

Index

ABANDONMENT

Defenses, abandonment of copy-
right, **13:51**

ABSTENTION

Answer and defenses, **13:48**

ACCESS

Answer and defenses, **13:57**
Infringement, **7:12**

ACCRUAL DATE

CALCULATION RULES

Limitation of actions, **5:9**

ACCRUAL OF OWNERSHIP CLAIM

Limitation of actions, **5:7**

ACT OF STATE DOCTRINE

Answer and defenses, **13:49**

ACTUAL BILLING

ARRANGEMENTS

Costs of action, **18:4**

ADMISSIBILITY OF EVIDENCE

Generally, **15:10**
Best evidence rule, **15:37**
Cease and desist letters, **6:8**
Copies or duplicates, **15:37**
Precontractual negotiations, **15:3,**
15:5
Testimony admitted as prima facie
evidence of infringement,
15:16

ADMISSIONS, REQUESTS FOR

Discovery, **14:10**

AGENTS

Commercial, licensee use of, **8:22**

ALLEGATIONS

Evidence, **15:13**

AMENDMENTS

First Amendment, **13:32**

Pleading

amendment following removal
from state court, **10:26**
motion to dismiss, **9:19**

U.S. Copyright Office, correcting
ownership and registration
records, **4:10**

ANALYSIS

Preemption under Copyright Act,
10:5

ANCIENT DOCUMENTS

Evidence, **15:15**

ANSWER AND DEFENSES

Generally, **13:1 to 13:10**
Abandonment of copyright, **13:51**
Abstention, **13:48**
Access, **13:57**
Act of state doctrine, **13:49**
Amendment, **13:32**
Appeal and review. Reviewing
defenses, below
Arbitration, **13:38**
Assertions, **13:3 to 13:6**
Attorneys' fees, **13:39, 18:20**
Checklist, **13:52**
Checklist, procedures to answer a
copyright complaint, **13:60**
Claim preclusion, **13:43**
Client interview and initial
investigation, **3:13**
Co-authorship, **13:45**
Concept, **13:23**

ANSWER AND DEFENSES

—Cont'd

Copyrightable subject matter, **13:22**
 Counterclaims, **13:5**
 Creativity, lack of, **13:17**
 Criticism, fair use, **13:26**
 Cross-claims, **13:6**
 Damages, **13:39**
 Default judgments, **13:40, 13:41**
 Defective registration certificates, inaccurate information, **13:52**
 Defenses, generally, **13:3**
 De minimis use, **13:34**
 Derivative works, **13:19**
 Digital Millennium Copyright Act, safe harbor for Internet service providers, **13:42**
 Education, fair use, **13:26**
 Equitable estoppel, **13:28**
 Estoppel, **13:28**
 Evidence, **13:2**
 Exclusive license, statute of frauds, **13:14**
 Failure to prosecute, **13:55**
 Fair use, **13:25 to 13:27**
 First Amendment, **13:32**
 First sale doctrine, **13:35**
 Forms
 checklist of considerations and procedures, **13:52**
 complaint, considerations and procedures to answer, **13:52**
 procedures to answer complaint, **13:52**
 Forum non conveniens, **13:59**
 Frauds, statute of, **13:14**
 Idea, **13:23**
 Immunity, sovereign, **13:46**
 Implied license, **13:37**
 Independent creation, **13:18**
 Infringement, **7:5**
 Injunctions and seizures, **12:12, 13:41**

ANSWER AND DEFENSES

—Cont'd

Innocent publication or republication, **13:16**
 Interpleader actions, **13:8**
 Intervention, motions, **13:9**
 Joinder, motions, **13:9**
 Joint authorship, **13:45**
 Judicial estoppel, **13:29**
 Jury demand, **13:4**
 Laches, **13:12**
 Lack of jurisdiction, **13:53**
 License, **13:13 to 13:15**
 Limitation of actions, **13:33**
 Management information, copyright, removal of, **13:50**
 Merger doctrine (idea/concept), **13:23**
 Misuse of copyright, **13:30**
 Motion to vacate, **13:40**
 Non-exclusive license, **13:15**
 Office procedures for receiving complaint, **13:1**
 Originality, lack of, **13:17**
 Parody, fair use, **13:27**
 Personal jurisdiction, **13:58**
 Presumptions, **13:2**
 Publication, **13:16**
 Public domain, **13:20**
 Removal of copyright management information, **13:50**
 Research, fair use, **13:26**
 Res judicata, **13:47**
 Reviewing defenses
 generally, **13:11 to 13:51**
 attorneys' fees, lack of, **13:39**
 co-authorship, **13:45**
 collateral estoppel, **13:43**
 common defenses, generally, **13:11 to 13:37**
 copyrightability of useful object, **13:44**
 copyrightable subject matter, **13:22**
 creativity, lack of, **13:17**

INDEX

ANSWER AND DEFENSES

—Cont'd

Reviewing defenses—Cont'd
criticism, fair use, **13:26**
de minimis use, **13:34**
derivative works, **13:19**
Digital Millennium Copyright Act, safe harbor for Internet service providers, **13:42**
education, fair use, **13:26**
equitable estoppel, **13:28**
exclusive license, statute of frauds, **13:14**
fair use, **13:25 to 13:27**
First Amendment, **13:32**
first sale doctrine, **13:35**
forms, **13:52**
implied license, **13:37**
independent creation, **13:18**
innocent publication or republication, **13:16**
Internet service providers safe harbor, **13:42**
invalid registration, inaccuracies in copyright registration, **13:31**
joint authorship, **13:45**
judicial estoppel, **13:29**
laches, **13:12**
license, **13:13**
limitation of actions, **13:33**
merger doctrine (idea/concept), **13:23**
misuse of copyright, **13:30**
non-exclusive license, **13:15**
originality, lack of, **13:17**
parody, fair use, **13:27**
public domain, **13:20**
research, fair use, **13:26**
safe harbor for Internet service providers, **13:42**
scenes a faire doctrine, **13:24**
sovereign immunity, **13:46**

ANSWER AND DEFENSES

—Cont'd

Reviewing defenses—Cont'd
statutory damages, lack of, **13:39**
useful object not copyrightable, **13:44**
volition, lack of, **13:36**
work for hire doctrine, **13:21**
Ripeness, **13:56**
Safe harbor for Internet service providers, **13:42**
Sale, **13:35**
Scenes a faire doctrine, **13:24**
Seizures and injunctions, **12:12, 13:41**
Service of process, foreign defendant, **13:53**
Sovereign immunity, **13:46**
Statute of frauds, **13:14**
Statutory damages, lack of, **13:39**
Subject matter, **13:22**
Third-party practice, **13:7**
Unclean hands, **13:54**
Use, **13:25 to 13:27, 13:30**
Useful object, **13:44**
Vacate, motion to, **13:40**
Volition, lack of, **13:36**
Work for hire doctrine, **13:21**

APPEAL AND REVIEW

Answer and Defenses (this index)
Class actions, **11:6**

APPLICATIONS

U.S. Copyright Office, **4:20**

APPORTIONMENT

Damages, **17:11**

ARBITRATION

Answer and defenses, **13:38**
Assignments, clauses in, **8:20**
Costs of action, motion to compel, **18:17**
Development of law, **1:22, 1:23**

ARBITRATION—Cont'd

- Licenses, clauses in, **8:20**
- Motion to compel, costs of action, **18:17**
- Third party beneficiaries, clauses, **8:21**

ARCHITECTURAL WORKS

- Copyrightable matter. **Visual Arts** (this index)

ARISING UNDER COPYRIGHT ACT

- State court, removal of cases, **10:9**

ARTFUL PLEADING

- State court, removal of cases, **10:6**

ASSIGNMENTS

- Arbitration clauses, **8:20**
- Licenses and licensing, beneficial ownership, **8:12**

