choice of Law** (this index) Jurisdiction Collective works, 17:91 arising under jurisdiction, 17:40 Competing registrations, 17:120 subject-matter jurisdiction, below Compilations, 17:112 Jury determination, 17:124.50 Compliance, 17:82.50 Licenses, 5:143 Computer programs, 17:130 Limitation of actions, ongoing infringe-Constitutional law. 3:24 ment, 20:21 to 20:24 Contributory Infringement (this Live broadcasts, Section 411(b), index) 17:86.50 Copies, 17:94, 17:119 Mandamus, 17:95 Copyright Act of 1909, **1:66, 17:115** Materiality, 17:123 to 17:125 Copyright Act of 1976, **1:100, 17:116** Mead case, 17:101 Copyright Act of 1992, **17:118** Mistake and error, 17:121 to 17:125 Copyright Office Misuse, 17:121 to 17:125, 17:128 fraud on copyright office, 17:121 to Multiple classes, 17:93.50 17:126 Notice, 17:91.50, 17:130 subject-matter jurisdiction, below **Permanent Injunctions** (this index) Copyright Reform Act of 1993, 17:80 Personal jurisdiction, 17:158, 17:160 Damages recovery against United States Pictorial, graphic, and sculptural works, government, 22:101.25 3:115.50 Defendant's bad acts, 17:82.50 Pleading registration number, attach-Deposit copy, failure to supply correct, ment of copy of, 17:94 Pleadings, **19:10** Derivative works, 3:58, 12:12, 17:88, 17:112 Post Reed Elsevier, Inc. v. Muchnick, recent subject-matter jurisdiction Disclosure decisions, 17:83.60 derivative works and compilations, Post-registration damages, 22:201.25 17:112 trade secrets by filing with copyright **Preliminary Injunctions** (this index) office, 17:132.50 Preparation of derivative works, Display publicly, 15:4 to 15:7 infringement of right, 12:14.50

INFRINGEMENT—Cont'd INFRINGEMENT—Cont'd Preregistration, 17:81 Subject-matter jurisdiction—Cont'd Copyright Office actions, standard of Prima facie case deference due **Reproduction Rights** (this index) generally, 17:98 to 17:106 subject-matter jurisdiction, 17:114 to Chevron case, 17:99 17:118 Records and recording. Subject-matter Mead case, 17:101 jurisdiction, below Skidmore case, 17:100 Reed Elsevier, Inc. v. Muchnick, recent Supreme Court opinions, 17:98 to subject-matter jurisdiction decision, 17:101 17:83.50 Copyright Office, standard of defer-Register of Copyrights, advice from, ence due 17:125.50 explanation of Office decision, Registration. Subject-matter jurisdiction, 17:105 below general deference, 17:102 Renewal certificates. Subject-matter registration determinations, 17:103 jurisdiction, below scope determinations, 17:106 **Reproduction Rights** (this index) separability cases, 17:104 Rule-of-doubt registrations, 17:129 to exclusive rights in work, unauthorized 17:131 exercise of, **17:63** Scenes a faire, **4:25** before filing suit, Section 411(a), gen-Scope determinations, 17:106 erally, 17:77 to 17:82.50 Scope of registration, 17:110 Fourth Estate Public Benefit Corpora-Secondary liability, 21:40 tion v. Wall-Street.com, LLC, Section 408(a), **17:93** 17:83 jury trial, **17:124.50** Section 408(c), **17:92** Section 410(c). Subject-matter jurisdicnotification of filing of action, tion, below 17:91.50 Separability cases, 17:104 ownership of right sued upon, 17:62 Single work registrations, Section post Reed Elsevier, Inc. v. Muchnick, 408(a), 17:93 17:83.60 Skidmore case, 17:100 preConstitutional state statutes, 17:64.20 Sound recordings, 3:163, 11:17 recent 411(a) jurisprudence, 17:83.60 Sounds, works consisting of, Section 411(b), **17:86** recent jurisprudence, 17:83.50 Standing to sue, 21:22 records and recording, before filing Statutory formalities, compliance with, suit, Section 411(a), generally, 17:64 17:77 to 17:82.50 Subject-matter jurisdiction records and recording. Registration, below this group generally, 17:60 to 17:132.50 Reed Elsevier, Inc. v. Muchnick, authorship, protected work of, 17:61 17:83.50 cancellation of registration after filing registration of suit. 17:85 generally, 17:77 to 17:82.50 certificate of registration. Renewal certificates, below this group accuracy of public record, 17:122 competing registrations, 17:120 action to cancel, 17:108 Copyright Act of 1790, 17:64.30 actual registration or rejection requirement, 17:78 Copyright Act of 1909, 17:64.40

APA review, 17:95

appeal and review, 17:95, 17:97

Copyright Act of 1976, legislative history, **17:64.50**

INFRINGEMENT—Cont'd INFRINGEMENT—Cont'd Subject-matter jurisdiction—Cont'd Subject-matter jurisdiction—Cont'd registration—Cont'd registration—Cont'd registering the right category of backwards-looking registrations, 17:89 work, 17:78.10 Berne Convention Implementation renewal certificates, below this Act, 17:79 group cancellation of registration after requirement from 1710-1909, filing of suit, **17:85** 17:64.10 certificate of registration, attachrule-of-doubt registrations, 17:129 ment of copy of, 17:94 to 17:131 certificate of registration, single work registrations, Section subsequently obtaining, 17:84 408(a), **17:93** sounds, works consisting of, Seccollective works, 17:91 competing registrations, 17:120 tion 411(b), **17:86** statutory formality, 17:64 compliance, 17:82.50 supplementary registration, 17:132 computer programs, 17:130 deposit copy, failure to supply cortrade secret disclosure, 17:132.50 rect, 17:87 unclean hands, 17:125, 17:127 derivative works, 17:88 unclean hands, and misuse, 17:121 to 17:125 enforcement, 17:82 validity, 17:107 Enforcement of Intellectual Propvalidity of copyright and facts erty Rights Act of 2008, stated in certificate, Section 17:125.50 forwards-looking registrations, 410(c), below this group 17:90 registration determinations, 17:103 fraud on Copyright Office, 17:121 registration requirement from 1710to 17:126 1909, generally, **17:64.10** group registrations, Section 408(c), renewal certificates 17:92 generally, 17:114 to 17:118 historical requirements, generally, Automatic Renewal Act of 1992, 17:64.10 17:117 images, works consisting of, Seccase law, 17:118 tion 411(b), **17:86** Copyright Act of 1909, **17:115** immaterial errors, 17:123, 17:125 Copyright Act of 1976, **17:116** jury trial, 17:124.50 Copyright Act of 1992, **17:118** mandamus, 17:95 prima facie status, 17:114 to material errors, 17:124, 17:125 17:118 mistake and error, 17:121 to Section 411(a), before filing suit, gen-17:125 erally, **17:77 to 17:82.50** misuse, 17:128 1710-1909 registration requirement, 1983 notice of inquiry, **17:130** generally, 17:64.10 1993 Copyright Reform Act, 17:80 state statutes before Constitution, notification of filing of action, 17:64.20 17:91.50 statutory formalities, compliance patent bar, 17:132.60 with, 17:64 pleading registration number, validity of copyright and facts stated attachment of copy of, 17:94 in certificate, Section 410(c) preregistration, 17:81 generally, 17:109 to 17:113 refusal to register, 17:95 to 17:97 compilations, 17:112

INFRINGEMENT—Cont'd

Subject-matter jurisdiction—Cont'd validity of copyright and facts stated in certificate, Section 410(c)
—Cont'd

derivative works, 17:112

disclosure of derivative works and compilations, 17:112

facts, 17:111

false facts. 17:113

scope of registration, 17:110

Supplementary registration, 17:132

Supreme Court opinions, 17:98 to 17:101

Technological protection measures and copyright rights management information, 16A:4.50

Title and ownership, 17:62

Trade secrets, disclosure by filing with copyright office, **17:132.50**

Unclean hands, 17:121 to 17:125, 17:127

Uruguay Round Agreements Act, 24:40, 24:44

Validity. Subject-matter jurisdiction, above

Work of an infringing derivative work, 12:16.10

IN RE AIMSTER COPYRIGHT LITIGATION

Contributory infringement, **21:60** Vicarious liability, **21:76**

INJUNCTIVE RELIEF

Permanent Injunctions (this index)
Pre-1976 Copyright Acts, 22:3, 22:4
Preliminary Injunctions (this index)
Remedies, 22:6
Section 411(a), 22:6
Visual Artists Rights Act of 1990, 16:46

INLINE LINKING

Derivative works, 12:17 to 12:19

INNOCENCE

Formalities, **6:71**, **6:75**, **6:76**Monetary damages, **22:177**, **22:178**

"IN NO OTHER MANNER"

Computer programs, 11:38

INPUT AS MAKING COPY

Computer programs, 11:36

INSOLVENCY

Preliminary injunctions, 22:40

INSTANCE AND EXPENSE TEST

Work made for hire, **5:70**, **5:87**

INSTRUCTION

Public Performance (this index)

INSTRUCTIONAL DISPLAYS

Display publicly, 15:11

INSTRUCTIONAL SECONDARY TRANSMISSIONS

Section 111(a), 14:68

INSTRUMENTALITIES

Work made for hire, 5:56

INSURANCE

Fair use defense and insurance claims, 10:73.40

INTANGIBLE PROPERTY

Choice of law, **25:11**Title and ownership, **5:97**

INTEGRITY

Visual Artists Rights Act of 1990 (this index)

INTELLECTUAL PROPERTY PROTECTION AMENDMENT OF 2004

Generally, 1:112

INTELLECTUAL PROPERTY TORTS

Personal jurisdiction, 17:167

INTENDED AUDIENCE

Reproduction right, 9:70

INTENT

Joint Authorship (this index)

Personal jurisdiction, 17:160, 17:167

Preemption, 18:20

Reproduction right, 9:5, 9:100

Uruguay Round Agreements Act, 24:42, 24:45, 24:49, App 24-B

Visual Artists Rights Act of 1990, **16:19**, **16:22**

INTERACTIVE SERVICES

Sound recordings, 14:92, 14:95

INTERDEPENDENT AND INSEPARABLE JOINT WORKS

Author and authorship, 5:6

INTERFERENCE

Preemption, 18:30

INTERIM AMENDMENT

Copyright Act of 1909, 1:50

INTERIM EXTENSIONS

Copyright Act of 1976, **7:28**

INTERIM INJUNCTION

Generally, 22:7

INTERNAL REVENUE SERVICE

Liens, Copyright Act of 1976, **5:150**

INTERNATIONAL ACTS AND MATTERS

See also index topics beginning Foreign

Choice of law, 25:32 to 25:35

Copyright Act of 1909 amendments, **1:49**

First Copyright Act revisions, 1:38

International amendments of 1914, 1:49

International Copyright (this index)

Personal jurisdiction, 17:143 to 17:146

TRIPS (this index)

Uruguay Round Agreements Act (this index)

WIPO Copyright and Performances and Phonograms Treaties Implementation Act of 1998, **6:81**

INTERNATIONAL COPYRIGHT

Generally, 23:1 to 23:76

Ad Interim Act of 1905, 23:7

Amendments, 23:12, 23:15

Andean Trade Preference Act, 23:69

Berne Convention Implementation Act of 1988 (this index)

Bilateral agreements, 23:71

Brussels Satellite Convention, 23:14

Buenos Aires Convention of 1910, 23:9

CAFTA-DR, 23:70

Canada, 23:54

Caribbean Basin Economic Recovery Act (CBI), **23:50**

INTERNATIONAL COPYRIGHT

-Cont'd

Chace Act, 23:4

Competition, 23:53

Contracts and agreements, 23:71

Copyright Act of 1909, 23:8

Copyright Act of 1976 as amended, 23:15

Customs service and Section 603, 23:73, 23:74

European Union, 23:76

database directive, 23:77

single market directive, 23:78

Foreign authors. U.S. protection of foreign authors, below

Formalities, 6:27

General Agreement on Tariffs and Trade (GATT), **23:56**

Generalized System of Preferences (GSP), **23:51**

Geneva Phonograms Convention, 23:13

International Copyright Act of 1891, 1:38

International Trade and Investment Act of 1984. 23:52

International trade commission, 23:75

Investments, 23:52

Louisiana Purchase Exposition Act of 1904, **23:6**

Manufacturing clause, 23:72

Mexico City Copyright Convention of 1902, **23:5**

North American Free Trade Agreement (NAFTA), **23:55**

Omnibus Trade and Competitiveness Act of 1988, 23:53

Phonograms, 23:13

Regional trade agreements, 23:69 to 23:71

Section 337 actions, 23:75

Section 603, 23:73, 23:74

Self-executing, 23:1.50

Tariffs, 23:56

Trade legislation

generally, 23:49 to 23:68

international agreements

generally, 23:49 to 23:56

Caribbean Basin Economic Recovery Act (CBI), **23:50**

INTERNATIONAL COPYRIGHT —Cont'd

Trade legislation—Cont'd international agreements—Cont'd General Agreement on Tariffs and Trade (GATT), 23:56

Generalized System of Preferences (GSP), **23:51**

International Trade and Investment Act of 1984, 23:52

North American Free Trade Agreement (NAFTA), 23:55, 24:22

Omnibus Trade and Competitiveness Act of 1988, **23:53**

United States-Canada Free Trade Agreement (CFTA), 23:54

TRIPS (this index)

TRIPS (this index)

United States-Canada Free Trade Agreement (CFTA), 23:54

Universal copyright convention, 23:11, 23:12

U.S. International Trade Commission, Section 337 actions, **23:75**

U.S. protection of foreign authors generally, 23:1 to 23:15

Ad Interim Act of 1905, 23:7

Berne Convention, 23:10

Brussels Satellite Convention, **23:14**Buenos Aires Convention of 1910, **23:9**

Chace Act, 23:4

Copyright Act of 1909, 23:8

Copyright Act of 1976 as amended, 23:15

1837-1891, 23:3

Geneva Phonograms Convention, 23:13

Louisiana Purchase Exposition Act of 1904, **23:6**

Mexico City Copyright Convention of 1902, **23:5**

revision to universal copyright convention, 1971, 23:12

universal copyright convention, 23:11, 23:12

WIPO Treaties (this index)

INTERNATIONAL COPYRIGHT ACT OF 1891

Distribution of copies of work, 13:6.50

INTERNATIONAL COPYRIGHT ACT OF 1891—Cont'd

First Copyright Act revisions, 1:38

INTERNATIONAL SCOPE

Choice of law, 25:40

INTERNATIONAL TORTS AND EFFECTS TEST

Specific jurisdiction, 17:161

INTERNATIONAL TRADE AND INVESTMENT ACT OF 1984

International copyrights, 23:52

INTERNATIONAL TRADE COMMISSION

International copyright, 23:75

INTERNET

Cable television and other secondary transmissions, streaming of television programming, **14:79.50**

Choice of law, simultaneous publication on Internet, **25:18.50**

Contributory Infringement (this index)

Derivative works, **12:17 to 12:19**

Fair use defense, 10:27.50, 10:60

Formalities, simultaneous publication, **6:55.40**

Personal Jurisdiction (this index)

Public performance, Internet streaming, 14:79.50

Simultaneous publication on Internet, **6:55.40**, **25:18.50**

Sound recordings, webcasting rates, 14:89.50

Strict liability, 21:39

Vicarious Liability (this index)

INTERNET SEARCH ENGINES

Fair use defense, 10:27.50

INTERPLEADER

Generally, 17:197

INTERVENTION

Joinder and indispensable parties, 21:35

INTERVIEWS

Author and authorship, 5:19

INVERSE RATIO THEORY

Reproduction rights, 9:91

INVESTMENTS

International copyrights, 23:52

IOWA STATE UNIVERSITY
RESEARCH FOUNDATION v.
AMERICAN BROADCASTING
COS.

Fair use defense, 10:45

IRREPARABLE HARM

Preliminary Injunctions (this index)

ITALY

Formalities, 6:16

ITAR - TASS RUSSIAN NEWS AGENCY v. RUSSIAN KURIER, INC.

Choice of law, 25:31, 25:44

JACOBSEN v. DESERET BOOK CO.

Substantial similarity, 9:257

JANMARK CASE

Personal jurisdiction, 17:169

JCW INVESTMENT, INC. v. NOVELTY, INC.

Substantial similarity, 9:223.50

JEFFREY v. BOOSEY

England and Statute of Anne, 1:10

JEWELL - LASALLE REALTY COMPANY v. BUCK

Construction and interpretation, 2:39

JEWELRY

Generally, 3:148

J. MCINTYRE MACHINERY, LTD. v. NICASTRO

Personal jurisdiction over nonresidents, 17:146.50

JOHNS & JOHNS PRINTING CO. v. PAULL - PIONEER V. MUSIC CORP.

Substantial similarity, 9:227

JOHNSON v. AUTOMOTIVE VENTURES

Substantial similarity, 9:183

JOHNSON v. GORDON

Substantial similarity, 9:136

JOINDER AND INDISPENSABLE PARTIES

Generally, 21:32 to 21:36

Defendants, 21:36

FRCP 19, 21:34

FRCP 24, **21:35**

FRCP Section 501(b), 21:33 to 21:35

Intervention, FRCP 24, 21:35

Section 501(b), generally, **21:33 to 21:35**

JOINT AND SEVERAL LIABILITY

Costs of action, 22:222.50

Monetary damages, 22:114, 22:194 to 22:197, 22:201.25

JOINT AUTHORSHIP

Generally, **5:4 to 5:43.50**

Affirmative defense, **5:43.50**

Assertion of joint authorship is not an affirmative defense, **5:6.50**

Childress case, 5:15, 5:16

Contribution as independently copyrightable, **5:15**

Definitions, 5:4

Derivative works, **5:43**, **12:23**

Discovery accrual, 5:41.50

Economic consequences

generally, **5:7 to 5:11**

accounting claims, 5:9

controlled composition clauses, **5:8** waste, implied negative covenants,

and fiduciary relation, 5:10, 5:11

Fiduciary relationship, **5:13** Intent

generally, 5:20 to 5:31

billing, **5:25**

credit, **5:25**

dominant author theory, 5:24

nature of requirement, 5:21

objective criteria, generally, **5:22 to 5:27**

physical proximity, 5:30

proper approach to determining, 5:29

question of fact, 5:31

registration with Copyright Office,

5:27

relative contributions of parties and decision-making authority over work. **5:23**

JOINT AUTHORSHIP—Cont'd

Intent—Cont'd subjective intent, **5:28** written agreements, **5:26**

Interdependent and inseparable joint works, **5:6**

Interviews, 5:19

Joint ventures, 5:12

Joint works and collective works contrasted, **5:5**

Limitation of actions

generally, 5:32 to 5:42

accrual in ownership claims, 5:41 case law, generally, 5:35 to 5:40 infringement, 5:39

Kling v. Hallmark Cards, Inc., **5:40** legislative history of Section 507(b), **5:34**

Merchant v. Levy, **5:37, 5:38** obviousness of owners, Kling v. Hallmark Cards, Inc., **5:40**

Section 507(b), **5:33**, **5:34**

tolling and ownership claims, 5:42

Zuill v. Shanahan, 5:36, 5:38

Motion pictures, 5:18.10

Nature of requisite expression, **5:18**

Non-joint authors who contribute expression, **5:17**

Originality, 5:14 to 5:16

Relative contributions of parties and decision-making authority over work, **5:23**

Sonny Bono Copyright Term Extension Act, **7:54**

Violation accrual, 5:41.50

Visual Artists Rights Act of 1990, 16:6

JOINT OR SEVERAL RECOVERY

Monetary damages, 22:198.50

JOINT OWNERSHIP

Pictorial, graphic, and sculptural works, **3:119**

JOINT VENTURES

Author and authorship, 5:12

JOINT WORKS

Author and authorship, **5:5** Government works, **4:78**

JOLLIE v. JAQUES

Reproduction right, 9:112

JONES v. BLIGE

Substantial similarity, 9:209.50

JONES v. R.R. DONNELLY & SONS CO.

Subject-matter jurisdiction, 17:20

JORGENSEN v. EPIC/SONY RECORDS

Substantial similarity, 9:164

JUDGE NEWMAN'S LITERARY WORK v. GRAPHIC WORK DISTINCTION

Noncopyrightable material, 4:38

JUDGMENT

Attorneys' Fees (this index)

Fair use defense, 10:159

Jurisdiction, 17:49, 17:49.50, 17:50

Limitation of actions, 20:56

Monetary damages, 22:183

Personal jurisdiction, 17:191 to 17:193

Preliminary injunctions, 22:40

Reproduction right, 9:40, 9:87

JUDGMENT AS A MATTER OF LAW

Fair use defense, 10:159

JUDGMENT ON THE PLEADINGS

Fair use defense, 10:159

JUDICIAL INTERPRETATIONS

Motion pictures and other audiovisual works, **3:157**

JUDICIAL ORIGINS OF DOCTRINE

Distribution of copies of work, 13:18

JUKEBOX

Generally, 14:99 to 14:121

Beneficiary of license, satellite carriers as, 14:107

Berne Convention Implementation Act of 1988, **14:103**

Broadcasting, 14:104

Burden of proof regarding status as unserved household, **14:117**

C-band grandfather clause, Section 119(a)(2)(B)(iii), **14:115**

JUKEBOX—Cont'd JUKEBOX—Cont'd Commercial establishments, Section Unserved household limitation, 14:112 119(d)(11), 14:114 Unserved household status, determina-Compulsory license fees, 14:118 to tion of, **14:116**, **14:117** 14:120 **JURISDICTION** Compulsory license, generally, 14:99 to Generally, 17:1 to 17:223 14:121 Ancillary issues. Pendent and ancillary Copyright Act of 1909, **14:100** issues, below Copyright Act of 1976, 14:101 et seq. Arbitration, 17:59 Covered transmissions, 14:110 Arising under jurisdiction. Subject Definitions of superstation and network **Matter Jurisdiction** (this index) station, 14:111 Article III, **17:49, 17:50** Direct broadcast satellites, status of. Case or controversy, 17:49, 17:49.50, 14:108 17:50 Distributors, role of, 14:109 Choice of law, 25:85 Evidence, 14:117 Claim preclusion, 17:59.10 Fees, 14:118 to 14:120 Colorado River case, 17:57 to 17:59 Grandfather clause, 14:113, 14:115 Declaratory judgment, 17:49, 17:49.50, Limitations and restrictions, 14:112, 17:50 14:121 ownership claims, 17:49.60 Network stations, 14:105 to 14:121 Deferral and arbitration, 17:59 Private home viewing, 14:105 to 14:121 Federal Question Jurisdiction (this Public broadcasting, Section 118, index) 14:104 Finley case, **17:56** Publicly perform, right to, generally, First Copyright Act revision of 1819, 14:99 to 14:121 1:22 Rates, 14:119, 14:120 First Copyright Act revision of 1873, Recreational vehicles, Section 1:34 119(d)(11), 14:114 First-to-file rule, 17:50 Reduction in rates, 1999, 14:119 Foreign claims, 17:55 Right to publicly perform, generally, 14:99 to 14:121 Foreign litigation, 17:57 to 17:59 Satellite carriers, **14:105 to 14:121** Gibbs case, supplemental jurisdiction, Secondary transmissions of supersta-17:54 tions and network stations by satel-Green v. Hendrickson Publishers, Inc. lite carriers to public for private state court jurisdiction, 17:51 home viewing, generally, 14:105 to Hierarchy of jurisdictional analysis, 14:121 17:3 Section 118, **14:104** Hypothetical jurisdiction, 17:2 Section 119, 14:115 Judgment, 17:49, 17:49.50, 17:50 Section 119(a)(5), **14:121** Native American tribal decision, Section 119(d)(11), **14:114** 17:57.50 Section 119(e), **14:113** Ownership claims, 17:49.60 Superstations, 14:105 to 14:121 Party jurisdiction, 17:56 Terminated service, 14:113 Pendent and ancillary issues Territorial restrictions, violation of, Secgenerally, 17:52 to 17:56 tion 119(a)(5), **14:121** pendent foreign claims, 28 USCA Transmissions, 14:105 to 14:121 1367(c)(3), **17:55** Trucks, Section 119(d)(11), 14:114 pendent party jurisdiction, Finley 2004 negotiated rate, **14:120** case, 17:56

JURISDICTION—Cont'd

Pendent and ancillary issues—Cont'd supplemental jurisdiction, 17:53 to 17:54.50

Pendent foreign claims, 28 USCA 1367(c)(3), **17:55**

Pendent party jurisdiction, Finley case, 17:56

Pending acts and matters, 17:57 to 17:59

Personal Jurisdiction (this index)

Records and recording, 17:50

Removal. **Federal Question Jurisdiction** (this index)

State court jurisdiction, 17:51

State litigation, 17:57, 17:57 to 17:59

Stay of claims pending outcome of state or foreign litigation, Colorado River case, 17:57 to 17:59

Subject Matter Jurisdiction (this index)

Supplemental jurisdiction, 17:53 to 17:54.50

T.B. Harms case. **Subject Matter Jurisdiction** (this index)

Tribal decision, stay pending, **17:57.50** 28 USCA, **17:55**

JURY INSTRUCTIONS

Government works, 4:89

JURY TRIAL

Fair use defense, 10:3
Infringement, subject-matter jurisdiction, 17:124.50
Monetary damages, 22:149, 22:164 to

22:167

JUSTIFICATION

Fair use defense, 10:13

JUST REWARD

Distribution of copies of work, 13:17

KADREY V. METAPLATFORS, INC.

Litigation over AI, 3:60.55

KARAOKE

Fair use defense, 10:72.50

KAY BERRY, INC. v. TAYLOR GIFTS, INC.

Substantial similarity, 9:173

KEELER BRASS CO. v. CONTINENTAL BRASS CO.

Substantial similarity, 9:180

KEENE v. WHEATLEY

Reproduction right, 9:110

KEEP THOMSON GOVERNOR COMMITTEE v. CITIZENS FOR GALLEN COMMITTEE

Fair use defense, 10:128

KEPNER - TREGOE, INC. v. LEADERSHIP SOFTWARE, INC.

Substantial similarity, 9:189

KIRTSAENG v. JOHN WILEY & SONS, INC.

Construction and interpretation, 2:59.20

KLING v. HALLMARK CARDS, INC.

Joint authorship, **5:40**

Limitation of actions, 5:40, 20:42

KNITWAVES, INC. v. LOLLYTOGS, LTD.

Substantial similarity, 9:155

KOHUS v. MARIOL

Substantial similarity, **9:203**

KROFFT DECISION

Substantial similarity, 9:236

LABELS

Copyright Act of 1909 amendments, 1:54

Pictorial, graphic, and sculptural works, 3:120

Preemption, 18:17

Prints and Labels Act of 1939, 1:54

LABOR RELATIONS

Berne Convention Implementation Act of 1988, 23:22

LACHES

Limitation of Actions (this index)

LAMPS

Pictorial, graphic, and sculptural works, 3:154

LANDLORD - TENANT LINE OF DECISIONS

Vicarious liability, 21:64

LANGMAN FABRICS v. GRAFF CALIFORNIAWEAR

Substantial similarity, 9:159

LANHAM ACT

Double recovery, **22:113** Preemption, **18:50**

L'ANZA DECISION

Importation, 13:45

L.A. PRINTEX INDUSTRIES, INC. v. AEROPOSTALE, INC.

Substantial similarity, 9:247.20

LAPSLEY v. AMERICAN INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS

Substantial similarity, 9:273

LA RESOLANA ARCHITECTS, PA v. RENO, INC.

Substantial similarity, 9:257.60

L.A. WESTERMANN CO. v. DISPATCH PRINTING COMPANY

Construction and interpretation, 2:38

LAWRENCE v. DANA

Reproduction right, 9:109

LAW VS EQUITY

Fair use defense, 10:3

LAYOUT

Noncopyrightable material, **4:11**, **4:11.50**, **4:13**

LEASES

Vicarious liability, 21:64

LEGISLATIVE HISTORY

History (this index)

LEGISLATIVE REPORTS

Actual damages and profits, 1976 Copyright Act, **22:98**

Fair Use Defense (this index)

Unrealized profits,1976 Copyright Act, 22:137.20

LEIBOVITZ v. PARAMOUNT PICTURES

Fair use defense, 10:33

LEIGH v. WARNER BROS., INC.

Substantial similarity, 9:264

LEWIS v. KROGER CO.