ATTORNEY-CLIENT PRIVILEGE

- Crime-fraud exception, checklist, **3:27**

ATTORNEYS

- Client Interview and Initial Investigation** (this index)
- Injunctions and seizures, **12:7**

ATTORNEYS' FEES

- Calculation, **18:3, 18:12**
- Class actions, **11:11, 18:20**
- Client interview and initial investigation, **3:7**
- Contracts, **18:14**
- Copyright cases, generally, **18:11**
- Costs of action, **18:15**
- Defenses, **13:39, 18:20**
- Denials based on billing records, **18:5**
- Development of law, **1:29**
- Insurance policies covering attorneys' fees, **18:13**

ATTORNEYS' FEES—Cont'd

- Laffey matrix, calculation under, **18:12**
- Lodestar method of calculation, **18:3**
- Presumptive, **18:22**
- Procedure to obtain, **18:10**
- Settlement, effect on subsequent awards, **18:8**
- Stipulations, effect on subsequent awards, **18:8**

AUTHENTICATION

- Evidence, **15:23 to 15:25**

AUTHORS AND AUTHORSHIP

- Defenses, joint and co-authorship, **13:45**
- Dramatic works, joint authorship, **2:18**
- Film, video, and television, co-authorship, **2:23**
- Title and ownership, **8:4, 8:5**
- Works for hire, **8:4**

AVAILABILITY

- Costs of action, **18:1**
- Damages, **17:15**
- Development of law, **1:29**

BALANCE OF CONVENIENCE

- Declaratory judgment, **6:13**

BANKRUPTCY

- Development of law, **1:35**

BENCH MEMORANDA

- Evidence, **15:8**

BENCH TRIALS

- Damages, **17:13**

BENEFICIAL OWNERSHIP

- Licenses and licensing, assignment, **8:12**

BENEFICIARIES

- Third party, arbitration clauses, ownership and licenses, **8:21**

INDEX

BERNE ACT OF 1988

- Notice requirement, **1:4**
- Registration requirement, **1:3**

BIFURCATION OF DAMAGES

- Damages and profits, **17:21**

BILATERAL CLASS ACTIONS

- Generally, **11:4**

BILLING ARRANGEMENT

- Costs of action, **18:4**

BILLING RECORDS

- Costs of action, **18:5**

BITTORRENT SWARM

- Damages and profits, **17:26**

BLOGS

- Anonymous blogger, unmasking under First Amendment, **12:21**

BONDS

- Cost bonds, **18:11**
- Injunctions and seizures, **12:17 to 12:19**
- Pre-discovery, **14:12**

BOOTLEGS AND ILLEGAL RECORDINGS

- Copyrightable matter, live performances, **2:11**

BULLYING

- Copyright, client interview and initial investigation, **3:23**

BUSINESS RECORDS

- Exceptions to hearsay rule, **15:21**

CAD

- Copyrightable matter, designs and 3D models, **2:60**

CALCULATION

- Attorneys' fees, **18:3, 18:12**
- Commencement of litigation. **Time and Date** (this index)

CALCULATION—Cont'd

- Laffey matrix, calculation of costs of hourly attorneys' fees, **18:12**
- Limitation of actions, accrual date calculation rules, **5:9**
- Lodestar method of calculating costs of action, **18:3**
- Number of works infringed, **17:17**
- Vicarious liability, calculating draw from infringing works, **17:19**

CALENDAR YEAR

- Duration of copyright, **5:18**

CANCELLATION

- Infringement remedy, **7:37**

CAPTION

- Infringement** (this index)

CASE LAW

- Development of law, **1:25**

CEASE AND DESIST LETTERS

- Generally, **6:1 to 6:8**
- Admissibility of evidence, **6:8**
- Checklist, **6:17**
- Client interview and initial investigation, **3:12**
- Considerations, **6:2**
- Declaratory judgment, generally, **6:4, 6:11, 6:12**
- Due diligence, **6:3**
- Evidence, admissibility of, **6:8**
- First communication with adversary, **6:1**
- Form, checklist of considerations, **6:17**
- Internet service providers, **6:7**
- Jurisdiction, **6:5**
- Recipients, choosing, **6:6**
- Response, **6:4**
- Settlement offers, admissibility of evidence of, **6:8**

CELEBRITIES

Film, video, and television,
copyrightable matter, **2:28**

**CERTIFICATES AND
CERTIFICATION**

Class Actions (this index)
U.S. Copyright Office, **4:7, 4:12**

CHARACTER EVIDENCE

Infringement
prior instances, **15:26**

CHARACTERS

Film, video, and television,
copyrightable matter, **2:28**
Literary works, copyrightable mat-
ter, **2:40**

CHARTS

Evidence, **15:17**
Time and date, **5:23**

CHECKLISTS

Attorney-client privilege, crime-
fraud exception, **3:27**
Cease and desist letters, **6:17**
Client interview and initial
investigation, **3:26 to 3:28**
Conflict of interest, **3:26**
Considerations and procedures to
answer complaint, **13:52**
Declaratory judgment, **6:17**
Defenses, **13:52**
Infringement, **7:41, 7:42**
Jury instruction, statutory dam-
ages, **16:8**
Motion to dismiss, **9:25**
Time and date, calculating dates
prior to commencing litiga-
tion, **5:24**

CHOICE OF LAW AND FORUM

Infringement, foreign defendants,
7:30
License agreements, **8:15**

CHOREOGRAPHY

Copyrightable matter, **2:36**

CIVIL RULES

Federal Rules of Civil Procedure
(this index)

CLAIM PRECLUSION

Defenses, **13:43**

CLASS ACTIONS

Generally, **11:1 to 11:10**
Appeal, interlocutory, **11:6**
Attorneys' fees, **11:11, 18:20**
Bilateral class actions, **11:4**
Certificates and certification
generally, **11:3**
damages subclasses, certifica-
tion delayed until liability
and injunctive issues tried,
11:8
delay until test case tried, **11:9**
discovery, **11:5**
interlocutory appeal, certifica-
tion overturned on, **11:6**
pretrial, **11:5**
rejection, **11:7**
Damages, **11:8**
Delay, **11:8, 11:9**
Discovery, **11:5**
Injunction, **11:8**
Interlocutory appeal, **11:6**
John Doe defendants, **11:10**
Limitation of actions, **5:14**
Overturn of certification, **11:6**
Pretrial, certification for, **11:5**
Rejection of certification, **11:7**
Subclasses, **11:8**
Test case, **11:9**

CLEARING COPYRIGHTS

Client interview and initial
investigation, **3:2**

**CLIENT INTERVIEW AND
INITIAL INVESTIGATION**

Generally, **3:1 to 3:30**

INDEX

CLIENT INTERVIEW AND INITIAL INVESTIGATION

—Cont'd

- Analyzing title to copyright, **3:10**
- Attorney-client privilege, crime-fraud exception, checklist, **3:27**
- Attorney opinions on ownership and clearing copyrights for use, **3:2**
- Attorneys' fees, **3:7**
- Avoiding
 - professional liability for inconclusive copyright consultation, **3:14**
 - sanctions and initial missteps, **3:15**
- Bullying, copyright, **3:23**
- Cease-and-desist letters, **3:12**
- Checklists
 - attorney-client privilege, **3:27**
 - client intake, **3:28**
 - conflict of interest, **3:26**
- Clearing copyrights, **3:2**
- Client lies about evidence, avoiding sanctions, **3:24**
- Conclusiveness, **3:14, 3:30**
- Conflicts of interest, checklist, **3:26**
- Consultation, **3:14, 3:30**
- Contempt of court, **3:22**
- Correspondence
 - cease-and-desist letters, **3:12**
 - liability protection letter from inconclusive consultation, **3:30**
 - non-representation, letter confirming, **3:29**
 - time is of the essence letter, **3:5, 3:31**
- Court, **3:13**
- Defenses, **3:13**
- Deflecting undesirable matters, **3:3**
- Discovery sanctions, **3:19**

CLIENT INTERVIEW AND INITIAL INVESTIGATION

—Cont'd

- Evidence gathering, **3:11**
- First telephone interview, **3:4**
- Follow up after initial interview, **3:6**
- Forms
 - generally, **3:26 to 3:31**
 - client intake checklist, **3:28**
 - liability protection letter from inconclusive consultation, **3:30**
 - non-representation, letter confirming, **3:29**
 - time is of the essence letter, **3:31**
- Fraud on the court, **3:25**
- Frivolous arguments, **3:16**
- Inconclusive consultation, **3:14**
- Initial missteps, **3:15**
- Insurance coverage for potential copyright litigation, **3:8**
- Intake
 - generally, **3:1 to 3:8**
 - attorney opinions on ownership and clearing copyrights for use, **3:2**
 - attorneys' fees, **3:7**
 - first telephone interview, **3:4**
 - follow up after initial interview, **3:6**
 - forms, client intake checklist, **3:28**
 - insurance coverage for potential copyright litigation, **3:8**
 - retainers, **3:7**
 - time is of the essence letter for client who wishes to proceed, **3:5**
 - time records, **3:7**
 - undesirable matters, **3:3**
- Investigation, generally, **3:10 to 3:13**
- Litigation holds, **3:9**

**CLIENT INTERVIEW AND
INITIAL INVESTIGATION**

—Cont'd

- Misleading potential witness or adverse party, **3:17**
- Mistake and error, **3:15**
- Opinion, **3:2**
- Perjury, sanctions, **3:25**
- Preservation of evidence, **3:9**
- Professional responsibility, **3:14 to 3:25**
- Retainers, **3:7**
- Rule 11, **3:16**
- Sanctions
 - avoiding sanctions when client lies about evidence, **3:24**
 - discovery, **3:19**
 - failure to investigate, frivolous arguments, **3:16**
 - fraud on the court, **3:25**
 - initial missteps, avoiding sanctions, **3:15**
 - misleading potential witness or adverse party, **3:17**
 - perjury, **3:25**
 - scheduling orders, disobedience, **3:18**
 - spoliation, **3:21**
 - statutory damages as sanctions, **3:20**
- Spoliation sanctions, **3:21**
- Statutory damages as sanctions, **3:20**
- Telephone, **3:4**
- Time is of the essence letter, **3:5, 3:31**
- Time records, **3:7**
- Title and ownership, **3:2, 3:10**
- Undesirable matters, **3:3**
- Use, **3:2**

CO-AUTHORSHIP

- Joint Authorship** (this index)

**CODE OF FEDERAL
REGULATIONS (CFR)**

- Development of law, **1:9**

COLLABORATIVE EFFORTS

- Copyrightable matter, dramatic works, **2:18**

COLLATERAL ESTOPPEL

- Defenses, **13:43**

COLLECTIVE WORKS

- Copyrightable matter, literary works, **2:42**
- U.S. copyright office registration, **4:18, 4:21**

**COMMENCEMENT OF
ACTIONS**

- Calculating dates prior to commencement of litigation.
Time and Date (this index)
- Time and Date** (this index)

COMMERCIAL AGENTS

- Licensee use of, **8:22**

COMMON LAW CLAIMS

- Infringement, **7:35, 7:36**

**COMMUNICATIONS DECENTENCY
ACT**

- Libel, development of law, **1:34**

COMPETING CLAIMS

- U.S. Copyright Office, **4:17**

COMPILATIONS

- Statutory damages, **17:23**

COMPLAINT

- Answer** (this index)
- Checklist, **7:41**
- Declaratory judgment complaint,
App B1
- Infringement** (this index)
- Motions** (this index)
- State court, removal of cases, **10:6**

COMPLETE PREEMPTION

- State court, removal of cases,
10:6, 10:7, 10:8

INDEX

COMPONENT WORKS

U.S. copyright office registration, **4:18**

COMPULSORY LICENSE

Copyrightable matter, music, **2:7**

COMPULSORY LICENSE

ROYALTY DISPUTE ARBITRATION (CARP)

Development of law, **1:23**

COMPUTER-ASSISTED DESIGNS AND MODELS

Copyrightable matter, **2:60**

COMPUTER CRIMES

State court, preemption, **10:22**

COMPUTER PROGRAMS

Copyrightable matter, **2:56 to 2:66**

Databases, **2:61**

Internet protocol address, identifying infringer, **2:65**

Non-fungible tokens (“NFTs”), **2:63**

Pictorial works with text, **2:66**

Registration, **2:59**

Screen displays, **2:57**

Software license agreements, **8:14**

User-generated content, **2:62**

Video games, **2:58**

Websites, contributory and direct infringement, **2:64**

CONCEALMENT

Limitation of actions, **5:13**

CONCEPTS

Defenses, **13:23**

Development of law, **1:16**

Film, video, and television, uncopyrightable concepts, **2:21**

CONCLUSIVENESS

Client interview and initial investigation, **3:14, 3:30**

CONDITIONS

Licenses and licensing, **8:9**

CONSTITUTIONAL LAW

Duration of copyright, **5:16**

First Amendment, scope of copyright protection, **1:19**

Injunctions and seizures, **12:9**

CONSTRUCTIVE

KNOWLEDGE

Infringement, evidence of invoice instead of license, **15:7**

low price, **15:6**

CONSULTATION

Client interview and initial investigation, **3:14, 3:30**

CONTEMPT OF COURT

Client interview and initial investigation, **3:22**

CONTINUING WRONG

THEORY

Limitation of Actions (this index)

CONTRACTS AND AGREEMENTS

Attorneys’ fees, **18:14**

Film, television and video, uncopyrightable ideas, **2:21**

Infringement, **7:23**

Licenses and Licensing (this index)

Limitation of actions, **5:12**

Music, copyrightable matter, **2:2**

State court, preemption, **10:15, 10:17, 10:18**

Statute of frauds, reviewing defenses, **13:14**

CONTRIBUTORY

INFRINGEMENT

Drafting caption and choosing defendants, **7:19**

CONTRIBUTORY LIABILITY

Development of law, **1:24**

CONVENIENCE

- Declaratory judgment, **6:13**
- Infringement, **7:25**
- Motions, **9:14**

COPIES AND COPYING

- Certified copies, **4:12**

COPYRIGHTABLE MATTER

- Choreography, **2:36**
- Computer Programs** (this index)
- Defenses, reviewing, **13:22**
- Development of law, **1:26**
- Dramatic Works** (this index)
- Film, Video, Television, Television Broadcasts and Satellite Transmissions** (this index)
- Hearing
 - Expert testimony, **15:36**
 - Summary judgment, **9:22**
- Laws, **1:18**
- Literary Works** (this index)
- Music and Live Performances** (this index)
- Standards, **1:18**
- Title and ownership, **8:2**
- Visual Arts** (this index)

COPYRIGHT ACT

- Costs of Action** (this index)
- Damages, **17:2**
- Injunctions and seizures, **12:2**
- Music and live performances, exclusive rights under Act, **2:6**
- Preemption under Act, **10:5**
- State court, removal of cases, **10:9**
- Text of 1909 Act, **App C**
- Time and date, calculating dates prior to commencing litigation, **5:6**

COPYRIGHT INFRINGEMENT

- Judgment
 - Divisibility, **17:28**

COPYRIGHT INFRINGEMENT

—Cont'd

- Judgment—Cont'd
 - Receiver to collect, **17:29**
- Motions, default judgment, **9:23**
- Summary judgement
 - Copyrightability hearing, **9:22**

COPYRIGHT OFFICE

- U.S. Copyright Office** (this index)