Substantial similarity, 9:176

LIBRARIES

Generally, **11:2 to 11:7**

Case law, 11:7

Copyright Act of 1976 amendments, 1:103

Digital Millennium Copyright Act, 11:6

Distribution of copies of work, 13:14

Library of Congress (this index)

1983 Report of Register of Copyrights, 11:4

1988 Report of Register of Copyrights, 11:5

Photocopying, generally, 11:2 to 11:7 Register of Copyrights, reports of, 11:4,

Reports of Register of Copyrights, 11:4, 11:5

Reproduction right, 9:31

Section 107, relation with Section 108, 11:3

Section 108, generally, **11:2 to 11:7** Section 108 Study Group report, **11:8.50**

LIBRARIES AND ARCHIVES

Fair use defense, 10:73.60 purpose and character of use, 10:73.60

LIBRARY OF CONGRESS

Copyright Act of 1790 revisions, **6:25** Deposit amendment of 1867, **1:32** 1867 Library of Congress deposit amendment, **1:32**

First Copyright Act revisions, 1:32

Formalities, 6:25

Section 108 Study Group report, **11:8.50** Statement by Librarian relating to Section 1201 rulemaking, **App 16A-A**

LICENSE FEES

Cable television and other secondary transmissions, **14:76** to **14:78**

LICENSES AND LICENSING

Generally, 5:118 to 5:157

Abandonment, 5:154, 5:155

Administration rights, 5:125

LICENSES AND LICENSING—Cont'd LICENSES AND LICENSING—Cont'd Affirmative defense, **5:118** Defense, **5:118** Distribution of copies of work, 13:23 Agency rights, 5:125 Divisibility, 1976 Copyright Act, 5:121 Assignment, **5:112**, **5:129** to 5:123 Bankruptcy, priority in cases, 5:149 Evidence, 5:130 Beneficial ownership, 5:152 Exclusive License (this index) Berne Convention Implementation Act Exclusive rights, 5:119 to 5:121, 5:147, of 1988, **23:33** 8:5 Cable television and other secondary Existence, 5:133 transmissions, 14:73, 14:74 Champerty, 5:136 Extrinsic evidence, use of, 5:130 Collective works. Contribution to col-Fair use defense, 10:152 lective works, below Federal law, 5:129 **Compulsory Licenses and Licensing** Final committee reports, **5:142.90** (this index) Final version of 1965 bill, **5:142.80** Conditions on and use outside scope of First refusal, rights of, 5:125 license, 5:126 Foreign transfers, Section 204(b), 5:135 Conflicting transfers, 5:146 to 5:148 Forfeiture, **5:154, 5:156** Construction and interpretation Freelancers, **5:140** contribution to collective works, Greenberg v. National Geographic Socibelow ety, 5:142.95 divisibility under 1976 Copyright Act, History, 5:122, 5:142 to 5:142.90 5:123 House Judiciary Committee Report, license under federal or state law, 1966, 5:142.80 5:129 Implied licenses, 5:131, 5:132 Section 201(c) privilege, generally, Implied sublicenses, 5:131.10 5:137 to 5:143 Indivisibility, 5:120 standing under 1976 Copyright Act, Infringement, 5:143 5:123 IRS liens, 5:150 Constructive trust ownership, 5:153 **Jukebox** (this index) Contracts and agreements, 5:125 Jurisdiction, 17:43 Contribution to collective works Legislative history, 5:122, 5:142 to construction and interpretation, gener-5:142.90 ally, 5:139 to 5:143 Liens and encumbrances, 5:150 freelancers. 5:140 Monetary damages, 22:111 Greenberg v. National Geographic Society, 5:142.95 Nonexclusive license, 5:127, 5:128, 5:148 infringement, 5:143 Options, 5:125 legislative history of Section 201(c), 5:142 to 5:142.90 Parties not in license privity, 5:126.50 nature of privilege, 5:138 Perpetual licenses, 5:134 nontransferable privilege, 5:141 Personal jurisdiction, 17:180 to 17:182 publishers, 5:141 **Phonorecords** (this index) Section 201(c) privilege, generally, Pre-Copyright Act of 1909, 5:119 5:137 to 5:143 Preliminary Draft Bill, 1963, **5:142.60** third parties, **5:140** Priority, 5:146 to 5:148 Co-owners, **21:38.50** Privileges. Contribution to collective Copyright Act of 1909 and indivisibility, works, above 5:120 Public broadcasting compulsory license,

Section 118, **11:45**

Copyright Act of 1976 (this index)

LICENSES AND LICENSING—Cont'd

Publishers, 5:141

Recordation of transfers of ownership, Section 206, **5:144**

Records and recording, **5:146 to 5:148**Register's 1961 report and recommendations, **5:142.50**

Register's Supplementary Report, 5:142.80

Revision bills and revisions, 1964, 5:142.70

Revocation, 5:124, 5:128, 5:132

Royalties, agreements to share, **5:125**

Scope of license versus existence, 5:133

Section 201(c). Contribution to collective works, above

Section 204(b), 5:135

Section 205(d), 5:147, 5:148

Section 206, 5:144

Sound Recordings (this index)

Standing to sue, **5:121**, **5:123**, **21:13**

State law, 5:129

Statutes, 5:118.50

Sublicenses, implied, 5:131.10

Third parties, 5:140

Transfer of interest, 5:103

Transfers, 5:118.50, 5:121 to 5:123

Trusts, 5:153

Types, generally, **5:118 to 5:121**

Waiver, 5:154, 5:157

LICENSING ACT OF 1692

England and Statute of Anne, 1:9

LIENS AND ENCUMBRANCES

Licenses, Copyright Act of 1976, IRS liens, 5:150

LIFE OF ARTIST

Exclusive rights, **3:20.50**

Visual Artists Rights Act of 1990, 16:40

LIKELIHOOD OF SUCCESS ON MERITS

Preliminary injunctions, 22:60, 22:61

LIMITATION OF ACTIONS

Generally, 20:1 to 20:58

Accounting of profits, 20:42.60

Accrual, 20:17 to 20:20, 20:33, 20:43

Amendment, 20:14

Brady v. Daly, 20:10

LIMITATION OF ACTIONS—Cont'd

Cases after Zuill: Confusion worse confounded, **20:38**

Chicago Building Design, P.C. v. Mongolian House, Inc., ongoing infringement, **20:33.50**

Children and minors, 20:52

Commencement of action, 20:16

Concealment, 20:50

Construction of Section 507(b)

generally, **20:15 to 20:32**

accrual of claim. 20:17 to 20:20

commencement of action, 20:16

continuing violations, **20:22**, **20:27** to **20:32**

Copyright Act of 1909, continuing violations, **20:28**

Copyright Act of 1976, 20:31

Copyright Act of 1976, continuing violations, **20:29, 20:30**

discovery accrual, 20:17 to 20:20

discrete copying, 20:26

ongoing infringement, 20:21 to 20:24

post-Taylor case, 20:31, 20:32

separate accrual rule, 20:23

Taylor v. Meirick, 20:30

violation accrual, 20:17 to 20:20

Continuing violations, 20:27 to 20:32

Continuing wrong theory of third-party acts, **20:34**

Contractors, 20:45

Copying, 20:26

Copyright Act of 1790, **20:7**

Copyright Act of 1831, 20:8

Copyright Act of 1870, 20:9, 20:10

Copyright Act of 1909, **1:65, 20:11**, **20:28**

Copyright Act of 1957, 20:12

Copyright Act of 1976, **20:13, 20:14, 20:29 to 20:31**

Declaratory judgment of ownership as defense, 20:39

Discovery accrual, 20:17 to 20:20, 20:43

Discrete copying, 20:26

Duress, 20:52

Equitable doctrines invoked by

defendants

generally, 20:53 to 20:58

equitable estoppel, 20:57, 20:58

LIMITATION OF ACTIONS—Cont'd LIMITATION OF ACTIONS—Cont'd Equitable doctrines invoked by Preemption of state savings statutes, defendants-Cont'd 20:48 laches, generally, 20:54 to 20:57 Relation back, 20:46 Remedial nature of copyright statute, summary judgment, 20:56 20:4 Equitable doctrines invoked by plaintiffs Review of rulings, **20:1.70** generally, 20:49 to 20:52 Secondary liability, 20:45.50 children and minors, 20:52 Section 411(a), **20:46.50** duress, 20:52 Section 507(b), 1976 Copyright Act, equitable estoppel, 20:51 20:13, 20:14 fraudulent concealment, 20:50 Separate accrual rule, 20:23 mental incompetence, 20:52 State savings statutes, 20:48 tolling, 20:49 State statutes, 20:6 Equitable estoppel, 20:51, 20:57, 20:58 Statute, generally, 20:3 Estoppel, equitable, 20:51, 20:57, 20:58 Statute of limitations is an affirmative Federal statute, 20:42.60 defense reviewed de novo, 20:1.50 Fifth circuit, accrual, 20:33 Summary judgment, 20:56 Fraudulent concealment, 20:50 Taylor v. Meirick, 20:30 History, generally, 20:5 to 20:32 Third parties, 20:34 **Joint Authorship** (this index) Title and ownership. Ownership claims, above Judgment, 20:56 Tolling, 20:49 Kling v. Hallmark Cards, Inc., 20:42 Tolling and other equitable doctrines, Laches. Equitable doctrines invoked by 20:44 defendants, above Types of statutes, 20:2 Mental incompetence, 20:52 United States Government and its Non-obvious owners, Kling v. Hallmark contractors, suits against, 20:45 Cards, Inc., 20:42 Variation of limitations period, **20:47** Obviousness. 20:42 Violation accrual, **20:17 to 20:20, 20:43** Ongoing infringement, 20:21 to 20:24 Visual Artists' Rights Act of 1990, Chicago Building Design, P.C. v. 20:14.50 Mongolian House, Inc., 20:33.50 Work made for hire, 5:81 Ownership claims Zuill v. Shanahan, 20:37 to 20:41 generally, 20:35 to 20:44 accounting of profits, 20:42.60 LIMITATIONS AND RESTRICTIONS accrual of ownership claim, 20:43 Berne Convention Implementation Act case law, generally, 20:36 of 1988, Article 2, 23:18 Cases after Zuill: Confusion worse Cable television and other secondary confounded, 20:38 transmissions, 14:73 Declaratory judgment of ownership as Choice of law, 25:57 defense, 20:39 Constitutional Law (this index) federal statute, 20:42.60 Copyright Act of 1976 amendment. Kling v. Hallmark Cards, Inc., 20:42 1:100 non-obvious owners, Kling v. Derivative works, 3:58 Hallmark Cards, Inc., 20:42 **Display Publicly** (this index) Tolling and other equitable doctrines, Distribution of copies of work, 13:24, 20:44 13:54 Zuill v. Shanahan, 20:37 to 20:41 Exclusive Rights (this index)

Jukebox, 14:112, 14:121

Pleadings, 19:12

LIMITATIONS AND RESTRICTIONS

—Cont'd

Monetary damages, **22:99** Personal jurisdiction, **17:146**

Pictorial, Graphic, and Sculptural Works Embodied in Useful

Articles (this index)

Public Performance (this index)

Sound recordings, 14:82 to 14:85 Standing to sue, 21:16

TRIPS. Article 13. **23:66**

LIMITED PUBLICATION

Formalities, 6:31, 6:50

LINKING

Derivative works, **12:17 to 12:19** Display publicly, **15:7**

LISTS

Reproduction right, 9:76

LITERAL SIMILARITY

Reproduction right, 9:90

LITERARY WORKS

Generally, 3:61 to 3:63

Berne Convention Implementation Act of 1988, Article 14, 23:34

Copyrightable material, generally, **3:61** to **3:63**

Copyright Act of 1909 amendments, nondramatic literary works amendment of 1952, **1:62**

Definition, 3:61

Dramatic works, 3:62

Exclusive rights, 8:19

Narratives, 3:63

Nondramatic vs. dramatic works, 3:62

Nonfiction narratives, 3:63

Public performance for blind and other handicapped individuals, **14:48**

LITIGATION MATERIALS AND USE

Fair use defense, 10:73

Government works, 4:85

LIVE BROADCASTS

Section 411(b), infringement, 17:86.50

LIVE MUSICAL PERFORMANCES

Uruguay Round Agreements Act (this index)

LLC v. AT&T MOBILITY, LLC

Contributory infringement, 21:61.50 Vicarious liability, 21:77.60

LOCAL GOVERNMENT

Government works, 4:81

LOCAL LAWS

Pictorial, graphic, and sculptural works, 3:113

LOCAL SERVICE AREA

Cable television and other secondary transmissions, **14:62**

LOCAL SIGNALS

Display publicly, 15:17

LOCAL TO LOCAL

Public performance, 14:122

LOCATION AND PLACE

Choice of law, 25:49, 25:61 to 25:63 Distribution of copies of work, place of sale, 13:22.50

Formalities, 6:62

Work made for hire, 5:57

LOGOS

Visual Works (this index)

LOS ANGELES NEWS SERVICE v. CBS BROADCASTING

Fair use defense, 10:80

LOS ANGELES NEWS SERVICE v. CONUS COMMUNICATIONS CO. LTD.

Extraterritoriality, 25:101

LOS ANGELES NEWS SERVICE v. KCAL - TV CHANNEL 9

Fair use defense, 10:78

LOS ANGELES NEWS SERVICE v. REUTERS TELEVISION INTERNATIONAL

Fair use defense, 10:79

LOS ANGELES NEWS SERVICE v. TULLO

Fair use defense, 10:77

LOST LICENSING FEES

Monetary damages, 22:111

LOTUS DEVELOPMENT CORP. v. BORLAND AND INTERNATIONAL, INC.

Computer programs, **3:91** Substantial similarity, **9:131**

LOUISIANA PURCHASE EXPOSITION ACT OF 1904

First Copyright Act, **1:42**International copyright, **23:6**

LOWER COURTS

Computer programs, 3:85

LYONS PARTNERSHIP, L.P. v. MORRIS COSTUMES, INC.

Substantial similarity, 9:182

MACHINE

Computer programs, reproduction right exception, 11:39

MAINTENANCE AND REPAIR

Computer programs, **11:44** Copyright Act of 1976, **1:101**

MAI v. PEAK, COMPUTER MAINTENANCE AND REPAIR

Copyright Act of 1976, **1:101**

"MAKE AVAILABLE"

Distribution rights, 13:11.50

MAKEUP

Pictorial, graphic, and sculptural works, 3:152

MANAGEMENT OF RIGHTS

Technological Protection Measures and Copyright Rights Management Information (this index)

MANAGEMENT RIGHTS

Standing to sue, 21:21

MANDAMUS

Infringement, 17:95

MANDATORY INJUNCTIONS

Preliminary injunctions, 22:71

MANUFACTURING

Copyright Act of 1909 amendments, **1:61**

Formalities, 6:14

International copyright, 23:72

MAPS

Pictorial, graphic, and sculptural works, 3:117

MARCUS v. ROWLEY

Fair use defense, 10:105

MAREK v. CHESNY

Attorneys' fees, 22:216 to 22:218

MARIGOLD FOODS, INC. v. PURITY DAIRIES, INC.

Substantial similarity, 9:199

MARKET

Fair Use Defense (this index)
Monetary damages, 22:105, 22:106
Preliminary injunctions, 22:41, 22:51

MARKING

Visual Artists Rights Act of 1990, 16:14

MARRIED WOMEN'S CONTRACTS

Choice of law, 25:66

MASKS

Pictorial, graphic, and sculptural works, 3:152

MASK WORKS

Rental rights, 13:31

MASTERCARD INTERNATIONAL INC. v. NADER 2000 PRIMARY COMMITTEE, INC.

Fair use defense, 10:35, 10:132.50

MATERIAL AMOUNT OF EXPRESSION

Reproduction Right (this index)

MATERIAL BREACH

Preemption, 18:29

MATERIAL CONTRIBUTION

Contributory infringement, 21:48, 21:48.50

MATERIALITY

Infringement, 17:123 to 17:125 Reproduction right, 9:65

MATHEWS CONVEYER CO. v. PALMER - BEE CO.

Substantial similarity, 9:195

INDEX

MATTEL, INC. v. MGA ENTERTAINMENT, INC.

Substantial similarity, 9:247.10

MAXTONE - GRAHAM v. BURTCHAELL

Fair use defense, 10:62

"MAY"

Construction and interpretation, 2:63

MAZER v. STEIN

Construction and interpretation, **2:42** Pictorial, graphic, and sculptural works, **3:131**

Substantial similarity, 9:124

MEAD CASE

Infringement, **17:101**

MECHANICAL COMPULSORY LICENSE

Berne Convention Implementation Act of 1988, Article 13, **23:33**

MECHANICAL LICENSES

Personal jurisdiction, 17:181, 17:182

MEDIA NEUTRALITY

Fair use, 10:157.20

MEDICAL IMAGING

Visual works, **4:19.10**

MEEROPOL v. NIZER

Fair use defense. 10:43

MENTAL INCOMPETENCE

Limitation of actions, 20:52

MERCHANT v. LEVY

Author and authorship, 5:37, 5:38

MERGER

Computer programs, 3:83 Noncopyrightable material, 4:46, 4:47 Scenes a faire, 4:28

MERITS

Preliminary injunctions, 22:10, 22:60, 22:61

MERRELL DOW PHARMACEUTICALS, INC. v.

THOMPSON

Subject-matter jurisdiction, 17:17

MESHWERKS, INC. v. TOYOTA MOTOR SALES U.S.A., INC.

Substantial similarity, 9:257.50

METAPHORIC CONCEPT OF IDEAS

Noncopyrightable material, 4:32

METCALF v. BOCHCO

Substantial similarity, 9:244

MEXICO CITY CONVENTION

First Copyright Act revisions, 1:44

MEXICO CITY COPYRIGHT CONVENTION OF 1902

International copyright, U.S. protection of foreign authors, **23:5**

MGM STUDIOS, INC. v. GROKSTER

Contributory infringement, **21:61** Substantial similarity, **9:127** Vicarious liability, **21:77, 21:77.50**

MGM v. AMERICAN HONDA MOTOR

Fair use defense, 10:34

MICROMANAGING

Construction and interpretation, 2:8

MIHALEK v. MICHIGAN

Substantial similarity, 9:198

MILLER MUSIC CORP. v. CHARLES N. DANIELS, INC.

Construction and interpretation, 2:43

MILLER V., UNIVERSAL CITY STUDIOS, INC.

Substantial similarity, 9:188

MILLS MUSIC, INC. v. SNYDER

Construction and interpretation, **2:48** Copyright Act of 1976, **7:44**

MILLWORTH CONVERTING CORP. v. SLIFKA

Substantial similarity, 9:141

MINER v. EMPLOYERS MUTUAL LIABILITY INSURANCE CO. OF WISCONSIN

Substantial similarity, 9:271

MISAPPROPRIATION

Preemption, 18:39, 18:40

MISTAKE AND ERROR

Formalities, **6:73**Infringement, **17:121 to 17:125**Jurisdiction, **17:39**Preliminary injunctions, **22:11**Reproduction right, **9:20**

MISUSE

Generally, **10A:1** Infringement, **17:121 to 17:125, 17:128**

MITIGATION OF DAMAGES

Defense of failure to mitigate unavailable, 22:192.25
Formalities, 6:75

M. KRAMER MANUFACTURING CO. v. ANDREWS

Substantial similarity, 9:179

MODIFICATION AND CHANGE

Derivative works, **3:56**Limitation of actions, **20:47**Visual Artists Rights Act of 1990, **16:20**, **16:22**

"MOMENT OF FREEDOM" THEORY

Copyright Act of 1976, **7:46.50**

MONETARY DAMAGES

Damages (this index)

MOORE v. CHESAPEAKE & OHIO RAILWAY CO.

Subject-matter jurisdiction, 17:14

MOORE v. COLUMBIA PICTURES INDUSTRIES, INC.

Substantial similarity, 9:232

MORAL RIGHTS

Berne Convention Implementation Act of 1988, Article 6, 23:23

MOST FAVORED NATION

TRIPS, Article 4, 23:59

MOTION PICTURES AND OTHER AUDIOVISUAL WORKS

Generally, 3:155 to 3:158

Construction and interpretation, **3:157**Copyrightable material, generally, **3:155 to 3:158**

Copyright Act of 1976, **1:105**, **3:156** Informercials, **3:158**

MOTION PICTURES AND OTHER AUDIOVISUAL WORKS—Cont'd

Joint authorship, **5:18.10**Judicial interpretations, **3:157**

MOTIONS TO COMPEL

Arbitration, 17:195

MOTION TO DISMISS

Fair use defense, **10:156** Reproduction rights, **9:86.50**

MULTINATIONAL INFRINGEMENTS

Choice of law. 25:81

MULTIPLE AUTHORS

Choice of law, 25:51

MULTIPLE AWARDS FOR DIFFERENT VIOLATIONS BY DIFFERENT DEFENDANTS

Monetary damages, 22:193

MULTIPLE DEFENDANTS

Monetary damages, **22:192.50** Pleadings, **19:9**

MULTIPLE EMPLOYERS

Work made for hire, 5:79

MULTIPLE VIOLATIONS

Monetary damages, 22:191

MULTIPLE WORKS

Monetary damages, **22:185** Reproduction right, **9:66**

MURA v. CBS

Fair use defense, 10:71

MURRAY HILL PUBLICATIONS, INC. v. TWENTIETH CENTURY FOX FILM CORP.

Substantial similarity, 9:204

MUSICAL COMPOSITIONS

Elements, **4:20.50** Formalities, **6:34**, **6:53**

MUSICAL PERFORMANCES

Uruguay Round Agreements Act (this index)

MUSICAL WORKS

Generally, 3:92, 3:93

INDEX

MUSICAL WORKS—Cont'd

Copyrightable material, generally, **3:92**, **3:93**

Copyright Act of 1976, **3:93**

Derivative works, 12:28

England and Statute of Anne, 1:12 to 1:14

Monetary damages, 22:186

Phonorecords (this index)

Pre-1976 Copyright Act, 3:92

MUSIC VIDEOS

Uruguay Round Agreements Act, 24:9

MUTILATED WORK

Visual Artists Rights Act of 1990, **16:20**, **16:22**, **16:23**

NAMES

Formalities, **6:41**, **6:61**, **6:73**

NARRATIVES

Literary works, 3:63

NASH v. CBS

Fair use defense, 10:50

NASH v. COLUMBIA BROADCASTING SYSTEMS

Substantial similarity, 9:219

NATIONAL ASSOCIATION OF BOARDS OF PHARMACY v. BOARD OF REGENTS OF UNIVERSITY SYSTEM OF GEORGIA

Fair use defense, 10:109.50

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

Computer programs, 3:73

NATIONAL ELIGIBILITY

Choice of law, 25:21

Uruguay Round Agreements Act, 24:11

NATIONAL FOOTBALL LEAGUE v. PRIMETIME 24 JOINT VENTURE

Extraterritoriality (this index)

NATIONALITY

Choice of law, 25:48, 25:64

NATIONAL PUBLICATIONS

Reproduction right, 9:27

NATIONAL TREATMENT

Berne Convention Implementation Act of 1988, Article 5, **23:21**

Choice of law, 25:18

Choice of Law (this index)

NATIVE AMERICAN TRIBAL DECISION

Jurisdiction. 17:57.50

NATURE

Pictorial, graphic, and sculptural works, 3:117.10

"NATURE AND OBJECTS OF SELECTIONS MADE"

Fair use defense, 10:5

NATURE - BASED WORKS

Originality, 3:38.50

NEGLIGENCE

Preemption, 18:41

NETWORK SIGNALS

Display publicly, 15:15

NETWORK STATION

Cable television and other secondary transmissions, **14:63**

Jukebox, 14:105 to 14:121

NEW ERA PUBLICATIONS INTERNATIONAL APS v. HENRY HOLT & CO.

Fair use defense, 10:47

NEWPORT - MESA UNIFIED SCHOOL DISTRICT v. CALIFORNIA

Fair use defense, 10:109

NEW RECORDING

Phonorecords of nondramatic musical works, **11:24**

NEWS

Noncopyrightable material, 4:9

NEWS CLIPPING SERVICES AND REBROADCASTS

Fair Use Defense (this index)

NEWSPAPER ARTICLES

Reproduction right, 9:84

NEWS REPORTING

Fair use defense, 10:74

NEWTON v. DIAMOND

Substantial similarity, 9:247

NEW YORK TIMES COMPANY, INC. v. TASSINI

Construction and interpretation, 2:58

NEW YORK TIMES v. ROXBURY DATA INTERFACE

Fair use defense, 10:26

NEW YORK TRIBUNE v. OTIS & CO.

Fair use defense, 10:130

NEXT OF KIN

Term renewal, 1909 general revision, **7:19**

NEXUS

Personal jurisdiction, 17:152

NICHOLAS v. UNIVERSAL PICTURES CORP.

Reproduction right, 9:116

NIHON KEIZAI SHIMBUN, INC. v. COMLINE BUSINESS DATA, INC.

Substantial similarity, 9:160

NIHON KEIZAI SHIMBUN v. COMLINE BUSINESS DATA

Fair use defense, 10:27

NINTENDO EXEMPTION

Rental rights, 13:30

NINTH CIRCUIT

Assignment, **5:105**

Derivative works, 3:54.50

Extraterritoriality, 25:92

Monetary damages, 22:137

Personal jurisdiction, 17:153, 17:161 to 17:166, 17:168, 17:169

Pictorial, graphic, and sculptural works, 3:144.20

Preliminary injunctions, 22:16 to 22:20, 22:52, 22:53

Reproduction right, 9:54

NINTH CIRCUIT—Cont'd

Substantial Similarity (this index)

NLFC, INC. v. DEVCOM MID - AMERICA

Substantial similarity, 9:221

NONCOMMERCIAL BROADCASTS

Fair use defense, 10:55

NONCOMMERCIAL USES

Fair use defense, 10:16.50 to 10:19

NONCOPYRIGHTABLE MATERIAL

Generally, **4:1 to 4:88**

Analogical reasoning, pitfalls, 4:22

Athletic events, 4:21

Athletic routines, 4:22

Authorial estoppel, 4:7, 4:8

Authorship, personality view of, 4:33

Baker v. Selden, **4:42**, **4:43**

Blank forms "rule," 4:52, 4:53

Computing devices, 4:9

Constitutional law. 4:44

Construction and interpretation, 4:5

Contributions, 4:2

Copyright Act of 1976, blank forms "rule," **4:53**

Costs, 4:35

Data, 4:9

De minimis contributions, 4:2

Discoveries, 4:9

Estoppel, 4:6 to 4:8

Evidence, ideas and, 4:34

Exercise routines, 4:22

Expressions. Section 102(b), below

Facts, research, and history

generally, 4:3 to 4:10

authorial estoppel, 4:7, 4:8

computing devices, 4:9

data, 4:9

discoveries, 4:9

factual estoppel, 4:6, 4:8

fictional facts, 4:3.50

historical facts, 4:4

historical interpretation, 4:5

news, 4:9

pre-1976 Copyright Act history, 4:52

stock market indexes, 4:10

Factual estoppel, 4:6, 4:8

First Amendment, 4:44

NONCOPYRIGHTABLE MATERIAL	NONCOPYRIGHTABLE MATERIAL
—Cont'd	—Cont'd
Food, 4:23.50	Section 102(b)—Cont'd
Format, 4:11, 4:11.50, 4:12	discursive works, 4:39, 4:40
Games, 4:20	distinguishing ideas from expressions,
Government Works (this index)	4:45
History. Facts, research, and history,	evidence, ideas and, 4:34
above	fact/value dichotomy, 4:50
Idea-expression dichotomy	First Amendment, 4:44
Section 102(b), 4:31	idea-expression dichotomy, 4:31
Section 102(b), below	idea-expression dichotomy as contin-
Ideas. Section 102(b), below	uum, generally, 4:36 to 4:41
Identifying idea in work, 4:37	idea-expression dichotomy, Section
Indexes, 4:10	102(b), above
Judge Newman's Literary Work v.	idea, metaphoric concept of, 4:32
Graphic Work Distinction, 4:38	identifying idea in work, 4:37
Layout, 4:11, 4:11.50, 4:13	imaginative works, 4:39 , 4:41
Logos. Visual Works (this index)	Judge Newman's Literary Work v.
Merger, 4:46 , 4:47	Graphic Work Distinction, 4:38
Metaphoric concept of ideas, 4:32	merger, 4:46, 4:47
Musical compositions, elements,	metaphoric concept of ideas, 4:32 patents, Baker v. Selden, 4:42 , 4:43
4:20.50	personality view of authorship and
News, 4:9	ideas, 4:33
Numbers, 4:48 to 4:50	Posner-Landes imaginative-discursive
Ornamentation, de minimis contributions, 4:2	distinction, 4:39 to 4:41
	pre-1976 Copyright Act history, blank
Patents, Baker v. Selden, 4:42 , 4:43 Personality view of authorship and	forms "rule," 4:52
ideas, 4:33	product numbers, valuations, and
Pictorial games, 4:20	prices, 4:48 to 4:50
Posner-Landes imaginative-discursive	proper approach to merger, 4:47
distinction, 4:39 to 4:41	relationship with section 102(a), 4:30
Prices, 4:48 to 4:50	taxonomies, 4:51
Product numbers, valuations, and prices,	transaction costs, ideas and, 4:35
4:48 to 4:50	Short phrases, de minimis contributions,
Recipes, 4:23, 4:23.50	4:2
Research. Facts, research, and history,	Stock market indexes, 4:10
above	Style, 4:11 , 4:11.50 , 4:14
Scenes a Faire (this index)	Taxonomies, 4:51
Section 102(a) and 102(b), relationship,	Textual games, 4:20
4:30	Titles, de minimis contributions, 4:2
Section 102(a), generally, 4:1	Topics and topic structure, 4:11.50
Section 102(b)	Transaction costs, ideas and, 4:35
generally, 4:29 to 4:53	Valuations, 4:48 to 4:50
Baker v. Selden, 4:42 , 4:43	Visual Works (this index)
blank forms "rule," 4:52, 4:53	Words, de minimis contributions, 4:2
continuum, idea-expression	Yoga, 4:22
dichotomy as, 4:36 to 4:41	NONDRAMATIC LITERARY WORKS
Copyright Act of 1976, blank forms	Copyright Act of 1909 amendments,
"rule." 4:53	1:62

NONDRAMATIC LITERARY WORKS —Cont'd

Exclusive rights, 8:19

NONDRAMATIC MUSICAL WORKS

Derivative works, 12:28

Phonorecords (this index)

NONDRAMATIC WORKS

Dramatic compared to, 3:62

NONELECTION OF STATUTORY **DAMAGES**

Attorneys' fees, 22:212.50

NONEXCLUSIVE LICENSE

Generally, 5:127, 5:128

Copyright Act of 1976, 5:148

Revocation, 5:128

Standing to sue, 21:13

NONFICTION NARRATIVES

Generally, 3:63

NONFORTUITOUS

Fair use defense, 10:70 to 10:72

NONINFRINGING ACTS, LACK OF

Monetary damages, 22:107, 22:108

NONLITERAL ELEMENTS

Computer programs, 3:78

NONLITERAL SIMILARITY

Reproduction right, 9:90

NON - OBVIOUS OWNERS

Kling v. hallmark cards, inc., 20:42

NONPROFIT EDUCATIONAL **PURPOSES**

Fair use defense, 10:18, 10:19

NONPROFIT ORGANIZATIONS

Cable television and other secondary transmissions, 14:71

Work made for hire, 5:80.50

NONPROFIT PERFORMANCES

Public Performance (this index)

NONPROFIT VETERANS

Public performance, 14:49

NONRELIANCE PARTIES

Uruguay Round Agreements Act, 24:38

NONRESIDENTS

Personal jurisdiction, 17:143 to 17:146

NONTRANSFERABILITY

Phonorecords of nondramatic musical works, 11:26

NORSE v. HENRY HOLT & CO.

Fair use defense. 10:49

NORTH AMERICAN FREE TRADE AGREEMENT (NAFTA)

International copyrights, 23:55

Uruguay Round Agreements Act, 24:22

NOTICE AND KNOWLEDGE

Contributory infringement, 21:47, 21:53

Copyright Act of 1976, **7:45**

Fair use defense, 10:93

First Copyright Act revisions, 1:21, 1:35, 1:37

Formalities, 6:5

Formalities (this index)

Infringement, 17:91.50, 17:130

Monetary damages, 22:99, 22:178

Preemption, 18:20

Preliminary injunctions, 22:67

Subject-matter jurisdiction claim, 17:91.50

Technological protection measures and copyright rights management information, **16A:4**

Uruguay Round Agreements Act (this index)

"NOT PERVADING THE ENTIRETY OF THE WORK"

Definition, 3:59

NOVELTY

Construction and interpretation, 3:27 Effort and time spent, 3:27.10

NOVELTY TEXTILE MILLS, INC. v. JOAN FABRICS CORP.

Substantial similarity, 9:147

NRA v. HANDGUN CONTROL FEDERATION OF OHIO

Fair use defense, 10:131

INDEX

NUCOR CORP. v. TENNESSEE FORGING STEEL SERVICE, INC.

Substantial similarity, 9:230

NUMBERING AND MARKING REQUIREMENT

Visual Artists Rights Act of 1990, 16:14

NUMBER OF COPIES

Formalities, 6:68

NUMBER OF COPYRIGHTS

Choice of law, 25:17

NUMBER OF PRODUCT

Noncopyrightable material, 4:48 to 4:50

NUMBER OF REGISTRATIONS

Monetary damages, 22:189

OBJECT DEPICTED IN PHOTOGRAPHS

Derivative works, 12:11

OBSCENITY

Fair use defense, 10:92 Originality, 3:41 to 3:44

OBVIOUSNESS

Kling v. Hallmark Cards, Inc., **5:40** Limitation of actions, **20:42**

OEM CASES

Technological protection measures and copyright rights management information, **16A:3**

OFF - AIR TAPING

Fair Use Defense (this index)

OFFER OF JUDGMENT

Attorneys' Fees (this index)

OFFICER

Definition, 4:70

OMEGA S.A. v. COSTCO WHOLESALE CORP.

Importation, 13:46

OMISSIONS

Formalities, **6:67 to 6:71**Monetary damages, **22:99, 22:178**

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

International copyrights, 23:53

ONE COMPLETE ACT THEORY

Extraterritoriality, 25:92

O'NEILL v. DELL PUBLISHING CO.

Substantial similarity, 9:129

ONE WORK, ONE AWARD

Monetary damages, 22:184 to 22:188

ONGOING INFRINGEMENT

Limitation of actions, **20:21 to 20:24**Chicago Building Design, P.C. v.
Mongolian House, Inc., **20:33.50**

ONLINE DISPLAYS

Display publicly, 15:6

ONLINE INFRINGEMENT

Copyright Act of 1976 amendments, **1:100**

ONLINE SERVICE PROVIDER

Display publicly, **15:18**Distribution of copies of work, **13:54**Public performance, **14:123**

OPERATION OF LAW

Assignment, **5:116** Choice of law, **25:59**

OPTIONS

Licenses, **5:125**Standing to sue, **21:17**, **21:18**

"OR"

Construction and interpretation, **2:62** Preliminary injunctions, **22:35**

ORAVEC v. SUNNY ISLES LUXURY VENTURES, L.C.

Substantial similarity, 9:266.50

ORDINARY INFRINGERS

Monetary damages, 22:179

ORDINARY OBSERVER

Reproduction right, 9:69

ORIGINAL ACTS OF INFRINGEMENT

Extraterritoriality, 25:102 to 25:104

ORIGINAL APPALACHIAN ARTWORKS, INC. v. TOY LOFT, INC.

Substantial similarity, 9:259

ORIGINAL EQUIPMENT MANUFACTURERS

Technological protection measures and copyright rights management information, 16A:3

ORIGINALITY

Generally, 3:26 to 3:45 Architectural plans, 3:105.50 Author and authorship, 3:45, 5:14 to 5:16

Choice of law, **25:15**Construction and interpretation, **3:27**Copyrightable material, generally, **3:26 to 3:45**

Copyright Act of 1976, **3:26** Copyright Office, **3:44** Creativity

generally, 3:32 to 3:38.50 classic standard, 3:34 dissection, 3:35 fabric designs, 3:38 incentives to create, inquiry into, 3:37 independent creation, 3:31 nature-based works, 3:38.50 objective determination, 3:36 second circuit, fabric designs, 3:38

threshold requirements, generally, 3:32 to 3:38.50
Defensive independent creation, 3:30

Design, 3:38

Early Copyright Office views, immoral or obscene works, **3:44**

Early court decisions, immoral or obscene works, **3:42**

Derivative Works (this index)

Fabric designs, **3:38** Fraudulent works, **3:41**

History, **3:26**

Illicit purposes, works used for, **3:40** Immoral or obscene works, **3:42 to 3:44**

Independent creation

generally, 3:28 to 3:31 creativity, lack of relationship between independent creation and, 3:31

ORIGINALITY—Cont'd

Independent creation—Cont'd defensive independent creation, **3:30** public domain work, **3:29** Legislative history, **3:26**

Legislative proposals, immoral or obscene works, **3:43**

Nature-based works, 3:38.50

Obscene works, 3:41

Obscenity, 3:42 to 3:44

Preemption, 18:14, 18:15

Public domain, 3:29, 3:38

Ouestions of law and fact, 3:39

Religious works and authors, 3:45

Reproduction right, 9:12

Second circuit, fabric designs, 3:38

Useful articles, designs of, 3:146.50

ORIGINAL WORK

Computer programs, **3:80**Constitutional law, **3:16**, **3:20**, **3:20.50**Derivative works, **12:21**Exclusive rights, status as author of own life story, **3:20.50**Fair use defense, **10:7**, **10:91**

ORNAMENTATION

Noncopyrightable material, 4:2

OSBORN v. BANK OF THE UNITED STATES

Subject-matter jurisdiction, 17:8

OUT OF PRINT WORKS

Fair use defense, 10:140

OUTRAGE

Preemption, 18:41

OVERHEAD

Monetary damages, 22:141, 22:143

OVERLAPPING AWARDS

Monetary damages, 22:112

OVERSEAS ASSERTIONS

Government works, 4:80

OWN LIFE STORY

Exclusive rights, 3:20.50

PACIFIC & SOUTHERN v. DUNCAN

Fair use defense, 10:75

PACKAGING

Designs of useful articles, 3:151.50	Defendants—Cont'd
PALMER v. BRAUN	sovereign immunity—Cont'd
Substantial similarity, 9:266	fundamental aspect, 21:88.5
•	general practice of mankind, 21:88.6
PANAVISION INTERNATIONAL L.P. v. TOEPPEN	language misuse, 21:88.4
Personal jurisdiction, 17:163	misuse of language, 21:88.7-
	21:88.14
PANTOMIMES AND CHOREOGRAPHIC WORKS	state governments
Generally, 3:95 to 3:97	generally, 21:88.1-21:88.26
Choreography, generally, 3:96	background principles, 21:88.5 congressional actions, 21:88.2 -
Copyrightable material, generally, 3:95	21:88.3
to 3:97	fundamental aspect, 21:88.5
Derivative works, 12:20.10	general practice of mankind,
Pantomime, generally, 3:97	21:88.6
PARENS PATRIAE	language misuse, 21:88.4
Standing to sue, 21:6	Supreme Court jurisprudence, 21:88.16
PARODY	trademark cases
Fair Use Defense (this index)	generally, 21:88.19-21:88.25
PARTIAL DISMISSALS	Allen v. Cooper, 21:88.25
Forum non conveniens, 17:222.50	Atascadero State Hospital v.
	Scanlon, 21:88.21 Central VA Community College
PARTIAL PREEMPTION	v. Katz, 21:88.24
Construction and interpretation, 18:15	Fitzpatrick v. Bitzer, 21:88.20
PARTIES	Seminole Tribe of Florida v.
Generally, 21:1 to 21:91	Florida, 21:88.22
See also more specific topics in this index	state governments
Arm of the state, 21:91	generally, 21:88.1-21:88.26
Class Actions (this index)	background principles, 21:88.5 congressional actions, 21:88.2 -
Contributory Infringement (this	21:88.3
index)	fundamental aspect, 21:88.5
Defendants	general practice of mankind,
generally, 21:37 to 21:90	21:88.6
sovereign immunity	language misuse, 21:88.4
generally, 21:88.4-21:88.26 background principles, 21:88.5	sovereign immunity, 21:88.4- 21:88.26
colonial bills, 21:88.12	generally, 21:88.4-21:88.26
Congress, 21:88.11	Allen v. Cooper, 21:88.25
congressional actions, 21:88.2 -	Atascadero State Hospital v.
21:88.3	Scanlon, 21:88.21
Constitutional Convention, 21:88.13	Central VA Community College v. Katz, 21:88.24
Copyright Act of 1790, 21:88.14	Constitutional Convention,
Fourteenth Amendment, 21:88.17,	21:88.13
21:88.18	Copyright Act of 1790, 21:88.14

PARTIES—Cont'd

PARTNERS AND PARTNERSHIP PARTIES—Cont'd Defendants—Cont'd Work made for hire, 5:71.50 state governments-Cont'd PARTY JURISDICTION sovereign immunity, 21:88.4-Pendent party jurisdiction, Finley case, 21:88.26—Cont'd 17:56 Fitzpatrick v. Bitzer, 21:88.20 Fourteenth Amendment, PASHA PUBLICATIONS v. ENMARK 21:88.17, 21:88.18 GAS CORP. misuse of language, 21:88.7-Fair use defense, 10:119 21:88.14 PASILLAS v. MACDONALD'S CORP. Seminole Tribe of Florida v. Substantial similarity, 9:239 Florida, 21:88.22 Supreme Court jurisprudence, PASSING OFF 21:88.16 Preemption, 18:47 to 18:50 **Infringement** (this index) **PASSIVE CARRIERS** Joinder and Indispensable Parties (this index) Cable television and other secondary transmissions, 14:69 Plaintiffs, generally, 21:1 to 21:36 **Pleadings** (this index) **PATENTS Secondary Liability** (this index) Baker v. selden, 4:42 **Standing to Sue** (this index) Baker v. Selden, 4:43 State governments Contributory infringement, 21:51 generally, 21:88.1-21:88.26 Registration as patent bar, 17:132.60 background principles, 21:88.5 Subject-matter jurisdiction, 17:9 congressional actions, 21:88.2-PAVLOVICH 21:88.3 fundamental aspect, 21:88.5 Personal jurisdiction, 17:171 general practice of mankind, 21:88.6 **PAYMENT** language misuse, 21:88.4 Government works, 4:59 sovereign immunity, 21:88.4-Preemption, 18:27 21:88.26 Preliminary injunctions, 22:40 generally, 21:88.4-21:88.26 Work made for hire, **5:61**, **5:62** Allen v. Cooper, 21:88.25 Atascadero State Hospital v. **PENALTIES** Scanlon, 21:88.21 First Copyright Act revisions, **1:40** Central VA Community College v. PENDENT FOREIGN CLAIMS Katz, 21:88.24 Jurisdiction, 17:55 Constitutional Convention, 21:88.13 Copyright Act of 1790, 21:88.14 PENDENT ISSUES Fitzpatrick v. Bitzer, 21:88.20 **Jurisdiction** (this index) Fourteenth Amendment, 21:88.17, PENDENT PARTY JURISDICTION 21:88.18 Finley case, 17:56 misuse of language, 21:88.7-21:88.14 PENDENT PERSONAL Seminole Tribe of Florida v. Flor-**JURISDICTION** ida, 21:88.22 Generally, **17:190** Supreme Court jurisprudence, PENDENT VENUE 21:88.16 Strict Liability (this index) Generally, **17:201**

Federal-state pendent venue, 17:202

Vicarious Liability (this index)

PENDING ACTS AND MATTERS

Jurisdiction, 17:57 to 17:59

PENGUIN BOOKS U.S.A. v. NEW CHRISTIAN CHURCH OF FULL ENDEAVOR

Fair use defense, 10:137

PENNOYER v. NEFF

Personal jurisdiction, 17:143

PERFORM

Definition, 14:22

PERFORMANCE

Berne Convention Implementation Act of 1988, Article 11, 23:29

Choice of law, 25:62

Distribution of copies of work, 13:12

Exclusive rights, **8:19**, **8:28**

First Copyright Act revisions, 1:27

Formalities, 6:33, 6:52, 6:81

Public Performance (this index)

TRIPS, Article 14, 23:67

Uruguay Round Agreements Act (this index)

WIPO Treaties, 23:48

PERFORMING RIGHTS SOCIETIES

Personal jurisdiction, **17:181** Standing to sue, **21:13**

PERIODICALS

Reproduction right, 9:27

PERMANENT INJUNCTIONS

Generally, 22:74 to 22:78

Damages, 22:78

Future works, 22:77

Monetary damages, 22:78

Recall, **22:81**

Royalty obligations, continuing, 22:75

PERPETUAL LICENSES

Generally, 5:134

PERRIS v. HEXAMER

Reproduction right, **9:105**Substantial similarity, **9:121**

PERSONALITY VIEW

Noncopyrightable material, **4:33**

PERSONAL JURISDICTION

Generally, 17:133 to 17:193

PERSONAL JURISDICTION—Cont'd

Advertising, 17:175

Analytical framework, 17:147

Asahi Metal Industry Co. v. Superior Court of California, **17:146**

Auctions, 17:188

Bancroft & Masters, Inc. v. Augusta National, Inc., **17:164**

Broadcast transmissions, 17:186.50

"But for" test, 17:153

Calder v. Jones, generally, 17:161

Cease-and-desist letters, 17:176

Challenges, 17:135, 17:136

Claims

establishment for each, 17:137

registration with the Copyright Office, 17:133.75

Consent, 17:142

Contracts and agreements, 17:177

Copyright Office, 17:178

Copyright violation as intentional tort, 17:166.50

Corporate veil, piercing, 17:183

Correspondence, 17:176

Cybersell, Inc. v. Cybersell, Inc., 17:162 Declaratory judgment actions, 17:191 to

17:193

Defendant, establishment for each, 17:138

Doing business, general jurisdiction, 17:149

Dole Food Co. v. Watts, 17:165

Ebay and internet auctions, 17:188

Effects test, 17:161

Elements, generally, 17:139

Email transmissions, 17:187

Establishment for each claim, 17:137

Establishment for each defendant,

17:138

Evidentiary issues, generally, **17:134 to 17:136**

Exception to establishing jurisdiction for each claim, pendent personal jurisdiction as, 17:190

Express aiming, 17:156

Facial challenges, 17:135

Factual challenges, 17:136

Filing with Copyright Office, 17:178

Foreign acts and matters, 17:143 to

17:146

PERSONAL JURISDICTION—Cont'd	PERSONAL JURISDICTION—Cont'd
Foreign defendants, FRCP 4(k)(2),	Pendent personal jurisdiction, 17:190
17:141	Pennoyer v. Neff, 17:143
Forum, 17:159 , 17:168	Performing rights societies, 17:181
Forum selection clauses, 17:179 FRCP, 17:140 , 17:141	Procedural issues, generally, 17:134 to 17:136
General jurisdiction, 17:145, 17:148 to 17:150, 17:189	Purposeful availment, 17:154, 17:155 Purposeful direction, 17:155
Goodyear Dunlop Tires Operations v.	Records and recording, 17:178
S.A., 17:146	Reigstering a claim with the Copyright
Grokstar case, 17:172	Office, 17:133.75
Ham case, 17:192, 17:193	Relatedness, 17:152
Harm in forum, 17:168	Selection, 17:179
Helicopteros Nacionales de Colombia, S.A. v. Hall, 17:145	Service of process, FRCP 4(k)(1) and (h), 17:140
Hungerstation LLC v. Fast Choice LLC,	Situs as forum, 17:159
17:166.75	Situs of infringement, 17:158
Industry, effect on, 17:170	Specific jurisdiction
Infringement, 17:158, 17:160	generally, 17:151 to 17:172
Intellectual property torts, 17:166.50, 17:167	Bancroft & Masters, Inc. v. Augusta National, Inc., 17:164
Intentional infringement, 17:160,	"but for" test, 17:153
17:166.50, 17:167	Calder v. Jones, generally, 17:161
Intentional torts, 17:166.50, 17:167	copyright violation as intentional tort,
International torts and effects test,	17:167
17:161	Cybersell, Inc. v. Cybersell, Inc.,
Internet	17:162
generally, 17:185 to 17:189	Dole Food Co. v. Watts, 17:165
Ebay and internet auctions, 17:188	express aiming, 17:156
email transmissions, 17:187	Grokstar case, 17:172
general jurisdiction, 17:189	Ham case, 17:193
Zippo Manufacturing case, 17:186	harm in forum, 17:168
Janmark case, 17:169	Helicopteros Nacionales de
J. McIntyre Machinery, Ltd. v. Nicastro, 17:146.50	Colombia, S.A. v. Hall, 17:145
Judgments, 17:191 to 17:193	Hungerstation LLC v. Fast Choice LLC, 17:166.75
Licensing, 17:180 to 17:182	industry, effect on, 17:170
Limitations and restrictions, 17:146	intellectual property torts, 17:167
Location of plaintiff, 17:133.50	intentional infringement, 17:160
Mechanical licenses, 17:181, 17:182	international torts and effects test,
Nexus, 17:152	17:161
Ninth circuit, 17:153, 17:161 to 17:166,	internet, 17:186
17:168, 17:169	Janmark case, 17:169
Ninth circuit. Specific jurisdiction,	nexus, 17:152
below	Ninth circuit, 17:153, 17:161 to
Nonresidents, exercise of jurisdiction	17:166, 17:168, 17:169
over, 17:143 to 17:146	Panavision International L.P. v. Toep-
Panavision International L.P. v. Toeppen,	pen, 17:163
17:163	Pavlovich, 17:171
Pavlovich, 17:171	purposeful availment, 17:154, 17:155

PFIZER CASE

Fair use defense, 10:114

PERSONAL JURISDICTION—Cont'd PHOENIX HILL ENTERPRISES v. Specific jurisdiction—Cont'd DICKERSON purposeful direction, 17:155 Fair use defense, 10:132 relatedness, 17:152 **PHONOGRAMS** situs as forum, 17:159 Formalities, 6:81 situs of infringement, 17:158 International copyright, 23:13 stream of commerce, 17:174 Term. 7:51 "transacting business," 17:157 TRIPS, 23:67 Washington Shoe Co. v. A-Z Sporting WIPO Treaties, 23:48 Goods Inc., 17:166.50 Yahoo! Inc. v. La Ligue Contre Le **PHONORECORDS** Racisme et L'Antisemitisme, Generally, 11:20 to 11:28 17:166 Case law under Section 115, 11:28 Zippo Manufacturing case, 17:186 Compulsory license, procedure for Stream of commerce, 17:146, 17:174 obtaining, 11:25 Supreme Court, express aiming, 17:156 Copyright Act of 1909, **11:20** Trade shows and conferences, 17:184 Copyright Act of 1976, **11:21** "Transacting business," 17:157 Derivative works, 12:28 Waiver. 17:142 Digital Performance Right in Sound Walden v. Fiore, 17:156 Recordings Act of 1995, 11:27 Washington Shoe Co. v. A-Z Sporting Distribution. Licenses for making and Goods Inc., 17:166.50 distributing, below World-Wide Volkswagen Corp. v. Entitlement to license, 11:24 Woodson, 17:144 Formalities, 6:34, 6:53, 6:63 Yahoo! Inc. v. La Ligue Contre Le Licenses for making and distributing Racisme et L'Antisemitisme, generally, 11:20 to 11:28 17:166 case law under Section 115, 11:28 Zippo Manufacturing case, 17:186 compulsory license, procedure for PETER LETTERESE AND obtaining, 11:25 ASSOCIATES, INC. v. WORLD Copyright Act of 1909, **11:20** INSTITUTE OF SCIENTOLOGY Copyright Act of 1976, **11:21 ENTERPRISES** covered recordings, 11:23 Substantial similarity, 9:266.60 covered works, 11:22 derivative right exceptions, 12:28 PETERMAN v. REPUBLICAN Digital Performance Right in Sound NATIONAL COMMITTEE Recordings Act of 1995, 11:27 Fair use defense, 10:132.80 entitlement to license, 11:24 PETER PAN FABRICS, INC. v. new recording, purpose of, 11:24 MARTIN WEINER CORP. nontransferability of Section 115 licenses, 11:26 Substantial similarity, 9:140 ringtones, 11:24.50 PETERS v. WEST Section 115 license, operation of, gen-Substantial similarity, 9:223.60 erally, **11:24 to 11:28, 13:33** Monetary damages, 22:186 PETRELLA V. New recording, purpose of, 11:24 **METRO-GOLDWYN-MAYER** Nondramatic musical works, generally, Construction and interpretation, 2:59.60 11:20 to 11:28

Nontransferability of Section 115 licen-

ses. 11:26

PHONORECORDS—Cont'd

Ringtones, 11:24.50

Section 115 license. Licenses for making and distributing, above

Sound recordings, 11:27

Uruguay Round Agreements Act, 24:20

PHOTOCOPYING

Fair Use Defense (this index)

PHOTOGRAPHIC SUBJECTS

Visual works, 4:18

PHOTOGRAPHS

Generally, 3:118, 3:119

Derivative works, **3:49**, **3:119.50**, **12:11**

Pictorial, graphic, and sculptural works, 3:49, 3:119, 3:119.50, 3:154.50

Useful articles, designs of, 3:154.50

PHOTOGRAPHY

First Copyright Act revisions, **1:31** Visual Artists Rights Act of 1990, **16:9**

PHOTOGRAPHY AND DEPOSIT AMENDMENTS OF 1865

First Copyright Act revisions, 1:31

PHYSICAL OR MENTAL DISABILITIES

Public performance, 14:48

PHYSICAL PROXIMITY

Author and authorship, 5:30

PHYSICAL SEPARABILITY

Pictorial, graphic, and sculptural works, 3:138

PICTORIAL GAMES

Noncopyrightable material, 4:20

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS

Generally, 3:98 to 3:154.60

Architectural Drawings (this index)

Architectural Plans (this index)

Architectural Works (this index)

Backpacks, 3:152.60

Berne Implementation Act of 1988, 3:101

Classification, 3:109

Clothing, **3:151**

Committee reports, 3:135

PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS—Cont'd

Conceptual separability, Copyright Office view of, **3:139**

Constructability, 3:108.10

Construction and interpretation. Useful articles, designs of, below

Copyright Act of 1909

generally, 3:99

architectural plans and drawings, 3:103

useful articles, designs of, **3:126**

Copyright Act of 1976

generally, 3:100

architectural plans and drawings, 3:104

useful articles, designs of, below

Copyright Office

generally, 3:137 to 3:139

reexamination of 1937, 3:129

regulations, designs of useful articles, 3:127 to 3:130, 3:132, 3:133

Copyright Office, deference to, 3:139.10

Copyright Office Review Board opinions, **3:147.50**

Costumes, **3:153**

Deference to the Copyright Office, 3:139.10

Derivative works, 3:49, 3:119.50

Designs. Useful articles, designs of, below

Distribution right, 3:111

Dolls, 3:149

Drawings, 3:103 to 3:105.50

Drinking vessels, 3:151.60

Eating utensils, **3:151.60**

Eleventh circuit, 3:144.40

Embodiment

generally, 3:145

useful articles, embodiment in. Picto-

rial, Graphic, and Sculptural Works Embodied in Useful

Articles (this index)

Examination, 3:129

Exclusive rights, 3:111

Fabric designs, 3:151

Fifth circuit, 3:143

Fine-art limitation, 3:126

Fourth circuit, 3:142

Furniture, 3:154

PICTORIAL, GRAPHIC, AND	PICTORIAL, GRAPHIC, AND
SCULPTURAL WORKS—Cont'd	SCULPTURAL WORKS—Cont'd
Helmets, headgear, and shoes, 3:152.50	State laws, 3:113
History, 3:98 to 3:101	Technical drawings and plans, 3:154.60
Hookahs, 3:154	Tenth circuit, 3:144.30
Jewelry, 3:148	Textiles, 3:151
Joint ownership of photographs, 3:119	Toys, 3:149
Labels, 3:120	Two-dimensional works applied to use-
Lamps, 3:154	ful articles, 3:150
Legislative history, 3:98 to 3:101	Types of works covered, generally,
Limitations and restrictions, 3:126	3:102 to 3:123
Live animals or nature, photographic	Useful articles, designs of
depiction, 3:117.10	generally, 3:124 to 3:154.60
Local laws, 3:113	backpacks, 3:152.60
Makeup, 3:152	clothing, 3:151
Maps, 3:117	committee report of 1976, 3:135
Masks, 3:152	construction and interpretation. Copyright Act of 1976, below this
Mazer v. Stein, 3:131	group
Nature of live animals, photographic depiction, 3:117.10	Copyright Act of 1976
Ninth circuit, 3:144.20	generally, 3:134 to 3:147
Original separable features, 3:146.50	committee report, 3:135
Packaging, 3:151.50	construction and interpretation
Photographs, 3:49 , 3:118 , 3:119 ,	generally, 3:136 to 3:147
3:119.50, 3:154.50	conceptual separability, Copy-
Physical separability, Copyright Office	right Office view of, 3:139
view of, 3:138	Copyright Office, 3:137 to 3:139
Pre-1976 Copyright Act law. Useful	Copyright Office Review Board
articles, designs of, below	opinions, 3:147.50
Pre-Copyright Act of 1909, 3:98	courts, generally, 3:140 to
Preemption of state and local laws,	3:144.40
3:113	deference to the Copyright
Prints and labels, 3:120	Office, 3:139.10 eleventh circuit, 3:144.40
Question of fact, 3:147	embodiment, 3:145
Quilts, 3:121	fifth circuit, 3:143
Reexamination, 3:129	fourth circuit, 3:142
Registration, 3:106, 3:115	ninth circuit, 3:144.20
Remedies, 3:112	original separable features,
Reports, 3:135	3:146.50
Retroactivity, 3:114	physical separability, Copyright
Robots, 3:122.50	Office view of, 3:138
Rugs, 3:151	proper approach, 3:145 to 3:147
Sculpture, 3:122	question of fact, 3:147
Second circuit, 3:141	second circuit, 3:141
Separability, 3:146	separability, 3:146
Seventh circuit, 3:144	seventh circuit, 3:144
Sixth circuit, 3:143.50	sixth circuit, 3:143.50
Star Athletica, LLC v. Varsity Brands,	Star Athletica, LLC v. Varsity
Inc., 3:144.80	Brands, Inc., 3:144.80