COPYRIGHT RESTORATION ACT

- Pre-1976 foreign works in public domain, **1:5**

COPYRIGHT TERM EXTENSION ACT OF 1998

- Development of law, **1:8**

CORPORATE ALTER EGO

- Infringement, **7:21**

CORPORATE OFFICERS

- Infringement, **7:18**

CORRECTIONS

- U.S. Copyright Office** (this index)

CORRESPONDENCE

- Cease and Desist Letters** (this index)
- Client Interview and Initial Investigation** (this index)
- Evidence, letter from U.S. Copyright Office, **15:14**
- Pre-motion letters, **9:2**

COST BONDS

- Costs of action, **18:11**

COSTS OF ACTION

- Generally, **18:1 to 18:16**
- Actual billing arrangements, relevance and effect of, **18:4**
- Arbitration, motion to compel, **18:17**

INDEX

COSTS OF ACTION—Cont'd

Attorney fees, **18:15**
Attorneys' Fees (this index)
Availability, **18:1**
Billing
 arrangement, **18:4**
 records, **18:5**
Bonds, **18:11**
Calculation
 generally, **18:3**
 hourly attorneys' fees, **18:12**
Civil law, **18:7**
Class actions, **18:21**
Contracts providing for attorneys' fees, **18:14**
Copyright Act, generally, **18:2**
Cost bonds, **18:11**
Declaratory judgment actions, **18:18**
Default judgments, **18:20**
Defending against copyright trolls, **18:22**
Denials, **18:5, 18:6**
Fair use defense, **18:19**
Federal Rules of Civil Procedure, **18:7**
Insurance policies covering attorneys' fees, **18:13**
Judgment, **18:7**
Laffey matrix, calculation of hourly attorneys' fees under, **18:12**
Lodestar method of calculation, **18:3**
Motion to compel arbitration, **18:17**
Offer of judgment under Rule 68 of Federal Rules of Civil Procedure, effect on award, **18:7**
Procedure to obtain, **18:10**
Reasonableness, **18:6**
Records, **18:5**
Registration, **18:1**
Rule
 54, attorney fees, **18:15**

COSTS OF ACTION—Cont'd

Rule—Cont'd
 68, **18:7**
Statutes, Copyright Act, generally, **18:2**
Unavailable for unregistered copyrights, **18:1**
Voluntary dismissal, **18:9**
Witness fees, **18:16**

COUNTERCLAIMS

Answer asserting, **13:5**

COURT

Client interview and initial investigation, **3:13**

COURT OF CLAIMS

Venue, **App A17**

COVENANTS

Licenses and licensing, **8:9**

CREATION DATE

Calculating dates prior to commencing litigation, **5:3**

CREATIVITY

Expert witnesses, **15:28**

CREATIVITY, LACK OF

Defenses, reviewing, **13:17**

CRIMINAL ENFORCEMENT

Development of law, **1:30**

CRITICISM

Defenses, reviewing, **13:26**

CROSS-CLAIMS

Answer asserting, **13:6**

DAMAGES AND PROFITS

Generally, **17:1 to 17:29**
Apportioning infringers' profits attributable to infringement, **17:11**
Availability, **17:15**
Bench trials, **17:13**
Bifurcation of damages, **17:21**

DAMAGES AND PROFITS

—Cont'd

BitTorrent Swarm, peer-to-peer piracy, **17:26**
 Calculating number of works infringed, **17:17**
 Checklists, jury instruction, statutory damages, **16:8**
 Class actions, **11:8**
 Compilations, **17:23**
 Copyright Act, § 504, **17:2**
 Defenses, **13:39**
 Development of law, **1:25, 1:29**
 Digital Millennium Copyright Act, **17:22**
 Divisibility of copyright infringement judgments, **17:28**
 Double-counting damages, **17:5**
 Draw from infringing works, **17:19**
 Due process, **17:24**
 Election, **17:15**
 Enhancement for willful infringement, **17:16**
 Excessive damages, **17:24**
 Expert witnesses, **15:31**
 Fees, **17:10**
 Findings, **17:13**
 Forms, jury instruction, statutory damages, **16:8**
 Indemnification, **17:25**
 Infringement, **17:11, 17:15 to 17:19**
 Injunctions and seizures, **12:18**
 Interest on money, **17:20**
 Joint and several liability for statutory damages, downstream infringements, **17:27**
 Judgment, **17:20**
 Jury
 award, **17:14**
 instruction, statutory damages, **16:8**
 Licenses, **17:10**
 Lost sales, **17:7**

DAMAGES AND PROFITS

—Cont'd

Monetary damages, **17:1**
 Motion, **17:12, 17:13**
 Objections, **17:12**
 Overhead, **17:6**
 Partial findings, **17:13**
 Peer-to-peer piracy, BitTorrent Swarm, **17:26**
 Preempted state law claims, **17:4**
 Prejudgment interest, **17:20**
 Profits, generally, **17:1 to 17:29**
 Reasonable license fee, **17:10**
 Receiver to collect
 copyright infringement judgments, **17:29**
 Remittitur, **17:14**
 Rule
 50 motions, preserving objections to damages awards, **17:12**
 52 motions, bench trials or partial findings, **17:13**
 59, remittitur of jury award, **17:14**
 Sales, **17:7**
 Scope, **17:3 to 17:27**
 State law claims, **17:4**
 Statutes, **17:2**
 Statutory damages, **17:15 to 17:18, 17:23**
 infringements after registration, **17:18**
 Unjust enrichment
 avoided costs, **17:9**
 Use, **17:8**
 Value of use, **17:8**
 Vicarious liability, calculating draw from infringing works, **17:19**
 Willful infringement, **17:16**

DAN BROWN v. LEWIS PURDUE
 Declaratory judgment complaint, **App B1**

INDEX

DATABASES

- Copyrightable matter, computer-assisted design and 3D models, **2:60**
- User-generated content, **2:62**

DA VINCI CODE CASE

- Declaratory judgment complaint, **App B1**

DECLARATORY JUDGMENT

- Generally, **6:9 to 6:14**
- Balance of convenience, **6:13**
- Cease and Desist Letters** (this index)
- Checklist of considerations, **6:17**
- Complaint, form, **App B1**
- Convenience, **6:13**
- Costs of action, **18:18**
- Dan Brown v. Lewis Purdue, complaint, **App B1**
- Development of law, **1:21**
- Exception to first filed suit rule, **6:10, 6:13**
- Federal action following state court contract dispute, **6:16**
- First filed suit rule, **6:9 to 6:12**
- Forms, **6:17, App B1**
- Infringement, relief, **7:39**
- Mootness, **6:14**
- Notice, **6:10, 6:12**
- Planned lawsuit, **6:10**
- Records and recording, **6:9, 6:10**
- Ripeness, **6:15**
- Sanctions, **6:11**
- Second-filed action, **6:11**

DEFENSES

- Answer and Defenses** (this index)

DEFERENCE

- Instructions to jury, **16:5**

DEFINITE STATEMENTS

- Motions, **9:16**

DELAY

- Class actions, **11:8, 11:9**
- Injunctions and seizures, **12:14**
- Laches** (this index)

DEMAND

- Infringement, **7:15**

DE MINIMIS USE

- Defenses, reviewing, **13:34**

DE MINIMUS COPYING

- Expert witnesses, **15:32**

DEPOSIT MATERIALS

- U.S. Copyright Office** (this index)

DERIVATIVE WORKS

- Defenses, reviewing, **13:19**
- Ownership and licensing litigation, **8:26**
- U.S. Copyright Office, **4:14**

DESIGNS

- Copyrightable matter, computer-assisted designs, **2:60**
- Original designs, protection of, **App A13**