PICTORIAL, GRAPHIC, AND PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS—Cont'd SCULPTURAL WORKS—Cont'd Useful articles, designs of—Cont'd Useful articles, designs of-Cont'd Copyright Act of 1976—Cont'd textiles, **3:151** construction and interpretation toys, 3:149 -Cont'd two-dimensional works applied to third circuit, 3:141.50 useful articles, 3:150 Copyright Office Review Board Web sites, **3:123** opinions, 3:147.50 Works of art incorporated in works, Copyright Office, **3:137 to 3:139** 3:110 costumes, 3:153 PICTORIAL, GRAPHIC, AND dolls, 3:149 SCULPTURAL WORKS drinking vessels, 3:151.60 EMBODIED IN USEFUL eating utensils, **3:151.60 ARTICLES** embodiment in useful articles. Picto-Generally, 11:11 to 11:15 rial. Graphic, and Sculptural Architectural plans and works, 11:14 Works Embodied in Useful Case law under Section 1(b) of Copy-**Articles** (this index) right Act of 1909, **11:12** fabric designs, 3:151 Copyright Act of 1909, **11:12** furniture, 3:154 Copyright Act of 1976, **11:13** hookahs, 3:154 Display publicly, 15:13 jewelry, **3:148** History, 11:13 lamps, **3:154** Legislative history of Section 113 of masks, 3:152 1976 Act, 11:13 packaging, 3:151.50 Limitations and restrictions photographs, 3:154.50 generally, 11:11 to 11:15 pre-1976 Copyright Act law architectural plans and works, 11:14 generally, 3:125 to 3:133 case law under Section 1(b) of Copy-Copyright Act of 1909, **3:126** right Act of 1909, **11:12** Copyright Office reexamination of legislative history of Section 113 of 1937, **3:129** 1976 Act, 11:13 Copyright Office regulations, 3:127 Section 113, 11:14 to 3:130, 3:132 Section 113(c), 11:15 fine-art limitation, 3:126 Monetary damages, 22:188 Mazer v. Stein, 3:131 Section 113, 11:13 to 11:15 1910 regulation of Copyright Office, **3:127** PIERCING CORPORATE VEIL 1917 regulation of Copyright Personal jurisdiction, 17:183 Office, 3:128 1948 regulation of Copyright **Location and Place** (this index) Office, **3:130** 1956 regulation of Copyright PLAIN MEANING DISPUTES Office, 3:132 Construction and interpretation, 2:14 to 1959 regulation of Copyright 2:20 Office, 3:133 **PLEADINGS** pre-1909 statutes, 3:125 statutory provisions, 3:125, 3:126 Generally, **19:1 to 19:15** rugs, 3:151 Amended pleadings, damages requests, 19:15 technical drawings and plans, 3:154.60 Attorney's fees, 19:14

PLEADINGS—Cont'd **POLITICS** Copyright Office, pleading fraud on, Government works, 4:61 19:2.50 POPULAR MEDIA Damages, 19:14 Reproduction right, 9:26 Damages generally, 19:13.50 Damages requests, amended pleadings, POP - UPS 19:15 Derivative works, **12:17 to 12:19** Defendant, 19:9, 19:13 **POSNER - LANDES IMAGINATIVE** damages generally, 19:13.50 DISCURSIVE DISTINCTION Defendant's work, 19:8 Noncopyrightable material, 4:39 to 4:41 Exclusive rights. 19:7 Fair use defense, 10:157.50 POSTAL SERVICE AND POST Foreign law, 25:79 **OFFICE** Fraud on copyright office, **19:2.50** Copyright Act of 1909 amendments, FRCP 8, generally, **19:1 to 19:15** 1:53 FRCP 9, generally, **19:1 to 19:15** First Copyright Act revisions, 1:26, 1:36 Identification of works at issue, **19:6** Government works, **4:65**, **4:79** Infringement, 19:10 POSTHUMOUS WORKS Limitation of actions, 19:12 1909 general revision, **7:21** Multiple defendants, 19:9 Ownership of protected work, 19:5 POST OFFICE Ownership of protected work, access, Postal Service and Post Office (this 19:5.50 index) Plaintiff POST-REGISTRATION generally, 19:3 to 19:12 Damages, 22:201.25 defendant's work, 19:8 identification of works at issue, 19:6 POTENTIAL HARM infringement, 19:10 Visual Artists Rights Act of 1990, 16:21 limitation of actions, 19:12 POTENTIAL MARKET multiple defendants, 19:9 Fair Use Defense (this index) ownership of protected work, 19:5 PREAMBLE TO SECTION 107 ownership of protected work, access, Fair use defense, 10:11, 10:12 19:5.50 ownership of protected work, gener-PREDICATE ACT DOCTRINE ally, 19:5 to 19:7 Extraterritoriality, 25:90 registration, 19:4 **PREEMPTION** relevant exclusive right, 19:7 Generally, **18:1 to 18:60** secondary liability, 19:11 Accounting, 18:24, 18:35 Preemption pitfalls, 18:52.50 Affirmative defense, 18:8.50 Protected work. Plaintiff, above Amendments, 18:5 to 18:7 Registration, 17:94, 19:4 Anti-SLAPP legislation, 18:21.50 Relevant exclusive right, 19:7 Architectural works, Section 301(b)(4), Secondary liability, **19:11** 18:53 Statutory damages, 19:14 Awareness, 18:20 Title and ownership. Plaintiff, above Bad faith, 18:20 Unclean hands, 19:2.60 Berne Convention, 18:57 POLITICAL USES Bowers v. Baystate Technologies, Inc., Fair Use Defense (this index) 18:26

PREEMPTION—Cont'd PREEMPTION—Cont'd Business reputation, injury to, 18:38 Damages, 18:21 Capital Records, Inc. v. Naxos America, Dastar case, 18:50 Inc., 18:55 Davidson & Associates v. Jung, 18:26 Chattel claims, 18:45, 18:46 Deceptive trade practices, 18:36 Commercial immorality, 18:20 Definition of "within the subject matter of copyright," 18:13 to 18:15 Common law copyright, 18:22.50 Competition, 18:47 to 18:50 DMCA preemption of state law claims, 18:52.60 Computer Fraud and Abuse Act, 18:45, 18:46 Economic advantage, 18:30 Confidence, breach of, 18:22 Election, 18:29 Conspiracy, 18:23 Equivalent rights Construction and interpretation generally, 18:16 to 18:21 generally, **18:9 to 18:21** awareness, 18:20 fixation, 18:10, 18:11 bad faith, 18:20 partial preemption, 18:15 commercial immorality, 18:20 protection subject matter, generally, damages, 18:21 18:12 extra-elements test, 18:18 simultaneous fixation, 18:11 intent, 18:20 subject-matter preemption, 18:10 to labels, 18:17 18:12 qualitatively different-in-kind test, two-step analysis, 18:9, 18:13 to 18:19 to 18:21 18:15 Visual Artists Rights Act of 1990, unoriginal works, 18:14, 18:15 16:42 uses in trade and expressive works Expressive works and uses in trade distinguished, 18:9.50 distinguished, 18:9.50 "within the subject matter of copy-Express preemption, **18:2** right" defined, 18:13 to 18:15 Extra-elements test. 18:18 Constructive trust, 18:24 Federal claims of reverse passing off, Contracts and agreements 18:50 generally, 18:25 to 18:30 Federal question jurisdiction, 17:23 Bowers v. Baystate Technologies, Federal statutes, 18:56 Inc., 18:26 Fiduciary relationship, breach of, 18:22 Davidson & Associates v. Jung, 18:26 Fixation, 18:10, 18:11 economic advantage, 18:30 Fraud, 18:37, 18:45, 18:46 election, 18:29 History, 18:3 to 18:8 implied contracts, 18:28 "Hot" news, 18:39, 18:40 material breach, 18:29 Immorality, 18:20 private copyright law, 18:26 Implied contracts, 18:28 ProCD, Inc. v. Zeidenberg, 18:26 Implied preemption, 18:60 promise not to violate section 106 Indemnification, right of, 18:31, 18:33 right, 18:26.50 Intent. 18:20 promise to pay, 18:27 Interference, 18:30 prospective business, 18:30 Labels, 18:17 quasi-contracts, 18:28 Lanham Act, Section 43(a), 18:50 tortious interference, 18:30 Legislative history of Section 301, 18:3 Contribution, right of, 18:31 to 8:33 to 18:8 Conversion, 18:34 Limitation of actions, 20:48 Copyright Act of 1976, Section 301, Market practices, 18:38.50 generally, 18:8 to 18:21

INDEX

PREEMPTION—Cont'd PREEMPTION—Cont'd Material breach, 18:29 Supplementary report, 18:6 Misappropriation, including "hot" Supremacy clause, 18:59 news, 18:39, 18:40 Tortious interference, 18:30 Negligence and outrage, **18:41** Trade dress, **18:43.90** 1966 amendments, **18:7** Trade secrets. 18:44 Notice and knowledge, 18:20 Trespass to chattels, **18:45**, **18:46** Originality, 18:14, 18:15 Unfair competition, including passing Outrage, 18:41 off and reverse passing off, 18:47 to 18:50 Partial preemption, 18:15 Unjust enrichment, 18:51 Passage of Act, 18:8 Unoriginal works, **18:14**, **18:15** Passing off, **18:47 to 18:50** Payment, 18:27 Uruguay Round Agreements Act, 24:15 Uses in trade and expressive works Pictorial, graphic, and sculptural works, distinguished, 18:9.50 3:113 Visual Artists Rights Act of 1990 (this Pleading pitfalls, 18:52.50 index) Preliminary draft bill of 1963, 18:4 "Within the subject matter of copy-Privacy, right of, 18:43 right" defined, 18:13 to 18:15 Private copyright law, 18:26 ProCD, Inc. v. Zeidenberg, 18:26 PREEXISTING CAUSES OF ACTION Promise not to violate section 106 right, Assignment, **5:113** 18:26.50 Visual Artists Rights Act of 1990, 16:39 Promise to pay, 18:27 PREEXISTING LIVE MUSICAL Prospective business, 18:30 **PERFORMANCES** Publicity, right of, **18:43** Uruguay Round Agreements Act, 24:14 Qualitatively different-in-kind test, 18:19 to 18:21 PREJUDGMENT INTEREST Quantum meruit, 18:42 Remedies, 22:222 Quasi-contracts, 18:28 **PREJUDICE** Register's supplementary report of Fair use defense, 10:7 1965, **18:6** Reputation, 18:38 PRELIMINARY INJUNCTIONS Resale royalty state laws, **18:42.50** Generally, 22:7 to 22:73 Reverse passing off, 18:47 to 18:50 Abuse of discretion review, 22:8 Revision bill of 1964, **18:5** Adequacy of remedy at law, 22:35 Affirmative defense, 22:70 Revision bill of 1965, 18:6 American Hospital Supply Corp. v. Section 301, generally, **18:8 to 18:21** Hospital Products Ltd., 22:55 Simultaneous fixation, 18:11 "And" or "or," 22:35 Sound recordings, Section 301(c), 18:54 Appeal and review, 22:8, 22:9 to 18:56 Architectural plans, 22:73 State claims of reverse passing off, Architectural works, 22:73 18:49 Automatic, 22:14 State criminal actions, 18:43.10 Bonding injunction, 22:72 State statutes, 18:52 Burden of proof, 22:70 State trespass to chattel claims, 18:46 Cessation of infringement, 22:65 State VARA actions, 18:43.50 Confusion in market, 22:41 Statutes, generally, 18:1 to 18:21 Contract cases, 22:59 Subject-matter preemption, 18:10 to 18:12 Damages, 22:42

PRELIMINARY INJUNCTIONS	PRELIMINARY INJUNCTIONS
Cont'd	—Cont'd
Defenses, 22:70	Four-factor test—Cont'd
Defining market, 22:51	irreparable harm—Cont'd
Delay, rebutting presumption by showing, 22:56	delay, rebutting presumption by showing, 22:56
Digital Millennium Copyright Act, 22:58	Digital Millennium Copyright Act, 22:58
District of Columbia circuit, 22:31	financial ruin, 22:40
Eighth circuit, 22:28	fleeting fame, 22:38
Eleventh circuit, 22:30	FRE 301, 22:46, 22:47
Error-avoidance methodology, 22:11	goodwill, 22:41
Evidentiary hearing, 22:68	history of presumption, 22:45
Extraterritorial injunctions, 22:73.50	immediacy, 22:36
Fair use defense, 10:9.50	insolvency, 22:40
Fifth circuit, 22:25	judgment, ability to pay, 22:40
Financial ruin, 22:40	market, defining, 22:51
First circuit, 22:22	Ninth circuit, 22:52, 22:53
Fleeting fame, 22:38	post-American Metropolitan opinions, 22:48
Four-factor test	presumption, generally, 22:44 to
generally, 22:21 to 22:31	22:59
affirmative defense, 22:70	reputation, 22:41
architectural plans, 22:73	seasonal works, 22:39
architectural works, 22:73	Seventh circuit, 22:54
bonding injunction, 22:72	statutory damages, 22:42
burden of proof, 22:70	Visual Artists Rights Act, 22:57
cessation of infringement, 22:65	willfulness, 22:43
District of Columbia circuit, 22:31	likelihood of success on merits,
Eighth circuit, 22:28	22:60, 22:61
Eleventh circuit, 22:30	mandatory injunctions, 22:71
evaluation, generally, 22:32 to 22:73	Ninth circuit, 22:17, 22:52, 22:53
evidentiary hearing, 22:68	notice, 22:67
extraterritorial injunctions, 22:73.50	presumption. Irreparable harm, above
Fifth circuit, 22:25	this group
First circuit, 22:22	prior restraint, preliminary injunctions
Fourth circuit, 22:24	as, 22:66
hardships, balance of, 22:62, 22:63	public interest, 22:64
irreparable harm	Seventh circuit, 22:27 , 22:54
generally, 22:33 to 22:59	Sixth circuit, 22:26
adequacy of remedy at law, 22:35	specificity of injunction, FRCP 65(d)
adoption of presumption, generally, 22:49 to 22:59	and 52(a), 22:69 Supreme Court, 22:21
algebraic models, 22:55	Tenth circuit, 22:29
American Hospital Supply Corp. v.	Third circuit, 22:23
Hospital Products Ltd., 22:55	Fourth circuit, 22:24
"and" or "or," 22:35	FRCP 52, 22:69
confusion in market, 22:41	FRCP 65, 22:69
contract cases, 22:59	FRE 301, 22:46 , 22:47

PRELIMINARY INJUNCTIONS —Cont'd Goodwill, 22:41 Hardships, balance of, **22:62**, **22:63** History of presumption, 22:45 Insolvency, 22:40 Interim injunction, 22:7 Irreparable harm. Four-factor test, above Judgment, ability to pay, 22:40 Likelihood of success on merits, 22:60, 22:61 Mandatory injunctions, 22:71 Market, confusion in, 22:41 Market, defining, 22:51 Merits, 22:10, 22:60, 22:61 Mistake and error, 22:11 Ninth circuit four-factor test, 22:17, 22:52, 22:53 two-factor test, 22:16 to 22:20 Notice, 22:67 "Or," 22:35 Payment, 22:40 Presumption. Four-factor test, above Prior restraint, preliminary injunctions as, **22:66** Public interest, 22:64 Recall, 22:80 Reputation, 22:41 Rhetoric and reality, 22:12, 22:13 Seasonal works, 22:39 Second circuit, two-factor test, 22:16 to 22:20 Security, **22:72** Seventh circuit, 22:27, 22:54 Sixth circuit, 22:26 Specificity of injunction, FRCP 65(d) and 52(a), 22:69 Statutory damages, 22:42 Success on merits, 22:60, 22:61 Supreme Court, 22:21 Temporary injunctions, 22:15 Temporary restraining orders, 22:9 Tenth circuit, 22:29

Willfulness, 22:43 PREREGISTRATION

Third circuit, 22:23

Two-factor test, 22:16 to 22:20

Visual Artists Rights Act, 22:57

Infringement, 17:81

PRESS

Berne Convention Implementation Act of 1988, 23:28

PRESUMPTIONS

Berne Convention Implementation Act of 1988, Article 15, 23:37

Fair use defense, 10:148

Monetary damages, 22:102

Preliminary Injunctions (this index)

Reproduction right, 9:7, 9:11

Sonny Bono Copyright Term Extension Act, **7:56**

Sony case, **10:148**

PREVAILING DEFENDANTS

Monetary damages, 22:204

PREVAILING PARTY

Definition, 22:211

PRICES

Noncopyrightable material, 4:48 to 4:50

PRIMA FACIE CASE

Choice of Law (this index)
Reproduction Right (this index)

PRIMARY AND CONTROLLING TEST

Jurisdiction, 17:35

PRIMARY TRANSMISSIONS

Cable television and other secondary transmissions, **14:61**

PRINCETON UNIVERSITY PRESS v. MICHIGAN DOCUMENT SERVICES, INC.

Fair use defense, 10:118

PRINT AND NOTICE AMENDMENTS

First Copyright Act revisions, 1:35

PRINTS AND LABELS

Copyright Act of 1909 amendments, **1:54**

First Copyright Act revisions, 1:21
Pictorial, graphic, and sculptural works,
3:120

PRIOR ACT EVIDENCE

Reproduction right, 9:92

PRIORITY

Licenses, 5:146 to 5:148

PRIOR RESTRAINT

Preliminary injunctions, 22:66

PRIVACY, RIGHT OF

Preemption, 18:43

PRIVATE CONTRACTOR

Government works, 4:77

PRIVATE COPYRIGHT LAW

Preemption, 18:26

PRIVATE FACTORS

Forum non conveniens, 17:218, 17:219

PRIVATE VIEWING

Display publicly, **15:15**Jukebox. **14:105** to **14:121**

PRIVATE WORKS

Government works noncopyrightable material, **4:60 to 4:62**

PRIVILEGES

Distribution of copies of work, **13:3** Exclusive rights, **8:7** Historical background, **1:2** Licenses (this index)

PRIVITY

License privity, binding parties, 5:126.50

PROBATIVE SIMILARITY

Reproduction right, 9:19

PROCD, INC. v. ZEIDENBERG

Preemption, 18:26

PRODUCERS

TRIPS, Article 14, 23:67

PRODUCTIVE USES

Fair use defense, 10:21

PRODUCT NUMBERS

Noncopyrightable material, 4:48 to 4:50

PRODUCT PRICES

Noncopyrightable material, 4:48 to 4:50

PRODUCT VALUES

Noncopyrightable material, **4:48 to 4:50**

PROFITS

Damages (this index)
Fair use defense, 10:7
Public performance, 14:20
Unrealized profits, 22:137.20

PROGRAMMING

Public performance, 14:79.50

PROGRESS

Constitutional Law (this index)

PROMISE TO PAY

Preemption, 18:27

PROMOTE

Definition, 3:5

PROMOTION

Constitutional Law (this index)

PROMOTIONS

Visual Artists' Rights Act of 1990, **16:13.50**

"PROPERLY AWARDABLE"

Attorneys' fees, 22:218

PROPRIETOR

General revision of 1909, 7:20

PROSPECTIVE BUSINESS

Preemption, 18:30

PROTECTED WORK

Pleadings (this index)

PSEUDONYMOUS WORKS

Copyright Act of 1976, **7:37**Sonny Bono Copyright Term Extension Act, **7:55**

PUBLIC

Berne Convention Implementation Act of 1988, Article 11, 23:30
Choice of law, 25:49
Distribution of copies of work, 13:10

Distribution of copies of work, 13:10 Extraterritoriality, 25:98

PUBLICATION AND PUBLICATIONS

Choice of law, **25:18.50**, **25:49** Copyright Act of 1976, **7:39 to 7:41**

Formalities (this index)

Government works, **4:81, 4:86**

Internet, simultaneous publication on Internet, **25:18.50**

PUBLICATION AND PUBLICATIONS PUBLIC PERFORMANCE—Cont'd —Cont'd Construction and interpretation. History, Monetary damages, 22:202 below Copyright Act of 1909. History, below Reproduction right, 9:27 Copyright Act of 1952, 14:10 Sonny Bono Copyright Term Extension Act, 7:58, 7:59 Copyright Act of 1976 history, below PUBLIC BROADCASTING instruction and other nonprofit perfor-Jukebox. 14:104 mances, Section 110, **14:39** Reproduction right, 11:45 Copyright Office, 14:12 Sound recordings, 11:19 **Definitions** generally, 14:8 PUBLIC BROADCASTING STATIONS for-profit performances, 14:9 Derivative works, 12:30 perform, 14:22 Display publicly, 15:14 performance, 14:6 PUBLIC DOMAIN public performances, 14:8 Choice of law, 25:71 Distribution rights distinguished, 14:21 Originality, 3:29, 3:38 Educational broadcasting, Section Technological protection measures and 110(2), **14:35** copyright management informa-Exclusive rights, 8:19 tion, 16A:2 Exemptions generally, 14:47, 14:122 **PUBLIC FACTORS** instruction and other nonprofit perfor-Forum non conveniens, 17:220 mances, Section 110, below PUBLIC INTEREST Exhaustion doctrine. Section 109, 14:32 Face-to-face instruction, Section 110(1), Preliminary injunctions, 22:64 14:34 PUBLICITY, RIGHT OF Fair use, Section 107, 14:31 Preemption, 18:43 First Copyright Act revisions, 1:27 For-profit limitation, 14:20 PUBLIC PERFORMANCE For-profit performances defined, 14:9 Generally, 14:1 to 14:123 Fraternal organizations, Section 110(10), Agricultural and horticultural fairs, Sec-14:49 tion 110(6), **14:46** Further transmissions, 14:41 Amendments and revisions Handicapped, 14:48 1998 amendments, instruction and other nonprofit performances, History Section 110, **14:44** generally, 14:3 to 14:28 revision bills of 1964-1966. History, construction and interpretation. Copybelow right Act of 1976, below this Armed forces, 14:49 group Copyright Act of 1909 Berne Convention Implementation Act of 1988, Article 11, 23:29 generally, 14:4 to 14:9 Blind and other handicapped individuconstruction and interpretation, als, 14:48 14:5 for-profit performances defined, Broadcasting, educational, 14:35 14:9 **Cable Television and Other Secondary**

Transmission (this index)

Commonly used in private homes, 14:43

Cass County test, 14:42

performance defined, 14:6

reasoning by analogy, 14:7

public performances defined, 14:8

PUBLIC PERFORMANCE—Cont'd PUBLIC PERFORMANCE—Cont'd History—Cont'd Instruction and other nonprofit perfor-Copyright Act of 1976 mances, Section 110-Cont'd works for, Sections 110(8) and generally, 14:11 to 14:28 (9), 14:48 construction and interpretation educational broadcasting, Section generally, 14:19 to 14:28 110(2), **14:35** distribution rights distinguished, face-to-face instruction, Section 14:21 110(1), **14:34** for-profit limitation, 14:20 fraternal organizations, Section legislative history, 14:25 110(10), 14:49 perform defined, 14:22 nonprofit performances, Section places open to family and social 110(4), **14:37** acquaintances, 14:27 nonprofit veterans, Section 110(10), places open to public, 14:26 14:49 publicly perform work, generrecord-store exemption, Section ally, 14:24 to 14:28 110(7), **14:47** relatives, places open to family religious performances, Section and social acquaintances, 110(3), **14:36** 14:27 small-business exemption, Section social acquaintances, places open 110(5) to family and social generally, 14:38 to 14:45 acquaintances, 14:27 apparatus commonly used in transmissions, 14:28 private homes, 14:43 transmit performance, 14:23 Cass County test, 14:42 Copyright Office preliminary draft construction and interpretation of bill of 1963, **14:12** 1976 Copyright Act, **14:39** Register of Copyrights' 1961 further transmissions, 14:41 report, 14:11 1998 amendments, 14:44 revision bills of 1964-1966 1964 bills, 14:13 small businesses only, 14:40 1965 bills, 14:14 WTO panel ruling, 14:45 1965 Congressional hearings, **Jukebox** (this index) Limitations and restrictions 1966 and 1973 Senate hearings, generally, 14:30 to 14:80 14:17 cable television and other secondary 1966 House Judiciary Committransmissions, 14:73 tee Bill, 14:16 exhaustion doctrine, Section 109, 1975 House hearings, **14:18** 14:32 1952 Copyright Act, **14:10** fair use, Section 107, 14:31 revision bills of 1964-1966. Copyhistory, 14:20 right Act of 1976, above instruction and other nonprofit perfor-1790-1909, **14:3** mances, Section 110, above Horticulture, 14:46 Internet streaming of television Instruction and other nonprofit perforprogramming, **14:79.50** mances, Section 110 online service providers, Section 512, generally, 14:33 to 14:49 14:123 agricultural and horticultural fairs. Local to local station exemption, 14:122 Section 110(6), **14:46** Nonprofit performances. Instruction and blind and other handicapped individuother nonprofit performances, Secals, performance of literary tion 110, above

PUBLIC PERFORMANCE—Cont'd

Nonprofit veterans, Section 110(10), 14:49

Online service provider, 14:123

Performance defined, 14:6

Perform defined, 14:22

Places open to family and social acquaintances, **14:27**

Places open to public, 14:26

Profit, 14:20

Public performances defined, 14:8

Record-store exemption, Section 110(7), 14:47

Register of Copyrights' 1961 report, 14:11

Relatives, places open to family and social acquaintances, **14:27**

Religious performances, Section 110(3), 14:36

Reports, 14:11

Retransmission, 14:122

Revision bills of 1964-1966. History, above

Right to publicly perform work, generally, **14:1** to **14:123**

Sales, 14:47

Satellite retransmission of local to local station exemption, Section 122, 14:122

Section 106, 14:29

Section 107, 14:31

Section 109, 14:32

Section 110. Instruction and other nonprofit performances, Section 110, above

Section 122, 14:122

Section 512, 14:123

Small-business exemption, Section 110(5). Instruction and other non-profit performances, Section 110, above

Social acquaintances, places open to family and social acquaintances, 14:27

Sound Recordings (this index)

Statute, generally, 14:1

Transmissions, 14:23, 14:28, 14:41

Veterans, 14:49

WTO panel ruling, 14:45

PUBLIC POLICY

Forum selection, **25:77**Government works, **4:58**

PUBLIC PRESENTATION AND CONSERVATION

Visual Artists Rights Act of 1990, 16:30

PUBLIC RECITATION

Berne Convention Implementation Act of 1988, Article 11, **23:31**

PUBLIC RECORDS

Government works, 4:87

PUBLISHED WORKS

Fair use defense, 10:139.30

PUBLISHERS

Licenses, 5:141

PUDDU v. BUONAMICI STATUARY,

Substantial similarity, 9:145

PUERTO RICO

Generally, 27:1-27:4

Federal copyright preemption, **27:4** Legal framework, **27:2** U.S. Copyright Act, **27:3**

PUNITIVE DAMAGES

Generally, 22:151

PURPOSEFUL AVAILMENT

Personal jurisdiction, 17:154, 17:155

PURPOSEFUL DIRECTION

Personal jurisdiction, 17:155

QUALIFIED IMMUNITY

Generally, **21:88.20**

QUALITATIVELY DIFFERENT - IN -KIND TEST

Preemption, 18:19 to 18:21

QUALITATIVE TAKINGS

Reproduction right, 9:64

QUALITY KING DISTRIBUTORS, INC. v. L'ANZA RESEARCH INTERNATIONAL, INC.

Construction and interpretation, 2:57

QUANTITATIVE TAKINGS

Reproduction right, 9:64

QUANTITY OF MATERIALS USED

Fair use defense, 10:6

QUANTUM MERUIT

Preemption, 18:42

QUASI - CONTRACTS

Preemption, 18:28

QUESTIONS OF LAW AND FACT

Author and authorship, 5:31

Originality, 3:39

Ownership, **5:1.50**

Pictorial, graphic, and sculptural works, 3:147

Reproduction right, 9:86

Subject-matter jurisdiction, 17:45

Work made for hire, 5:95

OUILTS

Pictorial, graphic, and sculptural works, 3:121

RADIO RETRANSMISSIONS

Bonneville v. Peters, 14:88

RATES

Cable television and other secondary transmissions, **14:75**

Fees (this index)

Jukebox, 14:119, 14:120

Sound recordings, 14:89.50, 14:98

Webcasting rates, 14:89.50

RAUM v. NORWOOD

Substantial similarity, 9:205

READER'S DIGEST ASSOCIATION, INC. v. CONSERVATIVE DIGEST, INC.

Substantial similarity, 9:274

REASONABLE EFFORTS

Formalities, 6:69

REBROADCASTS

Fair Use Defense (this index)

REBUTTAL

Reproduction right, 9:11

RECALL

Generally, 22:79 to 22:81

Permanent injunction stage, 22:81

Preliminary injunction stage, 22:80

RECASTING

Derivative works, 3:48

RECEIPT DOCTRINE

Reproduction right, 9:30

RECIPES

Noncopyrightable material, **4:23**, **4:23.50**

RECIPROCITY

Choice of law, 25:23

RECITATION

Berne Convention Implementation Act of 1988, Article 11, 23:31

RECOGNIZED STATURE

Visual Artists' Rights Act of 1990, 16:25

RECORD RENTAL ACT OF 1984

Generally, 13:26

RECORD RENTAL AMENDMENTS OF 1988

Generally, 13:27

RECORDS AND RECORDING

Derivative works, 12:26

Ephemeral Recording Exemption (this index)

Fair Use Defense (this index)

First Copyright Act revisions, 1:24

Formalities, 6:13

Government works, 4:82 to 4:84, 4:87

Infringement (this index)

Jurisdiction, 17:50

Licenses, 5:144, 5:146 to 5:148

Personal jurisdiction, 17:178

Rental rights, 13:26, 13:27

Reproduction right, 11:47

Uruguay Round Agreements Act (this index)

RECORD - STORE EXEMPTION

Public performance, 14:47

RECREATIONAL VEHICLES

Jukebox, 14:114

RED LABEL MUSIC PUBLISHING v. CHILA PRODUCTIONS

Fair use defense, 10:51.50

REED ELSEVIER, INC. v. MUCHNICK

Infringement, subject-matter jurisdiction, **17:83.50**, **17:83.60**

REED v. CARUSI

Substantial similarity, 9:175

REEXAMINATION

Pictorial, graphic, and sculptural works, 3:129

REFERENCE

Reproduction right, 9:65

REGIONAL COOPERATION FOR ECONOMIC PARTNERSHIP

Generally, 23:79

REGIONAL TRADE AGREEMENTS

International copyright, 23:69 to 23:71 TRIPS (this index)

REGISTER OF COPYRIGHTS SELECTION AND

ACCOUNTABILITY ACT OF 2017

Generally, 26:4

REGISTERS OF COPYRIGHT

Generally, 26:4

Copyright Act of 1976, register's 1961 report and preparation of preliminary draft bill, 1:73

Copyright Act of 1976, Register's 1961 report and preparation of preliminary draft bill, **5:142.50**

Infringement, advice from Register of Copyrights, **17:125.50**

Library photocopying, reports of Register of Copyrights on Section 108, 11:4, 11:5

Preemption, 1965 Register's supplementary report, **18:6**

Public performance, Copyright Act of 1976, **14:11**

Register of Copyrights Selection and Accountability Act of 2017, **26:4**

REGISTRATION

Author and authorship, **5:27**, **5:94 Certificate of Registration** (this index)
Claims, with Copyright Office,

Computer programs, 3:77

17:133.75

REGISTRATION—Cont'd

Copyright Act of 1976, **7:29**, **7:38** Damages, registration requirement, **22:100.50**

Derivative works, 12:8.50

Formalities, **6:7**, **6:12**, **6:69**

Infringement (this index)

Monetary damages, 22:189, 22:203

Pictorial, graphic, and sculptural works, 3:106, 3:115

Pleadings, 19:4

Prima facie case of infringement, 17:64

Reproduction Right (this index)

Sonny Bono Copyright Term Extension Act, **7:57**

Standing to sue for infringement contrasted with standing to register claim, **21:9.50**

Uruguay Round Agreements Act, **24:49** Visual Artists Rights Act of 1990, **16:15**

REGULAR BUSINESS OF HIRING PARTY

Work made for hire, 5:63

RELATEDNESS

Personal jurisdiction, 17:152

RELATION BACK

Limitation of actions, 20:46

RELATIVE CONTRIBUTIONS

Joint authorship, decision-making authority over work, **5:23**

RELATIVELY SMALL NUMBER OF COPIES

Formalities, **6:68**

RELATIVES

Personal jurisdiction, 17:138

Public performance, 14:27

Term renewal, 1909 general revision, **7:19**

RELAXATION OF

MANUFACTURING CLAUSE OF 1949

Copyright Act of 1909 amendments, 1:61

RELEVANT EXCLUSIVE RIGHT

Pleadings, 19:7

RELIANCE PARTY STATUS

Uruguay Round Agreements Act (this index)

RELIGIOUS AND NONPROFIT ORGANIZATIONS

Work made for hire, 5:80.50

RELIGIOUS PERFORMANCES

Public performance, 14:36

RELIGIOUS TECHNOLOGY CENTER v. NETCOM ON - LINE COMMUNICATION SERVICES, INC.

Contributory infringement, 21:56

RELIGIOUS USES

Fair Use Defense (this index)

RELIGIOUS WORKS AND AUTHORS

Originality, 3:45

REMEDIES

Generally, 22:1 to 22:223

Arbitration, 17:196

Calabresi and Melamed's view, 22:1.50

Copyright Act of 1909, 22:4

Copyright Act of 1976, **22:5**

Criminal penalties, 22:223

Damages (this index)

Destruction. **Impoundment, Seizure,** and **Destruction** (this index)

English chancery decisions, 22:2

Impoundment, Seizure, and Destruction (this index)

Injunctive Relief (this index)

Permanent Injunctions (this index)

Pictorial, graphic, and sculptural works, 3:112

Pre-1976 Copyright Acts, 22:3, 22:4

Prejudgment interest, 22:222

Preliminary Injunctions (this index)

Recall (this index)

Section 411(a), 22:6

Seizure. **Impoundment, Seizure, and Destruction** (this index)

1790-1908, 22:3

Uruguay Round Agreements Act, 24:37 to 24:39

Visual Artists Rights Act of 1990, 16:46

REMOVAL

Federal Question Jurisdiction (this index)

Formalities, **6:72**, **6:76**

RENAISSANCE PRIVILEGES

Distribution of copies of work, 13:3

RENEWAL

Assignment, jurisdiction, 7:10.50

Choice of law, 25:70 to 25:73

Copyright Act of 1909, **1:56, 1:67**

Copyright Act of 1976, **7:41**

Sonny Bono Copyright Term Extension Act, **7:60**

RENEWAL CERTIFICATES

Infringement (this index)

RENTAL RIGHTS

Generally, 13:26 to 13:32

Amendments

1988 Record Rental amendments, 13:27

Computer Software amendments of 1990, below

Computer software amendments of 1990

generally, 13:28 to 13:32

exemptions from ban, 13:29 to 13:31

machines or products, programs within, 13:29

1994 GATT-TRIPS agreement, 13:32

Nintendo exemption, 13:30

semiconductor chips and mask works, 13:31

Computer software. Computer software amendments of 1990, above

Contracts and agreements, 13:32

Distribution of copies of work, generally, **13:26 to 13:32**

Exemptions from ban, **13:29 to 13:31** GATT, **13:32**

Mask works, 13:31

1988 Record Rental amendments, 13:27

Nintendo exemption, 13:30

Record Rental Act of 1984, 13:26

Record Rental amendments of 1988, 13:27

Semiconductor chips and mask works, 13:31

Software. Computer software amendments of 1990, above

RENTAL RIGHTS—Cont'd

Trade related aspects, 13:32 Access—Cont'd prima facie case of infringement, TRIPS, 13:32, 23:64 below Uruguay Round Agreements Act, 24:4, showrooms, attendance at, 9:27 24:20 third parties, through, 9:29 **RENVOI** trade periodicals, publication in, 9:27 Choice of law, 25:68 trade shows, attendance at, 9:27 vicarious inference, 9:30 REPEAL Affirmative defense, 9:36 Sound recordings, 5:93 Aggregate copying, 9:66 REPORTS AND REPORTING Anti-doctrine, 9:38 Computer programs, 11:30 Appeal and review, 9:88 Copyright Act of 1976, 1:73, 7:29 Architectural works, 9:28, 11:46 **Damages** (this index) Arnstein v. Edward B. Marks Music Fair use defense. 10:74 Group, 9:35 Government works, 4:88 Arnstein v. Porter, 9:38, 9:118 Library photocopying, 11:4, 11:5 Audience, **9:70** Pictorial, graphic, and sculptural works, Audio Home Recording Act of 1992, 3:135 11:47 Availability of work, 9:26 Public performance, 14:11 Bile dem cabbage down, 9:94 Section 108 Study Group report, 11:8.50 Blind, reproduction for, Section 121, REPP v. WEBBER 11:49 Substantial similarity, 9:158 Bracken v. Rosenthal, 9:108 Bridgeport Music, Inc. v. Dimension REPRODUCTION Films, 9:61 Berne Convention Implementation Act Burden of proof, copying of a material of 1988, Article 9, 23:26 amount of expression, 9:4.10 Derivative works, 12:15 Cartoon Network LP, LLLP v. CSC Uruguay Round Agreements Act, 24:10 Holdings, Inc., **9:63.50** Visual Artists Rights Act of 1990, **16:11** Case law, generally, **9:101 to 9:113** REPRODUCTION RIGHTS Certificate of registration, 9:7, 9:13, 9:14 Generally, 9:1 to 9:278 Cognitive scientists, 9:85 Abstraction-filtration-comparison, 9:94 Common sources, copying from, 9:67 Abstractions test, **9:93** Comparison, 9:94 Access **Computer Programs** (this index) generally, 9:22 to 9:31 Copy defined, 9:62 after defendant's work created, 9:37 Corporate receipt doctrine, 9:30 architectural works, 9:28 Courts, role of, generally, 9:3 corporate receipt doctrine, 9:30 Daly v. Palmer, 9:113 definition, 9:23 Defense, 9:36 deposit with library or other deposi-**Definitions** tory source, 9:31 access, 9:23 direct and indirect, 9:24 copy, **9:62** general availability of work, 9:26 fixed, 9:63 inferential access, 9:25 striking similarity, 9:44 national publications, publication in, Delusional plaintiffs, 9:39 9:27

REPRODUCTION RIGHTS—Cont'd

REPRODUCTION RIGHTS—Cont'd	REPRODUCTION RIGHTS—Cont'd
De minimis uses, 9:60	Exceptions, exclusions, and exemptions
Denial of a prima facie case, not affir-	—Cont'd
mative defense, 9:4.11	Digital Performance Right in Sound
Deposit, 9:9 , 9:31	Recordings Act of 1995, 11:48
Derivative works and certificate of	Ephemeral Recording Exemption
registration, 9:13	(this index)
Digital Performance Right in Sound	Fair Use Defense (this index)
Recordings Act of 1995, 11:48	Library Photocopying (this index)
Direct and indirect, 9:24	Phonorecords (this index)
Direct proof of copying unnecessary, 9:21	Pictorial, Graphic, and Sculptural Works Embodied in Useful
Discerning observer, 9:73 , 9:74	Articles (this index)
District of Columbia circuit, 9:57	public broadcasting compulsory
Drury v. Ewing, 9:106	license, Section 118, 11:45 ,
Early American case law, generally,	12:30
9:101 to 9:113	Section 107, fair use, 11:3, 12:25
Eighth circuit, 9:53	Sound Recordings (this index)
Eleventh circuit, 9:56	Expert witnesses
Emerson v. Davies, 9:103	generally, 9:79 to 9:82
Ephemeral Recording Exemption (this	contemporary use, 9:81
index)	early uses, 9:80
Errant standards and tests	striking similarity, 9:43, 9:82
generally, 9:89 to 9:95	use and misuse of experts, 9:79
abstraction-filtration-comparison, 9:94	Factual works, total-concept-and-feel test, 9:72
abstractions test, 9:93	Fair abridgment, 9:98
bile dem cabbage down, 9:94	Fictitious entries and other anomalies,
fragmented literal similarity and	9:18
comprehensive nonliteral	Fifth circuit, 9:50
similarity, 9:90	Filtration, 9:94
identity, virtual, 9:95 inverse ratio theory, 9:91	First circuit, 9:46
prior act evidence, 9:92	Fixed defined, 9:63
supersubstantial similarity, 9:95	Folsom v. Marsh, 9:102
virtual identity, 9:95	Foreign works, 9:10
Evidence	Fourth circuit, 9:49
prima facie case of infringement,	FRCP 12(b) and (c), infringement, 9:86.50
below prior act evidence, 9:92	Fred Fisher, Inc. v. Dillingham, 9:34
Exceptions, exclusions, and exemptions	General availability of work, 9:26
generally, 9:1 to 9:95, 10:1 to 10:12,	Heim v. Universal Pictures Co., 9:119
11:1 to 11:49	Hein v. Harris, 9:33
architectural works, Section 120,	History
11:46, 12:31	legislative history, below
Audio Home Recording Act of 1992,	material amount of expression, 9:62,
11:47	9:63
blind, reproduction for, Section 121,	Independent creation
11:49	generally, 9:32 to 9:36
Computer Programs (this index)	affirmative defense, 9:36

REPRODUCTION RIGHTS—Cont'd
Material amount of expression—Cont'd
takings, 9:64
unauthorized copying and infringe-
ment, 9:16 to 9:21
Materiality judged by reference to
plaintiff's work, 9:65
Mistake and error, 9:20
Motion to dismiss, 9:86.50
Multiple works infringed, 9:66
National publications, publication in, 9:27
Newspaper articles, 9:84
Nicholas v. Universal Pictures Corp.,
9:116
Ninth circuit, 9:54
Nonliteral similarity, 9:90
Ordinary observer, 9:69
Originality, 9:12
Periodicals
trade periodicals, publication in, 9:27
Perris v. Hexamer, 9:105
Phonorecords (this index)
Pictorial, Graphic, and Sculptural
Works Embodied in Useful
Articles (this index)
Presumption, 9:7, 9:11
Prima facie case of infringement
generally, 9:4 to 9:95
access, above
affirmative defense, 9:4.11
aggregate copying, 9:66
appeal and review, 9:88
Cartoon Network LP, LLLP v. CSC
Holdings, Inc., 9:63.50
cognitive scientists, 9:85
common sources, copying from, 9:67 derivative works and certificate of
registration, 9:13
discerning observer, 9:73, 9:74
errant standards and tests, above
expert witnesses, above
facts stated in certificate of registra-
tion, 9:14
factual works, total-concept-and-feel
test, 9:72
FRCP 12(b) and (c), 9:86.50
independent creation, above
intended audience, 9:70
intent, 9:5

REPRODUCTION RIGHTS—Cont'd	REPRODUCTION RIGHTS—Cont'd
Prima facie case of infringement	Registration—Cont'd
—Cont'd	prima facie case of infringement
lists, similarity versus dissimilarity,	—Cont'd
9:76	derivative works and certificate of
material amount of expression, unau-	registration, 9:13
thorized copying of, above	elements of proper registration, 9:8
materiality judged by reference to	foreign works, 9:10
plaintiff's work, 9:65	presumptions provided by certifi-
motion to dismiss, 9:86.50	cate of registration, 9:7
multiple works infringed, 9:66 newspaper articles, 9:84	proper deposit copy, 9:9
ordinary observer, 9:69	rebuttal of registration presumption, 9:11
originality, 9:12	Richardson v. Miller, 9:111
ownership of right, 9:15	Scientists, 9:85
presumptions provided by certificate	Second circuit, 9:47 , 9:115
of registration, 9:7	Section 106(1)
protected subject matter, 9:6, 9:12	determining copy, 9:99
registration, below	fair abridgment, 9:98
similarity versus dissimilarity, 9:75 to	independent creation, 9:100
9:78	intent to copy, 9:100
standard of review, 9:88	learning, court's effort to encourage,
striking similarity, below	9:97
substantial similarity as question of fact, 9:86	legislative history, generally, 9:96 to 9:100
substantial similarity, final version of	Section 121, 11:49
defendant's work, 9:78	Seventh circuit, 9:52
summary judgment, 9:87	Sheldon v. Metro-Goldwyn Pictures
survey evidence, 9:83	Corp., 9:117
third party, copying plaintiff's work	Showrooms, attendance at, 9:27
from, 9:68	Similarity
total-concept-and-feel test, 9:71, 9:72	dissimilarity compared, 9:75 to 9:78
volitional conduct distinguished,	material amount of expression, 9:64
9:5.50	prima facie case of infringement,
Prior act evidence, 9:92	9:19, 9:85
Probative similarity, 9:19	striking similarity, below
Publication and publications, 9:27	Substantial Similarity (this index)
Public broadcasting compulsory license,	Sixth circuit, 9:51
Section 118, 11:45	Skidmore as Trustee for Randy Craig Wolfe Trust v. Zeppelin, 9:54.10
Qualitative takings, 9:64	Sound Recordings (this index)
Quantitative takings, 9:64	Statutes, generally, 9:2
Question of fact, 9:86	Stowe v. Thomas, 9:107
Rebuttal of registration presumption, 9:11	Striking similarity
	·
Records and recording, 11:47 Reference, 9:65	generally, 9:38 to 9:58 anti-doctrine, 9:38
Registration	Arnstein v. Porter, 9:38
prima facie case of infringement	definition, 9:44
	delusional plaintiffs, 9:39
generally, 9:7 to 9:11	uciusionai piamuns, 9:39

REPRODUCTION RIGHTS—Cont'd RESEARCH Noncopyrightable Material (this Striking similarity—Cont'd District of Columbia circuit, 9:57 index) eighth circuit, 9:53 RESIDENCY eleventh circuit, 9:56 Choice of law, 25:64 expert witnesses, 9:43, 9:82 fifth circuit, 9:50 RES JUDICATA Jurisdiction, 17:39, 17:39.10 first circuit, 9:46 fourth circuit, 9:49 RESTORATION independent creation compared, 9:41 Uruguay Round Agreements Act (this ninth circuit, 9:54 index) recent cases, generally, 9:45 to 9:57 RETALIATION second circuit, 9:47 Berne Convention Implementation Act seventh circuit, 9:52 of 1988, Article 6, 23:22 sixth circuit, 9:51 summary judgment, obsolete view of, RETRANSMISSION 9:40 Cable television and other secondary tenth circuit, 9:55 transmissions, 14:70, 14:80 third circuit, 9:48 Public performance, 14:122 **Substantial Similarity** (this index) Sound recordings, **14:87 to 14:89** Summary judgment, 9:40, 9:87 RETROACTIVITY Supersubstantial similarity, 9:95 Assignment, **5:103, 5:112** Survey evidence, 9:83 Berne Convention Implementation Act Takings, 9:64 of 1988, Article 18, 23:40 Tenth circuit, 9:55 Copyright Act of 1909, **1:50** Third circuit, 9:48 Pictorial, graphic, and sculptural works, Third parties, 9:29, 9:68 3:114 Title and ownership, 9:15 Uruguay Round Agreements Act (this Total-concept-and-feel test, 9:71, 9:72 index) Trade periodicals, publication in, 9:27 Visual Artists Rights Act of 1990, 16:47 Trade shows, attendance at, 9:27 REVERSE ENGINEERING Twentieth-century general rules of infringement, generally, 9:114 to Fair use defense, 10:58 9:119 REVERSE PASSING OFF Vicarious inference, 9:30 Preemption, 18:47 to 18:50 Virtual identity, 9:95 Volitional conduct, 9:5.50 REVISIONS Webb v. Powers, 9:104 Amendments and Revisions (this index) REPUTATION Preemption, 18:38 REVOCATION Preliminary injunctions, 22:41 Licenses, 5:124, 5:128, 5:132 Visual Artists Rights Act of 1990, 16:21 REYHER v. CHILDREN'S RESALE ROYALTY STATE LAWS TELEVISION WORKSHOP Preemption, 18:42.50 Substantial similarity, 9:148 RESCISSION RICE v. FOX BROADCASTING CO. Work made for hire, 5:78 Substantial similarity, 9:245

RICHARDSON v. MILLER

Reproduction right, 9:111

RINGGOLD v. BLACK ENTERTAINMENT TELEVISION, INC.

Substantial similarity, 9:156

RINGTONES

Phonorecords of nondramatic musical works, 11:24.50

ROBERT STIGWOOD GROUP v. O'REILLY

Fair use defense, 10:135

ROBOTS

Pictorial, graphic, and sculptural works, 3:122.50

ROKEACH v. AVCO EMBASSY PICTURES

Fair use defense, 10:44

ROOKER - FELDMAN CASE

Subject-matter jurisdiction, 17:39

ROSEMONT ENTERPRISES v. RANDOM HOUSE

Fair use defense. 10:41

ROTTLUND COMPANY, INC. v. PINNACLE CORPORATION

Substantial similarity, 9:234

ROYALTIES

Copyright Act of 1976, **7:44** Licenses, **5:125**

Permanent injunctions, 22:75

Preemption, resale royalty state laws, 18:42.50

Standing to sue, 21:19, 21:27

RUGS

Pictorial, graphic, and sculptural works, 3:151

RUSSIA

Choice of law, 25:31, 25:44

SAFE HARBORS

Digital millennium copyright act of 1998, **21:85.10**

SALARIES

Government works, 4:59

SALES

Distribution of Copies of Work (this index)

Fair use defense, **10:7**, **10:29**, **10:29.10** Public performance, **14:47** Term, **7:4**, **7:6**

SALINGER v. RANDOM HOUSE

Fair use defense, 10:46

SANDOVAL v. NEW LINE CINEMA CORP.

Substantial similarity, 9:157

SATELLITE CARRIER

Cable television and other secondary transmissions, **14:70**Display publicly, **15:15**Jukebox, **14:105** to **14:121**

SATELLITE RETRANSMISSION

Display publicly, **15:17**Public performance, **14:122**

SAVED ACQUISITION COSTS

Damages (this index)

SAVIGNY

Choice of law, 25:6

SCENES A FAIRE

Abstraction-filtration-comparison analysis, **4:27**

Computer programs, 4:26

Infringement, 4:25

Merger, 4:28

Noncopyrightable material

generally, 4:24 to 4:28

abstraction-filtration-comparison analysis, **4:27**

computer programs, 4:26

infringement, 4:25

merger, 4:28

SCHUCHART & ASSOCIATES v. SOLO SERVE CORP.

Fair use defense, 10:116

SCIENCE

Constitutional Law (this index)

SCIENTISTS

Reproduction right, 9:85

Index-122

INDEX

SCOPE

Infringement, 17:106, 17:110 Licenses, 5:133

SCOTLAND

Forum non conveniens, 17:211

SCOTT v. WKJG, INC.

Substantial similarity, 9:216

SCULPTURAL WORKS

Pictorial, Graphic, and Sculptural Works (this index)

Pictorial, Graphic, and Sculptural Works Embodied in Useful Articles (this index)

SEASONAL WORKS

Preliminary injunctions, 22:39

SECONDARY LIABILITY

Direct infringement distinguished, 21:40 Extraterritoriality, 25:86, 25:86.10, 25:86.20

Infringement, 21:40 Limitation of actions, 20:45.50 Pleadings, 19:11 Types, generally, 21:41

SECONDARY TRANSMISSIONS

Cable Television and Other Secondary Transmission (this index)

SECOND CIRCUIT

Computer programs, **3:87**, **3:89**Derivative works, **3:53**Monetary damages, **22:129**, **22:132**Originality, **3:38**Pictorial, graphic, and sculptural works, **3:141**

Preliminary injunctions, 22:16 to 22:20 Reproduction right, 9:47, 9:115

Substantial Similarity (this index)

SECOND RESTATEMENT OF CONFLICT OF LAWS

Choice of law, 25:8

SECTION 108 STUDY GROUP REPORT

Exceptions, exclusions, and exemptions, 11:8.50

SECTION 1201

Access anti-circumvention. Technological Protection Measures and Copyright Rights Management Information (this index)

SECURITY

Preliminary injunctions, 22:72

SEGRETS, INC. v. GILLMAN KNITWEAR CO.

Substantial similarity, 9:134

SEIZURE

Berne Convention Implementation Act of 1988, Article 16, 23:38

SELECTION

Electronic databases, **3:66 Forum Selection** (this index)

SELF - EXECUTING

International copyright, 23:1.50 Uruguay Round Agreements Act, TRIPS Agreement, 24:1.50

SELLE v. GIBB

Substantial similarity, 9:218

SEMICONDUCTOR CHIPS AND MASK WORKS

Rental rights, 13:31

SEPARABILITY

Infringement, 17:104
Pictorial, graphic, and sculptural works, 3:146, 3:146.50

SEPARATE ACCRUAL RULE

Limitation of actions, 20:23

SEPARATION

Author and authorship, 5:6

SEQUENCE

Computer programs, 3:78

SERVICE OF PROCESS

Personal jurisdiction, 17:140

SET THEORY

Jurisdiction, 17:36

17 USCA

Choice of law, 25:30

SEVENTH CIRCUIT

Derivative works, 3:54

Monetary damages, 22:128

Pictorial, graphic, and sculptural works, 3:144

Preliminary injunctions, 22:27, 22:54

Reproduction right, 9:52

Substantial Similarity (this index)

SEVERAL LIABILITY

Monetary damages, 22:148

"SHALL" OR "MAY"

Construction and interpretation, 2:63

SHAREHOLDERS

Title and ownership, **5:96**

SHAW v. LINDHEIM

Substantial similarity, 9:238

SHEETS v. TWENTIETH CENTURY FOX FILM CORP.

Substantial similarity, 9:270

SHELDON v. METRO - GOLDWYN PICTURES CORP.

Extraterritoriality, 25:89

Monetary damages, 22:146

Reproduction right, 9:117

SHERRILL v. GRIEVES

Substantial similarity, 9:268

SHORT PHRASES

Noncopyrightable material, 4:2

SHOWROOMS

Reproduction right, 9:27

SHULTHIS v. MCDOUGLAS

Subject-matter jurisdiction, 17:10

SIGNATURE

Assignment, 5:110

Work made for hire, **5:49**, **5:50**, **5:77**

SILVERS v. SONY PICTURES ENTERTAINMENT

Assignment, 5:104

SIMILARITY

Reproduction Right (this index)

Substantial Similarity (this index)

SIMULTANEOUS FIXATION

Preemption, 18:11

SIMULTANEOUS PUBLICATION ON INTERNET

Choice of law and subject matter, **25:18.50**

Formalities, 6:55.40

SIMULTANEOUS REGISTRATION AND FILING NOTICE OF INTENT

Uruguay Round Agreements Act, 24:49

SIMULTANEOUS VIOLATIONS

Exclusive rights, 8:23

SINGLE WORK REGISTRATIONS

Infringement, 17:93

SITE SPECIFIC WORKS

Visual Artists Rights Act of 1990, 16:31

SITUATION MANAGEMENT SYSTEMS, INC. v. ASP CONSULTING LLC

Substantial similarity, 9:136.10

SITUS

Choice of law, 25:11

Personal jurisdiction, 17:158, 17:159

SIXTH CIRCUIT

Monetary damages, 22:135

Pictorial, graphic, and sculptural works, 3:143.50

Preliminary injunctions, 22:26

Reproduction right, 9:51

Substantial Similarity (this index)

SKIDMORE CASE

Infringement, 17:100

SKIDMORE V. LED ZEPPELIN

Substantial similarity, 9:247.40

SKILL

Work made for hire, 5:55

SMALL BUSINESS EXEMPTION

Public Performance (this index)

SMALL USES

Fair use defense, 10:154

SMITH CASE

Jurisdiction, 17:38, 17:42

SMITHSONIAN INSTITUTE

Government works, 4:71

SMITH v. JACKSON

Substantial similarity, 9:242

SMITH v. KANSAS CITY TITLE & TRUST CO.