DEVELOPMENT OF LAW

- Generally, **1:1 to 1:11**
- Arbitration, **1:22, 1:23**
- Attorneys' fees, **1:29**
- Availability, **1:29**
- Bankruptcy, **1:35**
- Berne Act of 1988, copyright registration requirement, **1:3**
- Case law governing procedural, remedies, evidence, and damages issues, **1:25**
- Code of Federal Regulations (CFR), **1:9**
- Communications Decency Act, libel, **1:34**
- Compulsory license royalty dispute arbitration (CARP)

DEVELOPMENT OF LAW

—Cont’d

- and copyright royalty board, **1:23**
- Concepts, **1:16**
- Contributory liability, **1:24**
- Copyrightable subject matter, **1:26**
- Copyright registration requirement: Berne Act of 1988, **1:3**
- Copyright Restoration Act, pre-1976 foreign works in public domain, **1:5**
- Copyright Term Extension Act of 1998, **1:8**
- Criminal enforcement, **1:30**
- Damages, **1:25, 1:29**
- Declaratory relief, **1:21**
- Digital Millennium Copyright Act, **1:10**
- Duration, **1:8**
- Enforcement, generally, **1:25 to 1:33**
- Evidence, **1:20, 1:25**
- Exclusive
 - jurisdiction of federal district courts over claims, **1:23**
 - rights of owners, **1:15**
- Extension of term, Copyright Term Extension Act of 1998, **1:8**
- Federal
 - claims related to copyrightable subject matter, **1:26**
 - district courts, **1:22, 1:23**
- Federal Communications Act, satellites, **1:33**
- First Amendment, **1:19**
- Foreign countries, **1:31**
 - enforcement against, **1:32**
- Formalities, **1:14**
- History, **1:6**
- Ideas and concepts, **1:16**
- Infringement, **1:20 to 1:24**
- International treaties, **1:7**
- Jurisdiction, **1:23, 1:27**

DEVELOPMENT OF LAW

—Cont’d

- Laws, copyrightability, **1:18**
- Legislative history, generally, **1:6**
- Libel, Communications Decency Act, **1:34**
- License, **1:23**
 - 1978, works created before, **1:2**
- Ownership, **1:14, 1:15**
- Potential availability of statutory damages and attorneys’ fees, determining, **1:29**
- Pre-1976 foreign works in public domain, Copyright Restoration Act, **1:5**
- Prima facie evidence of infringement, **1:20**
- Procedural issues, **1:25**
- Protection, scope of, generally, **1:13 to 1:19**
- Regulations of U.S. copyright office, Code of Federal Regulations, **1:9**
- Remedies, generally, **1:25 to 1:33**
- Restoration, Copyright Restoration Act, **1:5**
- Royalty, **1:23**
- Satellites, Federal Communications Act, **1:33**
- Scope of protection, generally, **1:13 to 1:19**
- Secondary sources, **1:36**
- Small-Claims Enforcement “CASE Act” of 2020, **1:12**
- Standards, copyrightability, **1:18**
- State laws, **1:27**
- Statutes, **1:3 to 1:5, 1:8**
- Statutory damages, **1:29**
- Subject matter, **1:12, 1:26, 1:28**
- Supplemental jurisdiction over related state law claims, **1:27**
- Time and date, **1:8**
- U.S. Copyright Office, **1:9**
- U.S. copyrights in foreign countries, **1:31**

INDEX

DEVELOPMENT OF LAW

—Cont'd

- Utilitarian aspects of works not copyrightable, **1:17**
- Vicarious liability, **1:24**
- Visual Artists Rights Act, **1:11**

DIGITAL AUDIO RECORDING DEVICES AND MEDIA

- Generally, **App A10**

DIGITAL MILLENNIUM COPYRIGHT ACT

- Damages and profits, **17:22**
- Defenses, **13:42**
- Development of law, **1:10**
- Infringement, **1:22**
- Safe harbor for Internet service providers, **13:42**

DIGITAL SAMPLING OF MUSIC

- Copyrightable matter, **2:8**

DILUTION

- State court preemption, **10:14**

DIRECT INFRINGEMENT

- Drafting caption and choosing defendants, **7:17**

DISCLOSURE

- Failure to disclose, **14:9**
- Pretrial disclosures, **14:5**
- Supplement disclosure, duty to, **14:9**

DISCOVERY

- Generally, **14:1 to 14:15**
- Additional discovery tools, **14:6**
- Admissions, requests for, **14:10**
- Bonds, pre-discovery, **14:12**
- Class actions, **11:5**
- Collecting evidence in jurisdictions outside of U.S., **14:8**
- Compel, motion to, **14:11**
- Disclosure** (this index)
- Evidence, **14:7, 14:8**

DISCOVERY—Cont'd

- Expedited subpoenas to identify infringers, **14:14**
- Failure to disclose, **14:9**
- Foreign countries, **14:8**
- Initial
 - disclosure, **14:3**
 - discovery, **14:1**
- Jurisdiction, **14:8**
- Jurisdictional discovery, **14:15**
- Mandatory initial disclosure under Rule 26, **14:3**
- Motions, **14:7, 14:11**
- Orders, **14:2, 14:11**
- Pre-discovery bonds, **14:12**
- Preservation orders, **14:2**
- Pretrial disclosures, **14:5**
- Protective orders, **14:11**
- Rule 26, **14:3**
- Sanctions, **14:9**
- Sanctions for violating scheduling orders or failing to attend scheduling conference, **14:13**
- Spoilation, **14:3**
- Summary judgment, requesting to avoid, **9:21**
- Supplement disclosure, duty to, **14:9**

DISMISSAL

- Evidence, **15:4**
- Motion** (this index)
- State court preemption, **10:10**

DISMISSALS

- Default judgments, motion to dismiss, **9:24**

DIVERSITY

- State court preemption, **10:12**

DIVISIBILITY

- Copyright
 - infringement judgments, **17:28**

DOCUMENTARY FILMS

- Copyrightable matter, **2:24**

DOUBLE-COUNTING DAMAGES

Generally, **17:5**

DRAFTS AND DRAFTING

Evidence, **15:25**

Infringement (this index)

DRAMATIC WORKS

Generally, **2:16 to 2:19**

Collaboration, **2:18**

Copyrightable matter, film, scripts and screenplays, **2:29**

Joint authorship, **2:18**

Prerequisites to copyright protection, **2:17**

Registration, **2:19**

Scripts and screenplays, film, television and video, copyrightable matter, **2:29**

DRAW FROM INFRINGING WORKS

Damages, **17:19**

DRAWINGS

Architectural works, copyrightable visual arts matter, **2:53**

DUE DILIGENCE

Cease and desist letters, **6:3**

Infringement, **7:2**

DUE PROCESS

Damages, **17:24**

DURATION OF COPYRIGHT

17 U.S.C.A. Ch. 3, **App A3**

EDUCATION

Defenses, reviewing, **13:26**

ELECTION

Damages, **17:15**

ENFORCEMENT

Development of Law (this index)

ENHANCEMENT

Damages, **17:16**

EPHEMERAL RECORDINGS

Television broadcasts and satellite transmissions, **2:33**

EQUITABLE ESTOPPEL

Defenses, reviewing, **13:28**

Limitation of actions, **5:13**

EQUITABLE TOLLING

Limitation of actions, **5:13**

EQUIVALENT RIGHTS

State court, removal of cases, **10:8**

ESTOPPEL

Defenses, **13:28, 13:29, 13:43**

Limitation of actions, **5:13**

EVIDENCE

Generally, **15:1 to 15:36**

Admissibility of evidence, **15:3, 15:5, 15:10**

Admission of evidence, **15:16**

Allegations, **15:13**

Ancient documents, **15:15**

Answer and defenses, **13:2**

Authentication or identification, **15:23 to 15:25**

Bench memoranda, **15:8**

Business records, **15:21**

Cease and desist letters, **6:8**

Character

Prior instances

infringement, **15:26**

Charts, **15:17**

Client interview and initial investigation, **3:11**

Constructive knowledge of infringement

invoice instead of license, **15:7**

low price, **15:6**

Correspondence, **15:14**

Development of law, **1:20, 1:25**

Discovery, **14:7, 14:8**

Dismissal, lack of evidence of subject matter jurisdiction, **15:4**

INDEX

EVIDENCE—Cont'd

Documents
generally, **15:22 to 15:25**
authentication or identification,
15:23 to 15:25
best evidence rule, **15:37**
copies or duplicates, **15:37**
exclusion for lack of authentication, **15:24**
exclusion of drafts, **15:25**
Drafts, **15:25**
Exceptions to hearsay. **Hearsay**
(this index)
Exclusion, generally, **15:10**
Expert testimony
Copyrightability hearing, **15:36**
Expert Witnesses (this index)
Federal Rules of Evidence
generally, **15:1, App A19**
see also, lines throughout this
index topic
Hearsay (this index)
Identification, **15:23 to 15:25**
Impressions of listeners of allegedly
infringing works, **15:13**
Infringement
generally, **7:11, 15:13, 15:16**
constructive knowledge of
invoice instead of license,
15:7
low price, **15:6**
In limine motions, **15:2 to 15:5**
Injunctions and seizures, **12:5**
Invoice instead of license,
constructive knowledge of
infringement, **15:7**
Judicial notice, **15:9**
Jurisdiction, **15:4**
Learned treatises, **15:18**
Letter from U.S. Copyright Office,
15:14
License
agreement, parol evidence, **8:11**

EVIDENCE—Cont'd

License—Cont'd
invoice instead of , constructive
knowledge of infringement, **15:7**
Listeners, **15:13**
Low price, constructive knowl-
edge of infringement, **15:6**
Memoranda, **15:8**
Motions in limine, **15:2 to 15:5**
Negotiations, **15:3, 15:5**
Notice, **15:9**
Practitioner's backup, hearsay,
getting into evidence, **15:19**
Precontractual negotiations,
admissibility of evidence,
15:3, 15:5
Presumptions, **13:2**
Prima facie evidence, **15:16**
Records and recording, **15:15,**
15:21
State of mind exception, hearsay,
getting into evidence, **15:20**
Subject matter jurisdiction, lack of
evidence of, **15:4**
Testimony admitted as prima facie
evidence of infringement,
15:16
Trial memoranda or bench
memoranda, **15:8**
U.S. Copyright Office, **4:3, 4:4,**
15:14
Witnesses, **15:16**

EVIDENTIARY HEARINGS

Injunctions and seizures, **12:10**

EXCEPTIONS

Client interview and initial
investigation, attorney-client
privilege, **3:27**
Declaratory judgment, **6:10, 6:13**
Hearsay (this index)
Visual arts, registration, **2:45**

EXCESS

Injunctions and seizures, **12:18**

EXCESSIVE DAMAGES

Generally, **17:24**

EXCLUSION

Evidence (this index)

EXCLUSIVE JURISDICTION

Development of law, **1:23**

Federal jurisdiction, **App A15**

Infringement, **7:23**

EXCLUSIVE LICENSE

Defenses, reviewing, **13:14**

EXCLUSIVE RIGHTS

Development of law, **1:15**

Infringement, **7:9**

EXHIBITS

Infringement, **7:14**

EXONERATION

Injunctions and seizures, **12:19**

EX PARTE APPLICATIONS FOR RELIEF

Injunctions and seizures, **12:6**

EXPEDITED REGISTRATION

U.S. Copyright Office, **4:19 to 4:21**

EXPERT TESTIMONY

Copyrightability hearing
evidence and experts, **15:36**

EXPERT WITNESSES

Generally, **15:27 to 15:34**

Creativity, **15:28**

Damages, **15:31**

De minimus copying, **15:32**

Ideas, **15:29**

Originality, **15:28**

Regression analysis, **15:33**

Scenes a faire, **15:29**

Similarity, **15:30**

Substantial similarity, **15:30**

Summary of voluminous materials, **15:34**

EXPERT WITNESSES—Cont'd

Supplementing, **15:35**

EXPIRATION OF PROTECTION

Calculating dates prior to commencing litigation, **5:17, 5:18**

EXTRATERRITORIAL INJUNCTIONS

Generally, **12:15**

FAILURE TO PROSECUTE

Answer and defenses, **13:55**

FAIR USE

Copyrightable matter, literary works, **2:41**

Defense, costs of action, **18:19**

Defenses, **13:25 to 13:27**

Injunctions and seizures, **12:12**

FEDERAL CLAIMS

Development of law, **1:26**

Infringement, **7:2**

FEDERAL COMMUNICATIONS ACT

IPTV, television broadcasts and satellite transmissions, **2:34**

Satellites, development of law, **1:33**

FEDERAL COURT OF CLAIMS

Infringement, **7:23**

FEDERAL DISTRICT COURTS

Development of law, **1:22, 1:23**

FEDERAL QUESTION JURISDICTION

Infringement, **7:7**

Motion to dismiss, **9:9**

FEDERAL RULES OF CIVIL PROCEDURE

Generally, **App A18**

See also topics beginning:
“**FRCP**”

Costs of action, **18:7**

Injunctions and seizures, **12:3**

INDEX

FEDERAL RULES OF EVIDENCE

Evidence (this index)

FEES

Damages, **17:10**

FILESHARING

Television broadcasts and satellite transmissions, **2:32**

FILM, VIDEO, TELEVISION, TELEVISION BROADCASTS AND SATELLITE TRANSMISSIONS

Co-authorship, **2:23**

Contracts involving uncopyrightable ideas, **2:21**

Copyrightable matter, **2:20 to 2:35**

Documentary films, **2:24**

Ephemeral recordings, television broadcasts and satellite transmissions, **2:33**

Federal Communications Act and IPTV, television broadcasts and satellite transmissions, **2:34**

Filesharing, **2:32**

Geoblocking, television broadcasts and satellite transmissions, **2:31**

IPTV and Federal Communications Act, television broadcasts and satellite transmissions, **2:34**

Persons, celebrities and characters, **2:28**

Registration prerequisites, **2:22**

Scripts and screenplays, **2:29**

Secondary transmissions, television broadcasts and satellite transmissions, **2:31**

Sequels, **2:25**

Television broadcasts and satellite transmissions generally, **2:30**

FILM, VIDEO, TELEVISION, TELEVISION BROADCASTS AND SATELLITE TRANSMISSIONS—Cont'd

Television broadcasts and satellite transmissions—Cont'd

ephemeral recordings, **2:33**

Federal Communications Act and IPTV, **2:34**

filesharing, **2:32**

geoblocking, **2:31**

IPTV and Federal Communications Act, **2:34**

secondary transmissions, **2:31**

Underlying rights, **2:26**

Use of preexisting copyrighted works, **2:27**

FINDINGS

Damages, **17:13**

FINE ART RESALE RIGHTS (DROIT DE SUITE)

State court, preemption, **10:23, 10:30**

FIRST AMENDMENT

Anonymous blogger, unmasking under, **12:21**

Defenses, reviewing, **13:32**

“Prior restraints,” injunctions and seizures, **12:20**

Scope of copyright protection, **1:19**

FIRST COMMUNICATION

Cease and desist letters, **6:1**

FIRST FILED SUIT RULE

Declaratory judgment, **6:9 to 6:12**

FIRST SALE DOCTRINE

Defenses, reviewing, **13:35**

Licenses and licensing, **8:13**

FIRST TELEPHONE

INTERVIEW

Client interview and initial investigation, **3:4**

FOREIGN COPYRIGHTS

Infringement, **7:29**
 U.S. Copyright Office, **4:16**

FOREIGN COUNTRIES

Act of state doctrine, **13:49**
 Copyright Restoration Act, pre-1976 foreign works in public domain, **1:5**
 Development of law, **1:5, 1:7, 1:31**
 Discovery, **14:8**
 Enforcement against, **1:32**