Subject-matter jurisdiction, 17:13

SOCIAL ACQUAINTANCES

Public performance, 14:27

SOCIETY OF THE HOLY TRANSFIGURATION

MONASTERY, INC. v. ARCHBISHOP GREGORY OF

DENVER, COLORADO Fair use defense, **10:137.50**

SOFTEL, INC. CASE

Computer programs, 3:89

SOFTWARE

1980 software amendments, 3:74

Rental Rights (this index)

TRIPS, Article 10, 23:63

SONNY BONO COPYRIGHT TERM EXTENSION ACT

Generally, 7:52 to 7:63

Anonymous works, 7:55

Author, 7:53, 7:54, 7:56

Death. 7:56

Duration of terms

generally, 7:53 to 7:60

January 1, 1978, works created on or after

anonymous works, 7:55

individual authors, Section 302(a), **7:53**

joint authors, Section 302(b), **7:54** presumption as to author's death,

7:56

pseudonymous works, 7:55

works made for hire, 7:55

January 1, 1978, works in first term of publication on, Section 304(a),

January 1, 1978, works in renewal term on, Section 304(b), **7:60**

SONNY BONO COPYRIGHT TERM EXTENSION ACT—Cont'd

Duration of terms—Cont'd

January 1, 1978, works published before, Section 304, 7:58

January 1, 1978, works unpublished and unregistered on, Section 303(a), 7:57

Joint authors, Section 302(b), 7:54

New Section 304(d), 7:62

Pre-February 15, 1972 sound recordings, **7:63**

Presumptions, 7:56

Pseudonymous works, 7:55

Publication, 7:58, 7:59

Registration, 7:57

Renewal, 7:60

Section 203(a)(2), 7:61

Section 302(a), 7:53

Section 302(b), 7:54

Section 303(a), 7:57

Section 304, 7:58

Section 304(a), 7:59

Section 304(b), 7:60

Section 304(c)(2), 7:61

Section 304(d), 7:62

Sound recordings, 7:63

Termination of transfers, 7:61, 7:62

Transfers, 7:61, 7:62

Unpublished, 7:57

Unregistration, 7:57

Works made for hire, 7:55

SONY CORP. OF AMERICA v. UNIVERSAL CITY STUDIOS

Contributory infringement, 21:49

Fair Use Defense (this index)

SONY MUSIC ENTERTAINMENT V. COX

Vicarious liability, 21:77.70

SONY MUSIC ENTERTAINMENT V. COX COMMUNICATIONS, INC.

Contributory infringement, 21:61.60

SOUND RECORDINGS

Generally, 3:160 to 3:163, 11:16 to 11:19, 14:81 to 14:98

See also **Phonograms**; **Phonorecords** (this index)

SOUND RECORDINGS—Cont'd	SOUND RECORDINGS—Cont'd
Agee v. Paramount Communications,	Infringement, 3:163, 11:17
11:18	Instance and expense test, 5:87
Antitrust exemption, Section 114(e),	Interactive services, 14:92 , 14:95
14:96	Legislative history, 5:89
Authorship, 3:161	Licenses and licensing
Bonneville v. Peters, 14:88	compulsory license rates, 14:98
Broadcast and nonsubscription services, Section 114(d), 14:86	compulsory licensing, Section 114(d)(2), 14:91 to 14:94
Broadcasting exemption, 11:19 Collective works, 5:90	compulsory licensing, Section 114(f), 14:97
Compilations, 5:91 Complement, 14:93	interactive services, licenses for, Section 114(d)(3), 14:95
Compulsory license rates, 14:98 Compulsory licensing, 14:91 to 14:94 ,	Limitations and restrictions, 14:82 to 14:85
14:97	Monetary damages, 22:186
Contributions to collective works as collective works, 5:90	Musical compositions, distinguished, 3:161.50
Copyrightable material, generally, 3:160	Phonorecords (this index)
to 3:163	Preemption, 18:54 to 18:56
Copyright Act of 1909 amendments,	Public broadcasting exemptions, 11:19
1:70, 5:84	Publicly perform, right to, generally,
Copyright Act of 1976, 5:85 , 5:89	14:81 to 14:98
Costs and expenses, 5:87	Public performance, 14:29
Derivative works, 3:162 , 12:27	Radio retransmissions, Bonneville v.
Digital millennium copyright act (DMCA)	Peters, 14:88
amendments, 14:88	Rates, 14:98
safe harbors, 21:85.10	Repeal, 5:93
Employer-employee relationship, 5:86	Reproduction right, 11:48
Exclusive rights, 8:20, 8:28	Retransmissions, 14:87 to 14:89
Exemptions generally, 14:86 to 14:90	Right to publicly perform, generally, 14:81 to 14:98
antitrust exemption, Section 114(e),	Section 106(6), 14:82 to 14:85
14:96	Section 114, 14:82 to 14:85
broadcast and nonsubscription ser-	Section 114(a), 14:83
vices, Section 114(d), 14:86	Section 114(b), 14:84
DMCA amendments, 14:88	Section 114(b), generally, 11:16 to
incidental feeds, Section 114(d)(1)(c),	11:19
14:90	Section 114(c), 14:85
radio retransmissions, Bonneville v.	Section 114(d), 14:86
Peters, 14:88	Section 114(d)(1)(b), 14:89
retransmissions, Section 114(d)(1)(b),	Section 114(d)(1)(c), 14:90
14:89	Section 114(d)(2), compulsory licensing,
webcasting rates, 14:89.50	14:91 to 14:94
Feeds, 14:90	Section 114(d)(3), 14:95
Formalities, 6:54 , 6:63	Section 114(e), 14:96
History, 5:89	Section 114(f), 14:97
Incidental feeds, Section 114(d)(1)(c), 14:90	Sonny Bono Copyright Term Extension Act, 7:63

SOUND RECORDINGS—Cont'd SOVEREIGN IMMUNITY—Cont'd Sound recording performance comple-Defendants-Cont'd ment, 14:93 trademark cases TRIPS, Article 14, 23:67 generally, 21:88.19-21:88.25 Uruguay Round Agreements Act, 24:35 Allen v. Cooper, 21:88.25 Webcasting rates, **14:89.50** Atascadero State Hospital v. Work made for hire Scanlon, 21:88.21 Central VA Community College v. generally, 5:82 to 5:93 Katz, 21:88.24 contributions to collective works as Fitzpatrick v. Bitzer, 21:88.20 collective works, **5:90** Seminole Tribe of Florida v. Flor-Copyright Act of 1909, 5:84 ida, 21:88.22 Copyright Act of 1976, **5:85**, **5:89** DMCA, 21:87 employer-employee relationship, 5:86 Government works, **4:66** enumerated categories, 5:88 Immunity, 21:87 instance and expense test, 5:87 Parties, 21:88 1999 Amendment, **5:92** State governments, 21:88 noncollective-work compilations, 5:91 Territories, **21:88.10** Visual Artists' Rights Act of 1990, 16:48 repeal of 2000, 5:93 **SOUNDS** SPECIAL ORDERS Infringement, subject-matter jurisdic-Work Made for Hire (this index) tion, 17:86 SPECIAL VENUE STATUTE SOUTHERN BELL TELEPHONE & Federal claims, 17:203 TELEGRAPH CO. v. **SPECIFICITY** ASSOCIATED TELEPHONE Preliminary injunctions, 22:69 **DIRECTORY** Substantial similarity, 9:260 SPECIFIC JURISDICTION **Personal Jurisdiction** (this index) **SOVEREIGN IMMUNITY** Defendants SPECIFIC PERFORMANCE generally, 21:88.4-21:88.26 Uruguay Round Agreements Act, 24:50 colonial bills, **21:88.12 SPECULATION** Congress, 21:88.11 Damages, 22:103, 22:119 Constitutional Convention, 21:88.13 Copyright Act of 1790, 21:88.14 **SPONSORSHIP** Fourteenth Amendment, 21:88.17, Vicarious liability, 21:72 21:88.18 **SPOUSES** misuse of language, 21:88.7-21:88.14 Choice of law, 25:66 state governments generally, 21:88.1-21:88.26 STANDARD REFERENCE DATA ACT background principles, 21:88.5 **OF 1968** congressional actions, 21:88.2-Copyright Act of 1909 amendments, 21:88.3 1:69 fundamental aspect, 21:88.5 Government works, 4:67 general practice of mankind, STANDING TO SUE 21:88.6 language misuse, 21:88.4 Generally, 21:1 to 21:28 Supreme Court jurisprudence, Accrued causes of action, ownership, 21:88.16 21:22

STANDING TO SUE-Cont'd STANDING TO SUE—Cont'd Administration rights, 21:21 Requirements, generally, 21:14 to 21:22 Requirement that rights arise under Affirmative defense, 21:3 United States law, 21:22.50 Anti-Assignment Act, 21:23 Royalties, 21:19, 21:27 Assignment, 21:5, 21:23 Section 501(b). Exclusive rights, Section Associational standing, 21:28 501(b), above Beneficial owners, 21:25 to 21:27 State law, ownership, 21:8 CASE Act, 28:13 Statutes, 21:4, 21:23 Continuing, 21:27 Subsidiary corporations, 21:4.50 Contracts and agreements, 21:16, 21:20 Third parties, work made for hire, Corporations, 21:4.50 5:49.10 Defenses, 21:3 Time of infringement, ownership at, Derivative works, 21:12 21:10, 21:22 Distribution agreements, 21:20 Title and ownership, generally, 21:7 et Divisibility, 21:9 Employees for hire, 21:7.50 Transfer of right, 5:104 Equitable trust theory of beneficial Trusts, 21:26 ownership, 21:26 United States as parens patriae, 21:6 Exclusive rights, Section 501(b) United States law, rights arising under, generally, 21:15 21:22.50 administration rights, 21:21 VARA rights and standing, 21:11 contracts and agreements, 21:16 Work made for hire, **5:49.10**, **21:7.50** distribution agreements, 21:20 first refusal. 21:18 STAPLE ARTICLE OF COMMERCE limitations, 21:16 DOCTRINE management rights, 21:21 Contributory infringement, 21:49 to options and rights, 21:17, 21:18 21:51 Vicarious liability, **21:78**, **21:79** royalties, right to receive, 21:19 First refusal, 21:18 STAR ATHLETICA, L.L.C. V. FRCP 17(a), 21:2 VARSITY BRANDS Infringement, 21:22 Construction and interpretation, 2:59.70 Jurisdiction, 17:47 STAR ATHLETICA, LLC v. VARSITY Lack of standing as affirmative defense, BRANDS, INC. Pictorial, graphic and sculptural works, Licenses and licensing, 5:121, 5:123, 3:144.80 21:13 Limitation of Actions (this index) STATE CLAIMS Limitations of attributes of exclusivity, Preemption, 18:49 21:16 STATE COURT Management rights, 21:21 Jurisdiction, 17:39, 17:51 Non-copyright rights, 21:24 Nonexclusive licensees, lack of stand-STATE GOVERNMENT ing, 21:13 Government works, 4:81 Options, 21:17, 21:18 Parties, 21:88 Parens patriae, 21:6 Sovereign immunity, 21:88 Parent corporations, 21:4.50 STATE LAWS Performing rights societies, 21:13 Distribution of copies of work, 13:5 Registration of claim to copyright

Exclusive rights, 8:11

contrasted, 21:9.50

STATE LAWS—Cont'd

Formalities, 6:17

Infringement, subject-matter jurisdiction preConstitution, **17:64.20**

Jurisdiction, 17:57

Licenses, 5:129

Limitation of actions, 20:6, 20:48

Pictorial, graphic, and sculptural works, 3:113

Preemption, 18:42.50, 18:43.10, 18:43.50, 18:52

Resale royalty state laws, 18:42.50

Standing to sue, 21:8

Term, 7:5

Uruguay Round Agreements Act, 24:15

Visual Artists' Rights Act of 1990, 16:48

STATE LITIGATION

Jurisdiction, 17:57 to 17:59

STATES

Colonial period, **1:16, 1:17**

Historical, 1:16, 1:17

Preeemption (this index)

STATE TRESPASS TO CHATTEL CLAIMS

Preemption, 18:46

STATIONERS' COMPANY v. THE ROYAL PATENTEES

England and Statute of Anne, 1:7, 1:8

STATUTE OF ANNE

England (this index)

STATUTE OF LIMITATIONS IS AN AFFIRMATIVE DEFENSE REVIEWED DE NOVO

Limitation of actions, 20:1.50

STATUTES

Generally, 1:19 to 1:115

Ad Interim Act of 1905, 23:7

Anti-Assignment Act, 21:23

Audio Home Recording Act, 21:84

Chace Act, 23:4

Choice of law, 25:6, 25:30, 25:80, 25:85

Computer Fraud and Abuse Act, **18:45**, **18:46**

Construction and Interpretation (this index)

Copyright Act of 1909 (this index)

STATUTES—Cont'd

Copyright Act of 1976 (this index)

Copyright renewal act of 1992

bankruptcy, **7:50.50**

termination rights, **7:50.50**

Copyright Renewal Act of 1992, 7:50

Display Publicly (this index)

Distribution of Copies of Work (this index)

Enforcement of Intellectual Property Rights Act of 2008, **17:125.50**

Engravings Act of 1735, 1:13

Exclusive Rights (this index)

Fair Use Defense (this index)

First Copyright Act (this index)

Formalities (this index)

Government works, 4:67

Historical background, generally, 1:2

Importation (this index)

Impoundment, Seizure, and Destruction (this index)

Licensing Act of 1692, 1:9

Limitation of Actions (this index)

Louisiana Purchase Exposition Act of 1904, **23:6**

Predicate Act doctrine, 25:90

Preemption (this index)

Public Performance (this index)

Record Rental Act of 1984, 13:26

Reproduction Right (this index)

Sonny Bono Copyright Term Extension Act (this index)

Standing to sue, **21:4**, **21:23**

Talfourd Term Extension Act of 1842, 1:15

Venue, 17:203, 17:204

Visual Artists Rights Act of 1990 (this index)

Work made for hire, **5:44**, **5:50**

STATUTORY DAMAGES

Damages (this index)

STATUTORY DEFINITION

Derivative works, 3:47

Formalities, 6:49

STATUTORY FORMALITIES

Infringement, 17:64

STATUTORY LICENSE

Copyright Act of 1976 amendments. 1:104

STATUTORY SUCCESSOR CLASS

1909 general revision, 7:14

STATUTORY SUCCESSORS

1909 general revision, 7:15

Jurisdiction, 17:57 to 17:59

STENOGRAPH LLC v. BOSSARD ASSOCIATES, INC.

Substantial similarity, 9:275

STEWART v. ABEND

Construction and interpretation, 2:53

STILL PHOTOGRAPHIC IMAGES

Visual Artists Rights Act of 1990, 16:9

STOCK MARKET INDEXES

Noncopyrightable material, 4:10

STOWE v. THOMAS

Reproduction right, 9:107

STRAW MAN

Construction and interpretation, 2:26 Political power play, 2:26 Textualism, 2:26

STREAMING

Public performance, 14:79.50

STREAM OF COMMERCE

Personal jurisdiction, 17:146, 17:146.50, 17:174

STRICT LIABILITY

Generally, 21:38, 21:39 Internet, 21:39

STRIKING SIMILARITY

Reproduction Right (this index)

STROMBACK v. NEW LINE CINEMA

Substantial similarity, 9:207

STUFF v. E.C. PUBLICATIONS, INC.

Substantial similarity, 9:143

STURDZA v. UNITED ARAB **EMIRATES**

Substantial similarity, 9:276

STYLE

Noncopyrightable material, 4:11, 4:11.50, 4:14

SUBJECT MATTER

Choice of Law (this index)

Subject Matter Jurisdiction (this index)

Subject Matter Preemption (this index)

SUBJECT MATTER JURISDICTION

Generally, 17:4 to 17:21

America Invents Act, 17:6

American Well Works Co. v. Lavne Bowler Co., 17:11, 17:12

Arising under jurisdiction

generally, 17:6 to 17:21, 17:29 to 17:48

America Invents Act. 17:6

American Well Works case, 17:37

appeal, T.B. Harms case, 17:32

bankruptcy, 17:39.05

Basset v. Mashantucket Pequot Tribe, 17:35

case law, generally, 17:6 to 17:21

choice of law, 25:67

class theory, 17:36

collateral estoppel, 17:39.20

condition to license or independent covenant, **17:43**

contracts and agreement, 17:41

contracts and agreements, 17:40

determining existence, generally, 17:7 to 17:21

election, 17:40

essence test, 17:35

establishment of subject-matter jurisdiction, 17:44

foreign judgments, res judicata,

17:39.10

infringement, 17:40

issue preclusion, 17:39.20

merits issues, 17:48

patent cases, 17:9

primary and controlling test, 17:35

question of law, 17:45

reserve approach of Smith case, 17:42 res judicata for erroneous state court

proceedings, 17:39

review of determinations, 17:45

SUBJECT MATTER JURISDICTION —Cont'd

Arising under jurisdiction—Cont'd Rooker-Feldman, 17:39

set theory, **17:36**

Smith case, 17:38, 17:42

standing, lack of, 17:47

subject-matter jurisdiction, 17:41 suits against United States and its contractors, 17:46

T.B. Harms case, generally, **17:30 to 17:34**

well-pleaded-complaint rule, 17:6

Bankruptcy, 17:39.05

Christianson v. Colt Industries Operating Corp., 17:18

Complaint, 17:6

Determining existence of arising under jurisdiction, generally, 17:7 to 17:21

Federal question jurisdiction classification proposal, **17:28**

Franchise Tax Board v. Construction Laborers Vacation Trust for Southern California, **17:16**

Grable & Sons Metal Products, Inc. v. Darue Engineering & Manufacturing, 17:21

Gully v. First National Bank in Meridian, 17:15

History, 17:5

Holmes Group, Inc. v. Vornado Air Circulation, **17:19**

Infringement (this index)

Jones v. R.R. Donnelly & Sons Co., 17:20

Jurisdiction, 17:41

Merrell Dow Pharmaceuticals, Inc. v. Thompson, **17:17**

Moore v. Chesapeake & Ohio Railway Co., 17:14

Osborn v. Bank of the United States, 17:8

Patent cases, 17:9

Prima facie case of infringement. **Infringement** (this index)

Res judicata and foreign judgments, 17:39.10

Rooker-Feldman, erroneous state court proceedings, 17:39

SUBJECT MATTER JURISDICTION —Cont'd

Shulthis v. McDouglas, 17:10

Smith v. Kansas City Title & Trust Co., 17:13

Well-pleaded-complaint rule, 17:6

SUBJECT MATTER PREEMPTION

Construction and interpretation, 18:10 to 18:12

Visual Artists Rights Act of 1990, 16:41

SUBSIDIARIES

Personal jurisdiction, **17:138** Vicarious liability, **21:83**

SUBSTANTIALITY

Fair Use Defense (this index)

SUBSTANTIAL NONINFRINGING USES

Contributory infringement, 21:52, 21:53

SUBSTANTIAL SIMILARITY

Generally, **9:120 to 9:278**

Abdin v. CBS Broadcasting, Inc., 9:164.20

Ansehl v. Puritan Pharmaceutical Co., **9:226**

Appeal and review, 9:278

Apple Computer, Inc. v. Microsoft Corp., **9:241**

Arc Music Corp. v. Lee, 9:142

Atari, Inc. v. Amusement World, 9:178

Atari, Inc. v. North American Philips Consumer Electronics Corp., **9:217**

Atkins v. Fischer, 9:277

Attia v. Society of the New York Hospital, **9:163**

Autoskill Inc. v. National Educational Support Systems, Inc., **9:251**

Bateman v. Mnemonics, Inc., 9:263

Baxter v. MCA, Inc., 9:237

BellSouth Advertising & Publishing Corp. v. Donnelley Information Publishing Inc., 9:261

Benson v. Coca-Cola Co., 9:262

Benton v. Decotex, Inc., 9:202

Blehm v. Jacobs, 9:257.70

Blumcraft of Pittsburgh v. Newman Brothers, Inc., **9:196**

SUBSTANTIAL SIMILARITY—Cont'd

- Bouchat v. Baltimore Ravens, Inc., 9:185
- Bridgeport Music, Inc. v. Dimension Films, **9:209**
- Bridgeport Music, Inc. v. UMG Recordings, Inc., 9:209.20
- Brown Bag Software v. Symantec Corp., **9:240**
- Callaghan v. Myers, 9:122
- Carr v. National Capital Press, Inc., 9:269
- Cartier v. Jackson, 9:253
- Champion Map Corp. v. Twin Printing Co., **9:177**
- Charles W. Ross Builder, Inc. v. Olsen Fine Home Building, LLC, 9:185.50
- Chicago Record-Herald Co. v. Tribune Association, **9:211**
- Cholvin v. B. & F. Music Co., 9:215
- CMM Cable Rep v. Ocean Coast Properties, Inc., 9:133
- Compulife Software. v. Newman, 9:266.80
- Concrete Machinery Co. v. Classic Lawn Ornaments, Inc., 9:130
- Continental Casualty Co. v. Beardsley, 9:139
- Copeland v. Bieber, **9:185.60**
- Coquico, Inc. v. Rodriguez-Miranda, 9:136.20
- Costello v. Loew's, Inc., 9:272
- Country Kids 'N City Slicks, Inc. v. Sheen, **9:254**
- Court of appeals for federal circuit and court of federal claims, **9:278**
- Creations Unlimited, Inc. v. McClain, 9:192
- Dawson v. Hinshaw Music, Inc., 9:181
- Derivative works, 12:13
- Design Basics, LLC v. Kersteins Homes & Designs, Inc., 9:223.90
- Design Basics, LLC v. Lexington Homes, Inc., 9:223.70
- Design Basics, LLC v. Signature Construction, Inc., 9:223.80
- District court cases, 9:250
- District of Columbia circuit generally, 9:267 to 9:277

SUBSTANTIAL SIMILARITY—Cont'd

- District of Columbia circuit—Cont'd Atkins v. Fischer, 9:277
 - Carr v. National Capital Press, Inc., 9:269
 - Costello v. Loew's, Inc., 9:272
 - Lapsley v. American Institute of Certified Public Accountants, 9:273
 - Miner v. Employers Mutual Liability Insurance Co. of Wisconsin, 9:271
 - Reader's Digest Association, Inc. v. Conservative Digest, Inc., **9:274**
 - Sheets v. Twentieth Century Fox Film Corp., 9:270
 - Sherrill v. Grieves, 9:268
 - Stenograph LLC v. Bossard Associates, Inc., 9:275
 - Sturdza v. United Arab Emirates, 9:276
- Dorsey v. Old Surety Life Insurance Co., **9:249**
- DSC Communications Corp. v. DGI Technologies, Inc., 9:191
- Dun & Bradstreet Software Services, Inc. v. Grace Consulting, Inc., 9:172
- Educational Testing Services v. Katzman, **9:169**
- Edwards & Deutsch Lithographing Co. v. Boorman, 9:212
- Eighth circuit
 - generally, 9:224 to 9:234
 - Ansehl v. Puritan Pharmaceutical Co., **9:226**
 - Funkhouser v. Loew's Inc., 9:229
 - Hartman v. Hallmark Cards, Inc., 9:231
 - Johns & Johns Printing Co. v. Paull-Pioneer v. Music Corp., **9:227**
 - Moore v. Columbia Pictures Industries, Inc., **9:232**
 - Nucor Corp. v. Tennessee Forging Steel Service, Inc., 9:230
 - Rottlund Company, Inc. v. Pinnacle Corporation, 9:234
 - Taylor Corporation v. Four Seasons Greetings, LLC, **9:233**
 - Twentieth Century-Fox Film Corp. v. Dieckhaus, **9:228**

SUBSTANTIAL SIMILARITY—Cont'd SUBSTANTIAL SIMILARITY—Cont'd Eisenchiml v. Fawcett Publications, Inc., First circuit 9:214 generally, **9:128 to 9:136.20** Eleventh circuit CMM Cable Rep v. Ocean Coast generally, 9:258 to 9:266.60 Properties, Inc., 9:133 Bateman v. Mnemonics, Inc., 9:263 Concrete Machinery Co. v. Classic Lawn Ornaments, Inc., 9:130 BellSouth Advertising & Publishing Corp. v. Donnelley Information Coquico, Inc. v. Rodriguez-Miranda, Publishing Inc., 9:261 9:136.20 Benson v. Coca-Cola Co., 9:262 Grubb v. KMS Patriots, L.P., 9:132 Compulife Software. v. Newman, Johnson v. Gordon, 9:136 9:266.80 Lotus Development Corp. v. Borland Leigh v. Warner Bros., Inc., 9:264 and International, Inc., 9:131 Oravec v. Sunny Isles Luxury O'Neill v. Dell Publishing Co., 9:129 Ventures, L.C., 9:266.50 Segrets, Inc. v. Gillman Knitwear Co., Original Appalachian Artworks, Inc. 9:134 v. Toy Loft, Inc., 9:259 Situation Management Systems, Inc. Palmer v. Braun, 9:266 v. ASP Consulting LLC, Peter Letterese and Associates, Inc. v. 9:136.10 World Institute of Scientology Yankee Candle Co. v. Bridgewater Enterprises, **9:266.60** Candle Co., **9:135** Southern Bell Telephone & Telegraph Fisher-Price, Inc. v. Well-Made Toy Co. v. Associated Telephone Manufacturing Corp., 9:154 Directory, **9:260** Fisher v. United Feature Syndicate, Inc., Sun Trust Bank v. Houghton Mifflin 9:255 Co., **9:265** Fogerty v. MGM Group Holdings Corp., Watt v. Butler, **9:266.70** Inc., 9:206 Ellis v. Diffie, 9:201 Folio Impressions, Inc. v. Byer Califor-Engineering Dynamics, Inc. v. Structure nia, **9:153** Softwares, Inc., **9:190** Ford Motor Co. v. Summit Motor Products, Inc., 9:171 Federal circuit, 9:278 Federal claims court, 9:278 Fourth circuit Feist Publications, Inc. v. Rural generally, **9:174 to 9:185.50** Telephone Service Co., 9:126 Atari, Inc. v. Amusement World, Ferguson v. National Broadcasting Co., 9:178 9:187 Bouchat v. Baltimore Ravens, Inc., Fifth circuit 9:185 Champion Map Corp. v. Twin Printgenerally, **9:186 to 9:192** ing Co., **9:177** Creations Unlimited, Inc. v. McClain, 9:192 Charles W. Ross Builder, Inc. v. Olsen Fine Home Building, LLC, DSC Communications Corp. v. DGI 9:185.50 Technologies, Inc., 9:191 Copeland v. Bieber, 9:185.60 Engineering Dynamics, Inc. v. Structure Softwares, Inc., 9:190 Dawson v. Hinshaw Music, Inc., 9:181 Ferguson v. National Broadcasting

Co., 9:187

9:188

Kepner-Tregoe, Inc. v. Leadership Software, Inc., **9:189**

Miller v., Universal City Studios, Inc.,

Johnson v. Automotive Ventures,

Keeler Brass Co. v. Continental Brass

9:183

Co., **9:180**

Lewis v. Kroger Co., 9:176

SUBSTANTIAL SIMILARITY—Cont'd SUBSTANTIAL SIMILARITY—Cont'd Fourth circuit—Cont'd La Resolana Architects, PA v. Reno, Lyons Partnership, L.P. v. Morris Inc., 9:257.60 Leigh v. Warner Bros., Inc., 9:264 Costumes, Inc., 9:182 M. Kramer Manufacturing Co. v. Lewis v. Kroger Co., 9:176 Andrews, 9:179 Lotus Development Corp. v. Borland Reed v. Carusi, 9:175 and International, Inc., 9:131 Towler v. Sayles, 9:184 Lyons Partnership, L.P. v. Morris Franklin v. National Wildlife Art Costumes, Inc., 9:182 Exchange, Inc., 9:167 Marigold Foods, Inc. v. Purity Dairies, Funkhouser v. Loew's Inc., 9:229 Inc., 9:199 Gaste v. Kaiserman, 9:152 Mathews Conveyer Co. v. Palmer-Bee Gates Rubber Co. v. Bando Chemical Co., **9:195** Mattel, Inc. v. MGA Entertainment, Inc., Industries, Ltd., 9:252 9:247.10 Gray v. Hudson, 9:247.50 Mazer v. Stein, 9:124 Grubb v. KMS Patriots, L.P., 9:132 Hamil America, Inc. v. GFI, 9:161 Meshwerks, Inc. v. Toyota Motor Sales U.S.A., Inc., 9:257.50 Hanagami v. Epic Games, Inc., 9:247.60 Metcalf v. Bochco, 9:244 Harper & Row, Publisher, Inc. v. Nation MGM v. Grokster, Ltd., 9:127 Enterprises, 9:125 Mihalek v. Michigan, 9:198 Hartman v. Hallmark Cards, Inc., 9:231 Herbert Rosenthal Jewelry Corp. v. Miller v., Universal City Studios, Inc., Honora Jewelry Co., 9:146 9:188 Hoehling v. Universal City Studios, Inc., Millworth Converting Corp. v. Slifka, 9:149 Ideal Toy Corp. v. Fab-Lu, Ltd., 9:144 Miner v. Employers Mutual Liability Insurance Co. of Wisconsin, 9:271 Jacobsen v. Deseret Book Co., 9:257 JCW Investment, Inc. v. Novelty, Inc., M. Kramer Manufacturing Co. v. 9:223.50 Andrews, 9:179 Johns & Johns Printing Co. v. Paull-Moore v. Columbia Pictures Industries, Pioneer v. Music Corp., 9:227 Inc., 9:232 Johnson v. Automotive Ventures, 9:183 Murray Hill Publications, Inc. v. Johnson v. Gordon, 9:136 Twentieth Century Fox Film Corp., 9:204 Jones v. Blige, 9:209.50 Nash v. Columbia Broadcasting Jorgensen v. Epic/Sony Records, 9:164 Systems, 9:219 Kay Berry, Inc. v. Taylor Gifts, Inc., Newton v. Diamond, 9:247 9:173 Nihon Keizai Shimbun, Inc. v. Comline Keeler Brass Co. v. Continental Brass Business Data, Inc., 9:160 Co., 9:180 Ninth circuit Kepner-Tregoe, Inc. v. Leadership Software, Inc., 9:189 generally, 9:235 to 9:247.40 Apple Computer, Inc. v. Microsoft Knitwaves, Inc. v. Lollytogs, Ltd., 9:155 Corp., 9:241 Kohus v. Mariol, 9:203 Baxter v. MCA, Inc., 9:237 Krofft decision, 9:236 Brown Bag Software v. Symantec Langman Fabrics v. Graff Corp., 9:240 Californiawear, 9:159 Gray v. Hudson, 9:247.50 L.A. Printex Industries, Inc. v. Aeropostale, Inc., 9:247.20 Hanagami v. Epic Games, Inc., 9:247.60 Lapsley v. American Institute of Certi-Krofft decision, 9:236 fied Public Accountants, 9:273

SUBSTANTIAL SIMILARITY—Cont'd SUBSTANTIAL SIMILARITY—Cont'd Ninth circuit—Cont'd Ringgold v. Black Entertainment Televi-L.A. Printex Industries, Inc. v. sion, Inc., 9:156 Aeropostale, Inc., **9:247.20** Rottlund Company, Inc. v. Pinnacle Corporation, 9:234 Mattel, Inc. v. MGA Entertainment, Sandoval v. New Line Cinema Corp., Inc., 9:247.10 9:157 Metcalf v. Bochco, 9:244 Scott v. WKJG, Inc., **9:216** Newton v. Diamond, 9:247 Second circuit Pasillas v. MacDonald's Corp., 9:239 generally, 9:137 to 9:164 Rice v. Fox Broadcasting Co., 9:245 Abdin v. CBS Broadcasting, Inc., Shaw v. Lindheim, 9:238 9:164.20 Skidmore v. Led Zeppelin, 9:247.40 Arc Music Corp. v. Lee, 9:142 Smith v. Jackson, 9:242 Attia v. Society of the New York Swirsky v. Carey, 9:246 Hospital, 9:163 Three Boys Music Corp. v. Bolton, Continental Casualty Co. v. 9:243 Beardsley, 9:139 Williams v. Gaye, 9:247.30 Fisher-Price, Inc. v. Well-Made Toy NLFC, Inc. v. Devcom Mid-America, Manufacturing Corp., 9:154 9:221 Folio Impressions, Inc. v. Byer Cali-Novelty Textile Mills, Inc. v. Joan fornia, 9:153 Fabrics Corp., 9:147 Gaste v. Kaiserman, 9:152 Nucor Corp. v. Tennessee Forging Steel Hamil America, Inc. v. GFI, 9:161 Service, Inc., **9:230** Herbert Rosenthal Jewelry Corp. v. O'Neill v. Dell Publishing Co., 9:129 Honora Jewelry Co., 9:146 Oravec v. Sunny Isles Luxury Ventures, Hoehling v. Universal City Studios, L.C., **9:266.50** Inc., 9:149 Original Appalachian Artworks, Inc. v. Ideal Toy Corp. v. Fab-Lu, Ltd., 9:144 Toy Loft, Inc., 9:259 Jorgenson v. Epic/Sony Records, Palmer v. Braun, 9:266 9:164 Pasillas v. MacDonald's Corp., 9:239 Knitwaves, Inc. v. Lollytogs, Ltd., Perris v. Hexamer, 9:121 9:155 Peter Letterese and Associates, Inc. v. Langman Fabrics v. Graff World Institute of Scientology Californiawear, 9:159 Enterprises, **9:266.60** Millworth Converting Corp. v. Slifka, Peter Pan Fabrics, Inc. v. Martin Weiner 9:141 Corp., 9:140 Nihon Keizai Shimbun, Inc. v. Peters v. West, 9:223.60 Comline Business Data, Inc., Puddu v. Buonamici Statuary, Inc., 9:160 9:145 Novelty Textile Mills, Inc. v. Joan Raum v. Norwood, 9:205 Fabrics Corp., 9:147 Reader's Digest Association, Inc. v. Peter Pan Fabrics, Inc. v. Martin Conservative Digest, Inc., 9:274 Weiner Corp., **9:140** Reed v. Carusi, 9:175 Puddu v. Buonamici Statuary, Inc., Repp v. Webber, 9:158 9:145 Reproduction right, 9:64, 9:78, 9:86, Repp v. Webber, 9:158 9:86.50 Revher v. Children's Television Reyher v. Children's Television Workshop, **9:148** Workshop, **9:148** Ringgold v. Black Entertainment Rice v. Fox Broadcasting Co., 9:245 Television, Inc., 9:156

SUBSTANTIAL SIMILARITY—Cont'd

Second circuit—Cont'd

Sandoval v. New Line Cinema Corp., 9:157

Stuff v. E.C. Publications, Inc., **9:143**Tufenkian Import/Export Ventures,
Inc. v. Einstein Moomjy, Inc., **9:162**

Wainwright Securities, Inc. v. Wall Street Transcript Corp., 9:149

Walker v. Time Life Films, Inc., 9:151

Warner Brothers, Inc. v. American Broadcasting Cos., **9:150**

Zelewski v. Cicero Builder Dev., Inc, 9:164.10

Segrets, Inc. v. Gillman Knitwear Co., 9:134

Selle v. Gibb, **9:218**

Seventh circuit

generally, 9:210 to 9:223.60

Atari, Inc. v. North American Philips Consumer Electronics Corp., 9:217

Chicago Record-Herald Co. v. Tribune Association, **9:211**

Cholvin v. B. & F. Music Co., **9:215** Crume v. Pacific Mutual Life Insurance Co., **9:213**

Design Basics, LLC v. Kersteins Homes & Designs, Inc., 9:223.90

Design Basics, LLC v. Lexington Homes, Inc., 9:223.70

Design Basics, LLC v. Signature Construction, Inc., 9:223.80

Edwards & Deutsch Lithographing Co. v. Boorman, **9:212**

Eisenchiml v. Fawcett Publications, Inc., **9:214**

JCW Investment, Inc. v. Novelty, Inc., 9:223.50

Nash v. Columbia Broadcasting Systems, **9:219**

NLFC, Inc. v. Devcom Mid-America, 9:221

Peters v. West, 9:223.60

Scott v. WKJG, Inc., 9:216

Selle v. Gibb, 9:218

Susan Wakeen Doll Co. v. Ashton-Drake Galleries, **9:223**

SUBSTANTIAL SIMILARITY—Cont'd

Seventh circuit—Cont'd

Toksvig v. Bruch Publishing Co., **9:214**

Ty Inc. v. GMA Accessories, Inc., 9:222

Wildlife Express Corp. v. Carol Wright Sales, Inc., 9:220

Shaw v. Lindheim, 9:238

Sheets v. Twentieth Century Fox Film Corp., **9:270**

Sherrill v. Grieves, 9:268

Situation Management Systems, Inc. v. ASP Consulting LLC, **9:136.10**

Sixth circuit

generally, **9:193 to 9:209.50**

Benton v. Decotex, Inc., 9:202

Blumcraft of Pittsburgh v. Newman Brothers, Inc., **9:196**

Bridgeport Music, Inc. v. Dimension Films, 9:209

Bridgeport Music, Inc. v. UMG Recordings, Inc., 9:209.20

Ellis v. Diffie, 9:201

Fogerty v. MGM Group Holdings Corp., Inc., **9:206**

Jones v. Blige, 9:209.50

Kohus v. Mariol, 9:203

Marigold Foods, Inc. v. Purity Dairies, Inc., **9:199**

Mathews Conveyer Co. v. Palmer-Bee Co., **9:195**

Mihalek v. Michigan, 9:198

Murray Hill Publications, Inc. v. Twentieth Century Fox Film Corp., **9:204**

Raum v. Norwood, 9:205

Stromback v. New Line Cinema, 9:207

Trapani v. CBS Records, Inc., 9:200

Wickham v. Knoxville International Energy Exposition, Inc., **9:197**

Winfield Collection Ltd. v. Gemmy Corp., **9:208**

Skidmore v. Led Zeppelin, 9:247.40

Smith v. Jackson, 9:242

Southern Bell Telephone & Telegraph Co. v. Associated Telephone Directory, **9:260**

SUBSTANTIAL SIMILARITY—Cont'd SUBSTANTIAL SIMILARITY—Cont'd Stenograph LLC v. Bossard Associates, Third circuit Inc., 9:275 generally, **9:165 to 9:173** Stromback v. New Line Cinema, 9:207 Dun & Bradstreet Software Services, Stuff v. E.C. Publications, Inc., 9:143 Inc. v. Grace Consulting, Inc., Sturdza v. United Arab Emirates, 9:276 9:172 Sun Trust Bank v. Houghton Mifflin Educational Testing Services v. Co., 9:265 Katzman, 9:169 Supreme Court Ford Motor Co. v. Summit Motor generally, 9:120 to 9:127 Products, Inc., **9:171** Callaghan v. Myers, 9:122 Franklin v. National Wildlife Art Feist Publications, Inc. v. Rural Exchange, Inc., 9:167 Telephone Service Co., 9:126 Kay Berry, Inc. v. Taylor Gifts, Inc., Harper & Row, Publisher, Inc. v. 9:173 Nation Enterprises, 9:125 Tanskley v. Daniels, 9:173.50 Mazer v. Stein. 9:124 Testa v. Janssen, 9:168 MGM v. Grokster, Ltd., 9:127 Universal Athletic Sales Co. v. Perris v. Hexamer, 9:121 Salkeld, 9:166 White-Smith Music Publishing Co. v. Whelan Associates, Inc. v. Jaslow Apollo Co., 9:123 Dental Laboratory, 9:170 Susan Wakeen Doll Co. v. Ashton-Drake Three Boys Music Corp. v. Bolton, Galleries, 9:223 9:243 Swirsky v. Carey, 9:246 Toksvig v. Bruch Publishing Co., 9:214 Tanskley v. Daniels, 9:173.50 Towler v. Sayles, 9:184 Taylor Corporation v. Four Seasons TransWestern Publishing v. Multimedia Greetings, LLC, 9:233 Marketing Associates, 9:256 Tenth circuit Trapani v. CBS Records, Inc., 9:200 generally, 9:248 to 9:257.70 Tufenkian Import/Export Ventures, Inc. Autoskill Inc. v. National Educational v. Einstein Moomjy, Inc., 9:162 Support Systems, Inc., 9:251 Twentieth Century-Fox Film Corp. v. Blehm v. Jacobs, 9:257.70 Dieckhaus, 9:228 Cartier v. Jackson, 9:253 Ty Inc. v. GMA Accessories, Inc., 9:222 Country Kids 'N City Slicks, Inc. v. Universal Athletic Sales Co. v. Salkeld, Sheen, 9:254 9:166 district court cases, 9:250 Wainwright Securities, Inc. v. Wall Dorsey v. Old Surety Life Insurance Street Transcript Corp., 9:149 Co., **9:249** Walker v. Time Life Films, Inc., 9:151 Fisher v. United Feature Syndicate, Warner Brothers, Inc. v. American Inc., 9:255 Broadcasting Cos., 9:150 Gates Rubber Co. v. Bando Chemical Watt v. Butler, 9:266.70 Industries, Ltd., 9:252 Whelan Associates, Inc. v. Jaslow Jacobsen v. Deseret Book Co., 9:257 Dental Laboratory, 9:170 La Resolana Architects, PA v. Reno, White-Smith Music Publishing Co. v. Inc., 9:257.60 Apollo Co., 9:123 Meshwerks, Inc. v. Toyota Motor Wickham v. Knoxville International Sales U.S.A., Inc., **9:257.50** Energy Exposition, Inc., 9:197 TransWestern Publishing v. Wildlife Express Corp. v. Carol Wright Multimedia Marketing Associ-Sales, Inc., 9:220 ates, 9:256 Testa v. Janssen, 9:168 Williams v. Gaye, **9:247.30**

SUBSTANTIAL SIMILARITY—Cont'd

Winfield Collection Ltd. v. Gemmy Corp., 9:208

Yankee Candle Co. v. Bridgewater Candle Co., **9:135**

Zelewski v. Cicero Builder Dev., Inc, 9:164.10

SUBSTITUTIONS

Derivative works, 12:10

SUCCESS ON MERITS

Preliminary injunctions, 22:60, 22:61

SUCCESSOR CLASS

General revision of 1909, 7:14

SUCCESSORS

General revision of 1909, **7:15** Uruguay Round Agreements Act, **24:41**

SUFFICIENCY

Assignment, 5:114

SUITS AGAINST UNITED STATES AND ITS CONTRACTORS

Jurisdiction, 17:46

SUMMARY JUDGMENT

Fair use defense, 10:159 Limitation of actions, 20:56 Monetary damages, 22:183

Reproduction right, 9:40, 9:87

SUN TRUST BANK v. HOUGHTON MIFFLIN CO.

Substantial similarity, 9:265

SUPERSTATIONS

Display publicly, **15:15 Jukebox** (this index)

SUPERSUBSTANTIAL SIMILARITY

Reproduction right, 9:95

SUPERVISE, RIGHT TO

Vicarious liability, 21:67

SUPPLEMENTAL JURISDICTION

Generally, 17:53, 17:54

Gibbs case, 17:54

Review of rulings, 17:54.50

SUPPLEMENTARY REGISTRATION

Infringement, 17:132

SUPPLEMENTARY REPORT

Monetary damages, 22:158 Preemption, 18:6

SUPRANATIONAL COPYRIGHT LAW INFRINGEMENT

Choice of law, 25:82

SUPREMACY CLAUSE

Preemption, 18:59

SUPREME COURT

See also specific cases in this index Construction and interpretation, 2:18

Express aiming, 17:156

Fair use defense, 10:86

Impoundment, seizure, and destruction, 22:83

Infringement, 17:98 to 17:101

L'anza decision, 13:45

Preliminary injunctions, 22:21

Substantial Similarity (this index)

SURVEY EVIDENCE

Reproduction right, 9:83

SURVIVING SPOUSE

Term renewal, 1909 general revision, 7:17

SUSAN WAKEEN DOLL CO. v. ASHTON - DRAKE GALLERIES

Substantial similarity, 9:223

SWATCH GROUP MANAGEMENT SERVICES LTD. v. BLOOMBERG L.P.

Fair use defense, 10:80.30

SWIRSKY v. CAREY

Substantial similarity, 9:246

SYBERSOUND RECORDS, INC. v. UAV CORPORATION

Assignment, 5:103

Transfer of interest by exclusive licensees. **5:103**

SYMBOL

Formalities, 6:59

Visual works, 4:17

SYMBOLIC AUTHORSHIP

Definition, 3:21

INDEX

TAKE DOWN NOTICES

DMCA, preemption of state law claims, 18:52.60

TAKINGS

Fair Use Defense (this index) Reproduction right, 9:64

TALFOURD TERM EXTENSION ACT OF 1842

Generally, 1:15

TALMUD

Choice of law, 25:4

TANGIBLE OBJECT

Title and ownership, 5:97

TANSKLEY V. DANIELS

Substantial similarity, 9:173.50

TARIFFS

International copyrights, 23:56

TAXATION

Monetary damages, **22:144** Work made for hire, **5:66**

TAXONOMIES

Noncopyrightable material, 4:51

TAYLOR CORPORATION v. FOUR SEASONS GREETINGS, LLC

Substantial similarity, 9:233

TAYLOR v. MEIRICK

Limitation of actions, 20:30

T.B. HARMS DECISION

Subject Matter Jurisdiction (this index)

TEACHER EXCEPTION

Work made for hire, 5:71

TECHNICAL AMENDMENTS

Copyright Act of 1976, **1:96**

TECHNICAL DRAWINGS AND PLANS

Pictorial, graphic, and sculptural works, 3:154.60

TECHNOLOGICAL PROTECTION MEASURES AND COPYRIGHT RIGHTS MANAGEMENT INFORMATION

Generally, 16A:1 et seq.

Civil remedies, 16A:5

Copyright rights management

generally, **16A:3.50**

non-digital form, 16A:3.60

Definition, 16A:2

Knowledge requirement, 16A:4

Nexus to infringement, 16A:4.50

OEM cases, 16A:3

Original equipment manufacturers, cases to block competing products, **16A:3**

Public domain work, 16A:2

Statement by Librarian of Congress relating to Section 1201 rulemaking, **App 16A-A**

TECHNOLOGIES

Assignment, 5:115

Circumvention of technological measures. Technological Protection Measures and Copyright Rights Management Information (this index)

Computer programs, **3:73** Exclusive rights, **8:2**

TECHNOLOGY DRIVEN ALTERNATIVES

Derivative works, 3:57

TELEPROMPTERS

Cable television and other secondary transmissions, **14:57**

TELEVISION

Cable Television and Other Secondary Transmission (this index)

Copyright Act of 1976, 1:78

Public performance, Internet streaming, 14:79.50

TELEVISION DIGEST v. UNITED STATES TELEPHONE ASSOCIATION

Fair use defense, 10:120

TEMPORARY INJUNCTIONS

Generally, 22:15

TEMPORARY RESTRAINING **ORDERS**

Generally, 22:9

TENTH CIRCUIT

Computer programs, 3:88 Monetary damages, 22:137.20 Pictorial, graphic, and sculptural works, 3:144.30 Preliminary injunctions, 22:29

Reproduction right, 9:55 **Substantial Similarity** (this index)

TERM

Generally, 7:1 to 7:63 Berne Convention Implementation Act of 1988, Article 7, **23:24**

Bono. Sonny Bono Copyright Term **Extension Act** (this index)

Booksellers, 7:4, 7:6 Constitutional law, 7:6 Copyright Act of 1790, 7:7

Copyright Act of 1976 (this index)

Copyright renewal act of 1992 bankruptcy, **7:50.50** termination rights, 7:50.50 Copyright Renewal Act of 1992, 7:50

Duration of copyright, generally, 7:1 to 7:63

Early legislation, generally, 7:7 to 7:9 Extension of term. Sonny Bono Copyright Term Extension Act (this index)

General revision of 1831, 7:8 General revision of 1870, 7:9 History, 7:1, 7:4 to 7:6 Legislation, generally, 7:7 to 7:9 Phonograms, 7:51

Pre-constitutional state statutes, 7:5 Renewal

assignment, jurisdiction, 7:10.50

Copyright Act of 1976 (this index) Copyright Renewal Act of 1992, 7:50

Sales, 7:4, 7:6

Sonny Bono Copyright Term Extension Act (this index)

State statutes, 7:5

Statutes

Copyright Renewal Act of 1992, 7:50 pre-constitutional state statutes, 7:5

TERM-Cont'd

Statutes-Cont'd

Sonny Bono Copyright Term Extension Act (this index)

TRIPS, Article 12, 23:65

Uruguay Round Agreements Act, 7:51, 24:33

WIPO, 7:51

Works first published overseas, 7:24.50

TERMINATED SERVICE

Jukebox, 14:113

TERMINATION OF TRANSFER

Choice of law, 25:74

Copyright Act of 1976 (this index) Sonny Bono Copyright Term Extension

TERRITORIAL COPYRIGHTS

Act, 7:61, 7:62

Choice of law, 25:18

TERRITORIALITY

Choice of law. 25:18

TERRITORIAL RESTRICTIONS

Jukebox, 14:121

TERRITORY GOVERNMENT

Sovereign immunity, 21:88.10

TESTA v. JANSSEN

Substantial similarity, **9:168**

TEXTILES

Pictorial, graphic, and sculptural works, 3:151

TEXTUAL GAMES

Noncopyrightable material, 4:20

TEXTUALISM

Construction and interpretation, 2:26 Political power play, 2:26 Straw man. 2:26

THE 1976 ACT & EQUITABLE **EASEMENTS**

Title and ownership, 5:98

THE ANDY WARHOL FOUNDATION V. GOLDSMITH

Fair use defense, 10:35.30, 10:35.34

THIRD CIRCUIT

Computer programs, 3:86, 3:90

THIRD CIRCUIT—Cont'd

Pictorial, graphic, and sculptural works, 3:141.50

Preliminary injunctions, 22:23

Reproduction right, 9:48

Substantial Similarity (this index)

THIRD PARTIES

Assignment, 5:114

Fair use defense, 10:158

Licenses, 5:140

Limitation of actions, 20:34, 20:45.50

Pleadings, 19:11

Reproduction right, 9:29, 9:68

Standing, work made for hire, **5:49.10**

THOMSON REUTERS V. ROSS INTELLIGENCE

Litigation over AI, 3:60.53

THREE BOYS MUSIC CORP. v. BOLTON

Substantial similarity, 9:243

THREE DIMENSIONAL WORKS

Choreography and derivative works, 12:20.10

Derivative works, 12:20

TIME AND DATE

Choice of Law (this index)

Copyright Act of 1909, **1:65**, **1:67**

Copyright Act of 1976, 1:97 to 1:107

Formalities (this index)

Monetary damages, 22:192

Standing to sue, 21:10, 21:22

Term (this index)

TRIPS. 23:68

Uruguay Round Agreements Act (this index)

Visual Artists Rights Act of 1990 (this

Work made for hire, **5:58**, **5:60**

TIN PAN APPLE v. MILLER BREWING

Fair use defense, 10:32

TIRE ENGINEERING &
DISTRIBUTION, LLC v.
SHANDONG LINGLONG
RUBBER COMPANY, LTD.

Extraterritoriality, 25:92.50

TITLE AND OWNERSHIP

The 1976 act & equitable easements, 5:98

Generally, **5:1 to 5:157**

Assignment (this index)

Choice of law, 25:30, 25:46

Computer programs, 11:32

Copies, ownership of

The 1976 act & Equitable easements, **5:98**

generally, 5:97 to 5:100

intangible intellectual property, 5:97

tangible object distinguished, 5:97

tension between "copy" and "copyright," **5:100**

"work" distinguished from "copy," 5:99

Derivative works, 12:22

Discovery accrual, **5:41.50**, **20:43**

Discrete rights, generally, 5:2

Distribution of copies of work, 13:22

Formalities, **6:41**, **6:72**

Government works, 4:74

Infringement, 17:62

Intangible intellectual property, **5:97**

Joint Authorship (this index)

Licenses (this index)

Limitation of Actions (this index)

Monetary damages, 22:205

Noncopyrightable material, 4:2

Pleadings (this index)

Question of fact, 5:1.50

Reproduction right, 9:15

Shareholders, 5:96

Standing to Sue (this index)

Tangible object distinguished, **5:97**

Uruguay Round Agreements Act, 24:31, 24:32

Work Made for Hire (this index)

TOKSVIG v. BRUCE PUBLISHING CO.

Fair use defense, 10:37

Substantial similarity, 9:214

TOLLING

Author and authorship, **5:42**

Limitation of actions. 20:49

TOLLING AND OTHER EQUITABLE DOCTRINES

Limitation of actions, 20:44

TOOLS

Work made for hire, 5:56

"TO PROMOTE THE PROGRESS OF SCIENCE"

Constitutional Law (this index)

TORTIOUS INTERFERENCE

Preemption, 18:30

TORTS

Personal jurisdiction, 17:167 Strict liability tort, 21:38, 21:39 Transitory tort, 25:105

TOTAL CONCEPT AND FEEL TEST

Reproduction right, 9:71, 9:72

TOWLER v. SAYLES

Substantial similarity, 9:184

TOWNSEND AMENDMENT OF 1912

Copyright Act of 1909, 1:47

TOYS

Pictorial, graphic, and sculptural works, 3:149

TRADE DRESS

Preemption, 18:43.90

TRADE PERIODICALS

Reproduction right, 9:27

TRADE RELATED ASPECTS OF IP

TRIPS (this index)

TRADE SECRETS

Disclosure by filing with copyright office, 17:132.50

Preemption, 18:44

TRADE SHOWS AND CONFERENCES

Personal jurisdiction, **17:184**Reproduction right, **9:27**

Vicarious liability, 21:69 to 21:71

TRADING WITH THE ENEMY ACT OF 1962

Copyright Act of 1909 amendments, **1:68**

TRAINING MATERIALS

Monetary damages, 22:187

"TRANSACTING BUSINESS"

Personal jurisdiction, 17:157

TRANSCRIPTS

Government works, 4:88

TRANSFER OF COPIES

Computer programs, 11:43

TRANSFER OF VENUE

Generally, 17:208

TRANSFERS

Choice of law, 25:74, 25:80.10

Copyright Act of 1976 (this index)

Ownership by assignment, 5:103

Sonny Rong Copyright Term Extension

Sonny Bono Copyright Term Extension Act, **7:61**, **7:62**

TRANSFORMATIVE USES

Changing the original, requirements, 10:21.50

Fair use defense, **10:21**, **10:142**No transformative use, **10:21.50**

TRANSFORMING

Derivative works, 3:48

TRANSITORY TORT

Generally, 25:105

TRANSLATION

Berne Convention Implementation Act of 1988, Article 8, 23:25

TRANSMISSIONS

Cable Television and Other Secondary

Transmission (this index)

Exclusive rights, 8:23

Extraterritoriality (this index)

Jukebox, 14:105 to 14:121

Public performance, 14:23, 14:28, 14:41

Sound recordings, 14:87 to 14:89

Uruguay Round Agreements Act, 24:10

TRANS-PACIFIC PARTNERSHIP

Generally, 23:79

TRANSWESTERN PUBLISHING v. MULTIMEDIA MARKETING ASSOCIATES

Substantial similarity, 9:256

INDEX

TRAPANI v. CBS RECORDS, INC.

Substantial similarity, 9:200

TRESPASS

Preemption, 18:45, 18:46

TRIAL COURT

Extraterritoriality, **25:96**

TRIBAL DECISION

Jurisdiction, **17:57.50** Stay pending, **17:57.50**

TRIBAL IMMUNITY

Parties, 21:89

TRIPS

Generally, **23:57 to 23:68**, **App 24-A**Article 1(3), nature and scope of obligations, **23:57**

Article 3(1), national treatment, **23:58**Article 4, most-favored-nation treatment, **23:59**

Article 6, exhaustion, 23:60

Article 8(2), principles, 23:61

Article 9, relation to Berne Convention, 23:62

Article 10, computer programs and compilations of data, **23:63**

Article 11, rental rights, **23:64**

Article 12, term of protection, 23:65

Article 13, limitations and exceptions, 23:66

Article 14, protection of performers, producers of phonograms (sound recordings), and broadcasting organizations, **23:67**

Berne Convention, Article 9, relation to, 23:62

Broadcasting organizations, 23:67

Compilation of data, 23:63

Computer programs, 23:63

Effective dates, 23:68

Exceptions, 23:66

Exhaustion, 23:60

Importation (this index)

Limitations and restrictions, 23:66

Most-favored-nation, 23:59

NAFTA. North American Free Trade Agreement (this index)

Performance, 23:67

Phonograms, 23:67

TRIPS—Cont'd

Producers, 23:67

Rental rights, 13:32, 23:64

Self-executing, 23:1.50, 24:1.50

Software, **23:63**

Sound recordings, 23:67

Status as treaty, 24:1.50

Term, 23:65

Time and date, 23:68

TRUCKS

Jukebox, 14:114

TRUSTS

Constructive trust ownership, **5:153** Standing to sue, **21:26**

TUFENKIAN IMPORT/EXPORT VENTURES, INC. v. EINSTEIN MOOMJY, INC.