FOREIGN DEFENDANTS

Choice of law, **7:30**
 Foreign government, **7:32**
 Infringement, **7:27 to 7:32**
 Motion, forum non conveniens, **9:14**
 Service of process, **7:31**

FOREIGN SOVEREIGN IMMUNITY

Motion to dismiss, **9:15**

FOREIGN WORKS IN PUBLIC DOMAIN

Copyright Restoration Act, pre-1976 foreign works in public domain, **1:5**

FORMS

Answers and defenses, **13:52**
 Cease and desist letters, **6:17**
Client Interview and Initial Investigation (this index)
 Da Vinci Code case, sample declaratory judgment complaint, **App B1**
 Declaratory judgment, **6:17, App B1**
 Digital Millennium Copyright Act, safe harbor for Internet service providers, **13:42**
 Drafting infringement complaint, **App D**
 Infringement, **7:41, 7:42, App D**

FORMS—Cont'd

Jury instruction, statutory damages, **16:8**
 State court, removal, **10:31, 10:32**
 Time and date, calculating dates prior to commencing litigation, **5:24**
 U.S. Copyright Office, **4:8**

FORUM CHOICE

License agreements, **8:15**

FORUM NON CONVENIENS

Motions, **9:14**

FRAUDS, STATUTE OF

Defenses, reviewing, **13:14**

FRAUDULENT CONCEALMENT

Limitation of actions, **5:13**

FRCP RULE 11

Client interview and initial investigation, **3:16**
 Infringement, **7:42**
 Motions, **9:18**

FRCP RULE 12

Motion to strike pleading pursuant to Rule 12(f), **9:17**

FRCP RULE 26

Discovery, mandatory initial disclosure, **14:4**

FRCP RULE 50

Damages awards, preserving objections to, **17:12**

FRCP RULE 52

Damages, bench trials or partial findings, **17:13**

FRCP RULE 59

Damages, remittitur of jury award, **17:14**

FRCP RULE 65

Preliminary injunction, **12:3**

INDEX

FRCP RULE 68

Costs of action, **18:7**

FREELANCE WORK

Copyrightable matter, literary works, **2:42**

FRIVOLOUS ARGUMENTS

Client interview and initial investigation, **3:16**

FRIVOLOUS MOTION PRACTICE

Sanctions, **9:18**

GAMES

Copyrightable matter, video games, **2:58**

GEOBLOCKING

Satellite transmissions and television broadcasts, **2:31**

GOVERNING LAW

License agreements, **8:15**

HEARING

Copyrightability
copies of missing documents, **15:37**

Expert testimony, **15:36**

Summary judgment, **9:22**

Injunctions and seizures, **12:10**

HEARSAY

Generally, **15:11**

Business records, **15:21**

Exceptions to hearsay

generally, **15:13 to 15:15**

business records, **15:21**

state of mind exception,

hearsay, getting into evidence, **15:20**

Getting into evidence, **15:19, 15:20**

Statements that are not hearsay, **15:12**

HEIRSHIP LITIGATION

Title and ownership, **8:6**

HIRE, WORK FOR

Authors and authorship, **8:4**

Defenses, review of, **13:21**

HISTORY

Generally, **1:6**

HOLDER

Infringement, **7:9**

HUMAN SKIN

Visual arts, **2:55**

IDEAS

Defenses, reviewing, **13:23**

Development of law, **1:16**

Expert witnesses, ideas and scenes a faire, **15:29**

Film, television and video, contracts involving uncopyrightable ideas, **2:21**

IDENTIFICATION

Evidence, **15:23 to 15:25**

Internet protocol address, infringer, **2:65**

IMMUNITY

Motion to dismiss, **9:15**

Sovereign immunity, answers and defenses, **13:46**

IMPLIED-IN-FACT CONTRACT

State court preemption, **10:17**

IMPLIED LICENSES

Generally, **8:17**

Reviewing defenses, **13:37**

IMPORTATION

Generally, **App A6**

IMPRESSIONS

Evidence, **15:13**

INDEMNIFICATION

Damages, **17:25**

INDEMNIFICATION—Cont'd

Licenses and licensing, **8:16**

INDEPENDENT CREATION

Defenses, reviewing, **13:18**

INDIAN TRIBES

Claims against, infringement, **7:24**

INFRINGEMENT

Generally, **App A5, App A14**

Access, pleading, **7:12**

Acts of infringement in foreign defendants, **7:28**

Avoiding common traps, **7:1**

Cancellation of registered copyright, **7:37**

Caption, **7:6**

Character evidence

Prior instances of infringement, **15:26**

Checklists, **7:41, 7:42**

Choosing defendants. Drafting caption and choosing defendants, below

Common law claims, **7:35, 7:36**

Competing copyright ownership claim, **7:4**

Complaint

checklist, **7:41**

drafting complaint, below

Constructive knowledge of, evidence

invoice instead of license, **15:7**

low price, **15:6**

Contractors, **7:23**

Contributory infringement, **7:19**

Convenience, **7:25**

Copyright, judgement

Receiver to collect, **17:29**

Copyrightability hearing

summary judgment, **9:22**

Corporate

alter ego, **7:21**

officers, **7:18**

INFRINGEMENT—Cont'd

Criminal infringement, generally, **App A14**

Damages, **17:11, 17:15 to 17:19**

Defenses, **7:5**

Demand, **7:15**

Development of law, **1:1 to 1:11, 1:22**

Direct infringement, **7:17**

Drafting

caption and choosing defendants

generally, **7:17 to 7:26**

contributory infringement, **7:19**

corporate alter ego, **7:21**

direct infringement, **7:17**

Indian tribes, claims against, **7:24**

Internet service providers, **7:22**

John Doe defendants, **7:26**

municipalities, claims against, **7:24**

necessary parties, leaving inconvenient defendants out of caption, **7:25**

personal liability of corporate officers, **7:18**

states, claims against, **7:24**

U.S. government and contractors, exclusive jurisdiction of federal court of claims, **7:23**

vicarious infringement, **7:20**

complaint

generally, **7:1 to 7:41, App D**

access, pleading, **7:12**

avoiding common traps, **7:1**

caption, **7:6**

defenses, **7:5**

due diligence and strategic planning, **7:2**

exclusive rights, violation of, **7:9**

INDEX

INFRINGEMENT—Cont'd

Drafting—Cont'd
complaint—Cont'd
exhibits, preparation of, **7:14**
federal question jurisdiction,
7:7
holder, violation of exclusive
rights of, **7:9**
intent, **7:13**
jury demand, **7:15**
limitation of actions, **7:5**
necessary parties, **7:17**
personal jurisdiction, **7:10**
pleading matters, generally,
7:1 to 7:16
pleading standing, **7:6**
prima facie evidence, **7:11**
proper plaintiffs, **7:6**
registration, **7:3**
standing, pleading, **7:6**
subject matter jurisdiction,
7:7
substantial similarity, **7:12**
venue, **7:8, 7:10**

Due diligence and strategic plan-
ning, **7:2**

Evidence
generally, **7:11, 15:13, 15:16**
invoice instead of license,
constructive knowledge of,
15:6
low price, constructive knowl-
edge of, **15:6**

Exclusive
jurisdiction, **7:23**
rights, violation of, **7:9**

Exhibits, preparation of, **7:14**

Federal
claims, **7:34**
court of claims, **7:23**
question jurisdiction, **7:7**