Substantial similarity, 9:162

TUNNEL VISION

Construction and interpretation, anchoring problem with judicial supremacists' tunnel vision, **2:61**

TWENTIETH CENTURY - FOX FILM CORP. v. DIECKHAUS

Substantial similarity, 9:228

TWENTIETH CENTURY FOX FILM CORP. v. ICRAVE TV

Extraterritoriality, 25:100

TWENTIETH CENTURY MUSIC CORPORATION v. AIKEN

Construction and interpretation, 2:46

28 USCA

Jurisdiction, 17:55

29 USCA

Government works, **4:66**

TWIN PEAKS PRODUCTIONS v. PUBLICATIONS INTERNATIONAL

Fair use defense, 10:65

TWO - DIMENSIONAL REPRODUCTIONS

Display publicly, 15:16

TWO - DIMENSIONAL WORKS

Choreography and derivative works, 12:20.10

Derivative works, 12:20
Pictorial, graphic, and sculptural works, 3:150

TY INC. v. GMA ACCESSORIES, INC. Substantial similarity, 9:222

TY INC. v. PUBLICATIONS INTERNATIONAL

Fair use defense, 10:67

TYPEFACE AND TYPOGRAPHY

Computer programs, 3:75 Visual works, 4:19

UNCLEAN HANDS

Infringement, 17:121 to 17:125, 17:127 Pleadings, 19:2.60

UNELECTION OF STATUTORY DAMAGES

Monetary damages, 22:173

UNFAIR COMPETITION

Preemption, 18:47 to 18:50

UNFORMED CORPORATIONS

Work made for hire, 5:80

UNITED STATES

Choice of law absent, **25:0.50** Definition, **4:72 to 4:74**

UNITED STATES AS PARENS PATRIAE

Standing to sue, 21:6

UNITED STATES - CANADA FREE TRADE AGREEMENT (CFTA)

Generally, 23:54

UNITED STATES CLAIMS

Choice of law, 25:84

UNITED STATES GOVERNMENT

Actions against generally, 21:86
Copyright Act of 1909, 1:66
damages, 22:206
defendant, as, generally, 21:86
jurisdiction, 17:46
limitation of actions, 20:45

UNITED STATES GOVERNMENT —Cont'd

"Work of the United States Government," defining, **4:69**, **4:70**

UNITED STATES INTERNATIONAL TRADE COMMISSION

Section 337 actions, 23:75

UNIT OF PUBLICATION RULE

Formalities, 6:66

UNIVERSAL ATHLETIC SALES CO. v. SALKELD

Substantial similarity, 9:166

UNIVERSAL COPYRIGHT CONVENTION

Copyright Act of 1909, generally, **1:63**Formalities, **6:46**International copyright, U.S. protection of foreign authors, **23:11**, **23:12**Self-executing, **23:1.50**

UNIVERSITIES AND COLLEGES

University Professor's Act of 1926, 1:51

UNJUST ENRICHMENT

Preemption, 18:51

UNORIGINAL WORKS

Preemption, 18:14, 18:15

Copyright Act of 1976, 7:38

UNPUBLISHED WORKS

England and Statute of Anne, 1:11
Fair use defense, 10:139
Government works
noncopyrightable material, 4:64
Sonny Bono Copyright Term Extension
Act, 7:57

UNREALIZED PROFITS

1976 Copyright Act, **22:137.20** Copyright act of 1976 monetary damages, **22:137.20** Damages unrealized profits, **22:137.20** Legislative reports, **22:137.20**

UNSOLD GOODS

Monetary damages, 22:142

UPDATE ART, INC. v. MODIIN PUBLISHING, LTD. Extraterritoriality, 25:90, 25:91 URAA Uruguay Round Agreements Act (this index) URUGUAY ROUND AGREEMENTS ACT Generally, **24:1 to 24:51** Administrative Action Statement, App Alien property custodian works, 24:30 Assignment, 24:41 Automatic restoration, 24:29 Berne Convention, 24:18, 24:21 "Bootlegs of live musical performances," Sections 512 and 513 generally, **24:4 to 24:16** civil cause of action, generally, 24:6 to 24:14 consent to fixation, 24:8 constitutional basis of right, 24:7 criminal provisions, 24:16 duration of right, 24:13 music videos, 24:9 national eligibility requirements, 24:11 preexisting live musical performances, protection of, 24:14 reproduction, distribution, and transmission, 24:10 state laws, preemption, 24:15 violation of rights and remedies, 24:12 Computer program rental, 24:4, 24:20 Congress of U.S. Executive. President Clinton, below H.R. 4894 and Representative Hughes' Floor Statement, App

24-D

1997 legislative effort, **24:28**

29, 1994), App 24-J

1994), **App 24-H**

Representative Hughes' and Repre-

Representative Hughes' Floor State-

sentative Berman's Floor State-

ments on Passage of Act (Nov.

ment on Passage of Rule (Oct. 8,

URUGUAY ROUND AGREEMENTS ACT—Cont'd Congress of U.S.—Cont'd S. 2368 and Senator DeConcini's Floor Statement, App 24-E Senate Judiciary Committee Statement on Act, App 24-I Senator Leahy's Floor Statement on Passage of Act (Dec. 1, 1994), **App 24-K** Consent to fixation, 24:8 Constitutional basis of right, 24:7 Constitutionality of restoration provisions, 24:51 Continuing infringement and reliance party status, 24:40 Contributory infringement and statutory damages, 24:44 Copyright components, 24:3 Copyright Office notice of intent, Section 104A(e), 24:45 Notice of Policy Decision on Effective Date (Feb. 9, 1995), App 24-M notice, Section 104A(e)(1), 24:46 reliance party, 24:45, 24:48 simultaneous registration and filing notice of intent with Copyright Office, 24:49 Criminal provisions, 24:16 Cutoff, 24:42 Damages, 24:44 Definition of restored work, 24:32 Derivative works, Section 104A(d)(3), 24:43 Distribution, 24:10 Duration of protection in restored works, 24:36 Effective date generally, 24:24 to 24:28 Copyright Office, 24:26 Copyright Office's Notice of Policy Decision on Effective Date (Feb. 9, 1995), **App 24-M** 1997 legislative effort, **24:28** President Clinton, 24:27, App 24-L restoration, 24:25 Enactment, 24:2 Exclusion from protection, 24:30, 24:33

URUGUAY ROUND AGREEMENTS ACT—Cont'd

Exclusive rights, **8:27**

Expiration of term, 24:33

Fixation, 24:8

Foreign works, retroactivity, 24:23

Formalities, 6:80

Immunity, 24:42, 24:50

Infringement, 24:40, 24:44

Intent, 24:42, 24:45, 24:49, App 24-B

Live musical performances. "Bootlegs of live musical performances," Sections 512 and 513, above

Musical performances. "Bootlegs of live musical performances," Sections 512 and 513, above

Music videos, 24:9

National eligibility requirements, 24:11

Nonreliance parties, Section 104A(D)(1), **24:38**

North American Free Trade Agreement, 24:22

Notice and knowledge

Copyright Office's Notice of Policy Decision on Effective Date (Feb. 9, 1995), **App 24-M**

intent and cutoff of reliance party immunity, **24:42**

intent, filing with Copyright Office or directly on reliance party, Section 104A(e), **24:45**

President Clinton's 1993 Memorandum Notifying Congress of Intent to Enter into Uruguay Round Agreements, **App 24-B**

reliance party, filing on, Section 104A(e)(2)(A), **24:47**

simultaneous registration and filing notice of intent with Copyright Office, 24:49

Office of Legal Counsel Memorandum on Constitutionality of Retroactive Copyright Protection (July 29, 1994), **App 24-**C

Performance

generally, 24:50

"bootlegs of live musical performances," Sections 512 and 513, above

Phonorecord and computer program rental, **24:20**

URUGUAY ROUND AGREEMENTS ACT—Cont'd

Preemption, 24:15

Preexisting live musical performances, protection of, **24:14**

President Clinton

illegal proclamation, effective date, 24:27

1993 Memorandum of Intent to Enter into Uruguay Round Agreements, **App 24-B**

Proclamation (Mar. 23, 1995) for implementation of provisions, **App 24-N**

Proclamation on Effective Date of Uruguay Round Agreements (Dec. 23, 1994), **App 24-L**

Records and recording

Copyright Office and on reliance party, **24:48**

notice of intent with Copyright Office or directly on reliance party, Section 104A(e), **24:45**

notice on reliance party, Section 104A(e)(2)(A), **24:47**

notice with Copyright Office, Section 104A(e)(1), **24:46**

simultaneous registration and filing notice of intent with Copyright Office, **24:49**

Registration, 24:49

Reliance party

generally, **24:40**

assignees of, 24:41

filing notice on reliance party, Section 104A(e)(2)(A), **24:47**

filing of notice of intent with Copyright Office or directly on reliance party, Section 104A(e), 24:45

filing with Copyright Office and on reliance party, **24:48**

nonreliance parties, Section 104A(D)(1), **24:38**

notice of intent and cutoff of reliance party immunity, **24:42**

Section 104A(d)(2) to (4), 24:39

successors to, 24:41

Remedies, 24:37 to 24:39

Rental rights, 24:4, 24:20

Reproduction, 24:10

URUGUAY ROUND AGREEMENTS URUGUAY ROUND AGREEMENTS ACT—Cont'd ACT—Cont'd Restoration Specific performance, 24:50 generally, 24:25 State laws, preemption, 24:15 Statement of Administrative Action, constitutionality of provisions, 24:51 duration of protection in restored **App 24-G** works, 24:36 Statutory damages, 24:44 grounds for, 24:34 Successors to and assignees of reliance title and ownership, Section 104A(b), parties, **24:41** 24:31, 24:32 Term, 7:51, 24:33 Retroactivity, Section 514 Text of URAA, App 24-F generally, 24:17 to 24:21, 24:23 Time and date generally, 24:36 Berne Convention, 24:18, 24:21 phonorecord and computer program "bootlegs of live musical performances," Sections 512 and 513, rental. 24:20 24:13 pre-Berne Convention, 24:19 effective date, above Section 104A Title and ownership, restored copyright, derivative works, Section 104A(d)(3), Section 104A(b), 24:31, 24:32 Transmission, 24:10 exclusion from protections expiration of term, Sections 104A(h)(6)(B) TRIPS Agreement as treaty, 24:1.50 and (C), 24:33 TRIPs, Uruguay Round Agreement on filing notice, 24:45 to 24:47 Trade-Related Aspects of IP Rights, immunity from warranty and specific Including Trade in Counterfeit performance, Section 104A(f), Goods, App 24-A 24:50 U.S. implementing legislation, **6:80** nonreliance parties, Section Videos, **24:9** 104A(D)(1), 24:38 Warranty, 24:50 Office of Legal Counsel Memoran-**USEFUL ARTICLES** dum on Constitutionality of Retroactive Copyright Protection Helmets, headgear, and shoes, 3:152.50 (July 29, 1994), **App 24-C** Pictorial, Graphic, and Sculptural reliance parties, Section 104A(d)(2) **Works** (this index) to (4), **24:39 USEFULNESS** Section 104A(b), 24:31, 24:32 First Copyright Act revisions, 1:37 Section 104A(d), 24:37 to 24:39 Section 511, **24:4 USES IN TRADE** Section 512. "Bootlegs of live musical Preemption, **18:9.50** performances," Sections 512 and 513, above U.S. v. AMERICAN SOC. OF Section 513. "Bootlegs of live musical COMPOSERS, AUTHORS AND performances," Sections 512 and PUBLISHERS AND PREVIEWS 513, above Fair use defense, 10:35.10 Section 514. Retroactivity, Section 514, VALIDITY

Self-executing, TRIPS Agreement,

Simultaneous registration and filing

notice of intent with Copyright

24:1.50

Office, 24:49

Sound recordings, 24:35

Infringement (this index)

VALUE AND VALUATION

Fair Use Defense (this index)

Noncopyrightable material, 4:48 to 4:50

Damages (this index)

VARA

Visual Artists Rights Act of 1990 (this index)

VENUE

Generally, 17:198 to 17:208 Establishing, 17:205 Federal claim proper general venue statute, 17:204 special venue statute, 17:203 Federal-state pendent venue, 17:202 Forum selection clauses, 17:206 General venue statute, 17:204 Improper venue, Section 1406(a), 17:207 Nature of venue, generally, 17:199 Pendent venue, 17:201, 17:202 Section 1400(a), generally, **17:200** Section 1406(a), 17:207 Selection, 17:206 Special venue statute, 17:203

Transfer of venue, Section 1404(a),

VESTING OF RENEWAL

17:208

Choice of law, **25:73**Copyright Act of 1976, **7:26**1909 general revision, **7:13**

VETERANS

Public performance, 14:49

VICARIOUS INFERENCE

Reproduction right, 9:30

VICARIOUS LIABILITY

Generally, 21:62 to 21:83

Adobe Systems Inc. v. Canus Productions, Inc., 21:71

A&M Records, Inc. v. Napster, Inc., 21:74

Apparent authority, 21:82

Ballroom line of decisions, 21:65

Case law, 21:63 to 21:65

Commerce, 21:78, 21:79

Contractors, 21:80

Copyright Act of 1909, case law under, 21:63 to 21:65

Corporations, parent and subsidiaries, 21:83

Direct financial benefit, 21:68

Ellison v. Robertson, 21:75

VICARIOUS LIABILITY—Cont'd

Financial benefit, direct, 21:68

Flea markets, 21:69 to 21:71

Fonovisa, Inc. v. Cherry Auction Inc., **21:70**

Independent liability for independent contractors, **21:80**

Individual liability of company officers, employees, shareholders, and agents, 21:81

Inducement claims, 21:79

Inducement liability and staple article of commerce doctrine, 21:79

In re Aimster Copyright Litigation, 21:76

Internet

generally, 21:73 to 21:77.50

A&M Records, Inc. v. Napster, Inc., 21:74

Ellison v. Robertson, 21:75

In re Aimster Copyright Litigation, **21:76**

LLC v. AT&T Mobility, LLC, **21:77.60**

MGM Studios, Inc. v. Grokster, Inc., 21:77, 21:77.50

Perfect 10 cases, 21:77.50

Landlord-tenant line of decisions, 21:64

Leases, **21:64**

LLC v. AT&T Mobility, LLC, **21:77.60** MGM Studios, Inc. v. Grokster, Inc., **21:77, 21:77.50**

Requirements, generally, **21:66 to 21:68**Sony Music Entertainment v. Cox, **21:77.70**

Sponsorship, 21:72

Staple article of commerce doctrine, 21:78, 21:79

Subsidiaries, 21:83

Supervise, right to, 21:67

Trade shows, 21:69 to 21:71

VIDEOS

Uruguay Round Agreements Act, 24:9

VIOLATION ACCRUAL

Construction of Section 507(b), **20:17 to 20:20**

Limitation of actions, 20:43

VIRTUAL IDENTITY	VISUAL ARTISTS' RIGHTS ACT OF
Reproduction rights, 9:95	1990 (VARA)—Cont'd
VISUAL ARTISTS' RIGHTS ACT OF	Fair use defense
1990 (VARA)	generally, App 10-I
Generally, 16:1 to 16:48	legislative reports, App 10-J
Advertising and promotional use,	Finishing work, 16:27
16:13.50	First Amendment, 16:36
Attribution, right of, 16:17	Foreign authors, 16:5
Authors, 16:5 , 16:6	Formalities, 6:79 , 16:14 , 16:15
Berne, 16:3	Harm, 16:21
Buildings, works contained in, 16:32 to	Honor, 16:21
16:34	Immunity, 16:48
Completion, 16:27	Individual artists, 16:4
Constitutional law, 16:36	Injunctive relief, 16:46
Copy defined, 16:26	Integrity, right of
Destruction, 16:24 , 16:26	generally, 16:18 to 16:25
Display of mutilated work, lack of right	destruction, right to prohibit, 16:24
to prohibition, 16:23	display of mutilated work, lack of
Distortion, mutilation, or other	right to prohibition, 16:23
modification, 16:20, 16:22	distortion, mutilation, or other
Droit moral, 16:2, 16:3	modification, 16:20
Duration and preemption generally, 16:38 to 16:45	intent, 16:19
duration, generally, 16:38	intentional distortion, mutilation, or
equivalent remedies, 16:43	other modification, 16:22
equivalent rights preemption, 16:42	potential harm to artist's honor or
life of artist, preemption during,	reputation, 16:21
16:40	recognized stature, 16:25
preemption, generally, 16:39, 16:40	Intent, 16:19, 16:22
preexisting causes of action, 16:39	Joint authors, 16:6
Section 106 rights, 16:44	Life of artist, preemption during, 16:40
special provisions, 18:58	Limitation of actions, 20:14.50
state VARA actions, 18:43.50	Marking, 16:14
subject-matter preemption, 16:41	Modification, 16:20, 16:22
Effective date and retroactive applica-	Monetary damages, 22:167
tion, 16:47	Mutilation, 16:20, 16:22, 16:23
Eligibility for benefits, 16:4 to 16:6	Numbering and marking requirement, 16:14
Ensemble works, 16:8	Passage of Act, 16:1
Equivalent remedies, 16:43	1
Equivalent rights preemption, 16:42	Photography, 16:9 Potential harm to artist's hange or repu
Exceptions, exclusions, and exemptions	Potential harm to artist's honor or reputation, 16:21
formalities, 6:79	Preemption, 16:45
protected subject matter, 16:12 , 16:13	Preemption. Duration and preemption,
rights, 16:28 to 16:31	above
Exclusive rights, 8:25	Preexisting causes of action, 16:39
Exhibition purposes, still photographic	Preliminary injunctions, 22:57
images for, 16:9	Preservation statute, 16:10
Extraterritoriality, 16:45	
Fair use, 16:35	Promotional use, 16:13.50

VISUAL WORKS—Cont'd

WASHINGTONIAN PUBLISHING

Construction and interpretation, 2:40

CO., INC. v. PEARSON

Noncopyrightable material—Cont'd 1990 (VARA)—Cont'd Protected subject matter, generally, 16:7 familiar symbols and designs, 4:17 to 16:9 logos, generally, 4:15 to 4:19 Public presentation and conservation, medical imaging, 4:19.10 16:30 photographic subjects, 4:18 Recognized stature, 16:25 typeface and typography, 4:19 Registration, 16:15 X-rays, **4:19.10** Remedies, 16:46 Photographic subjects, 4:18 Reputation, 16:21 Symbols, 4:17 Retroactive application, 16:47 Typeface and typography, 4:19 Rights granted, generally, 16:16 to X-rays, **4:19.10** 16:27 Section 106(a) right to finish work, VOLITIONAL ACT REQUIREMENT 16:27 Contributory Infringement (this Section 106 rights, 16:44 index) Section 113(d)(1), buildings, works Reproduction right, 9:5.50 contained in, 16:33 VOLUNTEERS Section 113(d)(2), buildings, works contained in, 16:34 Work made for hire, 5:80.75 Section 301(f), preemption, 18:58 VULGARITY Site-specific works, **16:31** Fair use defense, 10:92 Sovereign immunity, 16:48 Standing to sue, 21:11 WAINWRIGHT SECURITIES, INC. v. States, 16:48 WALL STREET TRANSCRIPT Still photographic images, 16:9 CORP. Subject-matter preemption, 16:41 Fair use defense, 10:25 Time and date Substantial similarity, 9:149 duration and preemption, above effective date and retroactive applica-WAIVER tion, 16:47 Licenses, 5:154, 5:157 limitation of actions, 20:14.50 Personal jurisdiction, 17:142 passage of time, 16:29 Visual Artists Rights Act of 1990, 16:37 Waiver of rights, 16:37 WALDEN v. FIORE Work made for hire, 16:13 Works created before June 1, 1990, Express aiming, 17:156 16:7.10 WALKER v. TIME LIFE FILMS, INC. VISUAL WORKS Substantial similarity, 9:151 Color, 4:16 WARNER BROTHERS, INC. v. Designs, 4:17 AMERICAN BROADCASTING England and Statute of Anne, 1:12 to COS. Substantial similarity, 9:150 Familiar symbols and designs, 4:17 Logos. Noncopyrightable material, WARRANTY below Uruguay Round Agreements Act, 24:50 Medical imaging, 4:19.10

VISUAL ARTISTS' RIGHTS ACT OF

Noncopyrightable material generally, **4:15** to **4:19**

color, 4:16

INDEX

WASHINGTON SHOE CO. v. A - Z SPORTING GOODS INC.

Personal jurisdiction, 17:166.50

WASTE

Joint authorship, 5:10, 5:11

WATT v. BUTLER

Substantial similarity, 9:266.70

WEBB v. POWERS

Reproduction right, 9:104

WEBCASTING

Sound recordings, 14:89.50

WEBCASTING STATUTORY LICENSE

Copyright Act of 1976, 1:104

WEB SITES

Pictorial, graphic, and sculptural works, 3:123

WELL - KNOWN

Fair use defense, 10:93

WELL - PLEADED - COMPLAINT RULE

Subject-matter jurisdiction, 17:6

WHEATON v. PETERS

Government works, noncopyrightable material, **4:55**, **4:56**

WHELAN ASSOCIATES, INC. v. JASLOW DENTAL LABORATORY

Computer programs, **3:86** Substantial similarity, **9:170**

WHITE - SMITH MUSIC PUBLISHING CO. v. APOLLO CO.

Substantial similarity, 9:123

WICKHAM v. KNOXVILLE INTERNATIONAL ENERGY EXPOSITION, INC.

Substantial similarity, 9:197

WIDESPREAD HARM FROM SMALL USES

Fair use defense, 10:154

WIHTOL v. CROW

Fair use defense, 10:102, 10:134, 10:137

WILDLIFE EXPRESS CORP. v. CAROL WRIGHT SALES, INC.

Substantial similarity, 9:220

WILL

Copyright Act of 1909 general revision, 7:14, 7:18

WILLFUL INFRINGEMENT

Monetary damages, 22:143, 22:180 to 22:183, 22:197

Preliminary injunctions, 22:43

WILLIAMS v. GAYE

Substantial similarity, 9:247.30

WILLIAMS & WILKINS v. UNITED STATES

Fair use defense, 10:103

WINFIELD COLLECTION LTD. v. GEMMY CORP.

Substantial similarity, 9:208

WIPO

Generally, 23:46 to 23:48

Copyright Act of 1976 amendments, 1:98, 1:101

Copyright Treaty, 23:47

Formalities, 6:81

Importation, rights of, Section 602, 13:37

1996 Treaties, generally, **23:46 to 23:48** Performances and Phonograms Treaty,

23:48

Phonograms, 23:48

Term, 7:51

WIRELESS CABLE

Cable television and other secondary transmissions, **14:65**

"WITHIN THE SUBJECT MATTER OF COPYRIGHT"

Definition, 18:13 to 18:15

WOMEN

Choice of law, 25:66

WORDS

Noncopyrightable material, 4:2

WORK MADE FOR HIRE—Cont'd

Defined, 10:144 Definition of special orders and commissioned works, 5:73 WORK MADE FOR HIRE Discretion, 5:60 Generally. 5:44 to 5:95.50 Dissolved corporations, 5:80 Affirmative defense, 5:95.50 Email, **5:77.50** Alter ego corporations, **5:71.25 Employees** Assignment, 5:59 generally, 5:52 to 5:69 Assistants, 5:62 assignment of additional projects to Authorship, generally, 5:44 to 5:95.50 hired party, 5:59 Belt-and-suspenders agreements, 5:51 assistants, hired party's right to hirer Benefits, provision of employee benefits, and pay, 5:62 5:65 benefits, provision of employee Business, hiring party in, 5:64 benefits, 5:65 Check endorsement, 5:77 business, hiring party in, 5:64 Commission, 5:48 Community for Creative Non-Commissioned work. Special orders and Violence v. Reid commissioned works, below generally, 5:53 to 5:69 Community for Creative Non-Violence labor law supplanting, 5:67.10 v. Reid Copyright Act of 1976 writing generally, 5:53 to 5:69 requirement, 5:47 labor law supplanting, **5:67.10** duration of relationship of parties, Construction and interpretation, 5:68, 5:58 5:69 extent of hired party's discretion over Contracts and agreements when and how long to work, Copyright Act of 1976 writing 5:60 requirement, **5:49**, **5:51** hiring party's right to control manner email, 5:77.50 and means by which work is created, 5:54 rescission of agreement containing work for hire agreement, 5:78 instance and expense test, 5:70 special orders and commissioned location of work, 5:57 works, 5:76 partners as employees of partnership, United States Government works. 5:71.50 5:78.50 payment, 5:61, 5:62 Copyright Act of 1909, **5:45** post-CCNV interpretation, 5:68, 5:69 Copyright Act of 1976 regular business of hiring party, part generally, 5:46 to 5:51 of. 5:63 belt-and-suspenders agreements, 5:51 scope of employment, 5:69 skill required, 5:55 commission, 5:48 source of instrumentalities and tools. employees, works created by, 5:47 5:56 Esign Act, effect of, 5:50 tax treatment, 5:66 signature on agreement, 5:49 Employers, multiple, 5:79 special orders, **5:48** Esign Act, effect of, 5:50 term, 7:37 Exceptions, 5:71 writing requirement, generally, 5:46 FRCP 12(b)(1), **5:95.60** to 5:51 FRCP 12(b)(6), 5:95.60 writing requirement, question of fact, 5:46.50 Government works, 4:77 Costs and expenses, 5:70 Instance and expense test, 5:70 Defense. 5:95.50 Instrumentalities, 5:56

WORK

WORK MADE FOR HIRE—Cont'd WORK OF THE UNITED STATES Limitation of actions, **5:81** GOVERNMENT Location of work, 5:57 Definition, 4:69, 4:70 Multiple employers, 5:79 **Government Works** (this index) Nonprofit organizations, **5:80.50** WORKS OF ARCHITECTURE Partners as employees of partnership, **Architectural Works** (this index) 5:71.50 Payment, 5:61, 5:62 WORKS OF ART Ouestion of fact, 5:95 Formalities, 6:32 Ouestion of law. 5:95 Pictorial, graphic, and sculptural works, Regular business of hiring party, part of, 3:110 5:63 WORLDWIDE CHURCH OF GOD v. Religious and nonprofit organizations, PHILADELPHIA CHURCH OF 5:80.50 **GOD** Rescission of agreement containing Fair use defense, 10:136 work for hire agreement, 5:78 Signature, 5:49, 5:50, 5:77 WORLD - WIDE VOLKSWAGEN Skill required, 5:55 CORP. v. WOODSON Sonny Bono Copyright Term Extension Personal jurisdiction, 17:144 Act, 7:55 WRIGHT v. WARNER BOOKS **Sound Recordings** (this index) Fair use defense, 10:48 Special orders and commissioned works generally, 5:48, 5:72 to 5:77 **WRITINGS** after-the-fact agreements, 5:77 **Assignment** (this index) check endorsement, 5:77 Author and authorship, 5:26 definition, 5:73 Work Made for Hire (this index) enumerated categories, 5:75 WTO PANEL RULING hiring party as motivating factor in Public performance, 14:45 work's creation, 5:74 statement in agreement as work for WWII hire, 5:76 Copyright Act of 1909 amendments, Standing to sue, **5:49.10**, **21:7.50** 1:58 State labor law and independent contrac-X-RAYS tors, 5:67.20 Visual works, **4:19.10** Statutes, 5:44, 5:50 Tax treatment, 5:66 YAHOO! INC. v. LA LIGUE CONTRE Teacher exception, 5:71 LE RACISME ET Third party standing, 5:49.10 L'ANTISEMITISME Time and date, 5:58, 5:60 Personal jurisdiction, 17:166 Tools, 5:56 YANKEE CANDLE CO. v. Unformed corporations, 5:80 BRIDGEWATER CANDLE CO. United States Government works, Substantial similarity, 9:135 5:78.50 Visual Artists Rights Act of 1990, 16:13 **YOGA** Volunteers, **5:80.75** Noncopyrightable material, 4:22 Writing requirement. Copyright Act of ZELEWSKI v. CICERO BUILDER 1976, above

Writing requirement, question of fact,

5:46.50

DEV., INC

Substantial similarity, 9:164.10

ZIPPO MANUFACTURING CASE
Personal jurisdiction, 17:186

ZUILL v. SHANAHAN
Joint authorship, 5:36, 5:38

ZUILL v. SHANAHAN—Cont'd Limitation of actions, 5:36, 5:38, 20:37 to 20:41