Foreign
copyrights, **7:29, 8:3**
defendants, **7:27 to 7:32**

Forms, **7:41, 7:42**

INFRINGEMENT—Cont'd

FRCP Rule 11, **7:42**

Holder, violation of exclusive
rights of, **7:9**

Indian tribes, claims against, **7:24**

Injunctions and seizures, **12:16**

Injunctive relief, **7:38**

Intent, **7:13**

Internet service providers, **7:22**

Investigation, **7:42**

Invoice instead of license,
constructive knowledge of,
15:7

John Doe defendants, **7:26**

Judgments
Divisibility of copyright, **17:28**

Jurisdiction
generally, **7:33 to 7:36**
drafting
caption and choosing
defendants, **7:23**
complaint
federal question jurisdic-
tion, **7:7**
personal jurisdiction, **7:10**
subject matter jurisdiction,
7:7
foreign defendants, **7:27**
supplemental jurisdiction, **7:35**

Jury demand, **7:15**

Lanham Act, **7:16, 7:34**

License, invoice instead of,
constructive knowledge of
infringement, **15:7**

Limitation of actions, **5:8, 7:5**

Low price, constructive knowl-
edge of, evidence, **15:6**

Motion
dismiss, **9:25**
summary judgment, **9:20**

Municipalities, claims against,
7:24

Necessary parties, **7:17, 7:25**

Officers, **7:18**

INFRINGEMENT—Cont'd

- Personal
 - jurisdiction, **7:10**
 - liability of corporate officers, **7:18**
- Pleading standing, **7:6**
- Preemption of certain state and common law claims, **7:36**
- Prelitigation checklist, Rule 11 duty to investigate, **7:42**
- Prima facie evidence, **7:11**
- Registration, **7:3**
- Relief
 - cancellation of registered copy-right, **7:37**
 - declaratory judgment, **7:39**
 - injunctive, **7:38**
 - mandamus, **7:40**
- 17 U.S.C.A. Ch. 5, **App A5**
- Similarity, **7:12**
- Standing, **7:6**
- States
 - claims, **7:36**
 - claims against, **7:24**
 - law claims, **7:35**
- Statutes, **7:34**
- Strategic planning, **7:2**
- Subject matter jurisdiction, **7:7**
- Substantial similarity, **7:12**
- Summary judgment motion, **9:20**
- Supplemental jurisdiction, **7:35**
- U.S. Copyright Office, **4:2**
- U.S. government and contractors, exclusive jurisdiction of federal court of claims, **7:23**
- Venue, **7:8, 7:10, 7:33 to 7:36**
- Vicarious infringement, **7:20**

INFRINGEMENT, RELIEF

- Mandamus, **7:40**

INITIAL DISCLOSURE

- Mandatory initial disclosure under Rule 26, **14:4**

INITIAL DISCOVERY

- Generally, **14:1**

INITIAL INVESTIGATION

- client Interview and Initial Investigation (this index)

INITIAL MISSTEPS

- Client interview and initial investigation, **3:15**

INJUNCTION BONDS

- Injunctions and seizures, **12:17 to 12:19**

INJUNCTIONS AND SEIZURES

- Generally, **12:1 to 12:19**
- Anonymous blogger, unmasking under First Amendment, **12:21**
- Attorney sanctions, **12:7**
- Blogger, anonymous, unmasking under First Amendment, **12:21**
- Bonds, injunction, **12:17 to 12:19**
- Civil law, **12:3**
- Class actions, **11:8**
- Constitutional rights, consequences for violating adversaries', **12:9**
- Copyright law, injunctive relief authorized by, **12:2**
- Damages, **12:18**
- Defenses, **12:12, 13:41**
- Delay, **12:14**
- Evidence, **12:5**
- Evidentiary hearings on preliminary injunctions, **12:10**
- Excess of bond, recovery of damages in, **12:18**
- Exoneration of bond, **12:19**
- Ex parte applications for relief, **12:6**
- Extraterritorial injunctions, **12:15**
- Fair use defense and preliminary injunctions, **12:12**

INDEX

INJUNCTIONS AND SEIZURES

—Cont'd

Federal Rules of Civil Procedure, **12:3**
First Amendment
“prior restraints,” **12:20**
unmasking anonymous blogger under, **12:21**
Hearing, **12:10**
Infringement, **12:16**
Injunction bonds, **12:17 to 12:19**
Interlocutory practice regarding exoneration of bond, **12:19**
Irreparable harm, effect of delay and mootness, **12:14**
Mandatory versus prohibitory injunctions, standard of proof, **12:5**
Mootness, **12:14**
Orders, **12:6, 12:13**
Permanent injunctions, **12:22**
Prejudgment remedies, generally, **12:1 to 12:19**
Preliminary injunction, **12:3, 12:4, 12:10, 12:12**
“Prior restraints,” First Amendment, **12:20**
Prohibitory injunction, **12:5**
Recall of product, **12:13**
Recovery of damages in excess of bond, **12:18**
Restraining orders, **12:6**
Rule 65, Federal Rules of Civil Procedure, **12:3**
Sanctions, **12:7**
Scope of available relief, **12:9**
Seizures, **12:7, 12:8, 12:16**
Standing, **12:11**
Statutes, **12:2**
Temporary restraining orders, **12:6**
Test for availability of preliminary injunctive relief, **12:4**
Unmasking anonymous blogger under First Amendment, **12:21**

INJUNCTIONS AND SEIZURES

—Cont'd

U.S. Copyright Office, **4:19**
U.S. Customs, **12:16**
Use, **12:12**
Wrongful seizures, **12:7, 12:8**

INJUNCTIVE RELIEF

Infringement, **7:38**

INJURY RULE

Limitation of actions, **5:9**

IN LIMINE MOTIONS

Evidence, **15:2 to 15:5**

INNOCENT PUBLICATION OR REPUBLICATION

Defenses, reviewing, **13:16**

INSPECTION

U.S. Copyright Office, **4:7**

INSTRUCTIONS TO JURY

Generally, **16:1 to 16:7**
Assembling jury instructions, **16:3**
Checklists, statutory damages, **16:8**
Damages, statutory damages, **16:8**
Deference to U.S. Copyright Office determination, **16:5**
Forms, statutory damages, **16:8**
Improper instructions, **16:4**
Lowry’s Reports v. Legg Mason, **16:8**
Malice finding, **16:7**
Model Civil Jury Instructions, **App B2**
Motion to set aside verdict, **16:6**
Ninth Circuit Manual of Model Civil Jury Instructions, **App B2**
Preservation of arguments, **16:1**
Sanctions, **16:4**
Statutory damages, **16:8**
U.S. Copyright Office, **16:5**
Willfulness finding, **16:7**

INSURANCE

Attorneys' fees coverage, **18:13**
Potential copyright litigation coverage, client interview and initial investigation, **3:8**

INTAKE

client Interview and Initial Investigation (this index)

INTENT

Infringement, **7:13**

INTEREST ON MONEY

Damages, **17:20**

INTERFERENCE

State court preemption, **10:18**

INTERLOCUTORY APPEAL

Class actions, **11:6**

INTERLOCUTORY PRACTICE

Exoneration of bond, **12:19**

INTERNATIONAL TREATIES

Development of law, **1:7**

INTERNET SERVICE PROVIDERS

Address of internet protocol, **2:65**
Cease and desist letters, **6:7**
Defenses, **13:42**
Identifying the infringer, **2:65**
Infringement, **7:22**
Safe harbor under Digital Millennium Copyright Act, **13:42**

INTERPLEADER ACTIONS

Answer, **13:8**

INTERVIEW

client Interview and Initial Investigation (this index)

INVESTIGATION

Client Interview and Initial Investigation (this index)
Infringement, **7:42**

INVOICE

Constructive knowledge of infringement, instead of license, **15:7**

IRREPARABLE HARM

Injunctions and seizures, **12:14**

JOHN DOE DEFENDANTS

Class actions, **11:10**
Infringement, **7:26**

JOINT AUTHORSHIP

Defenses, **13:45**
Dramatic works, **2:18**
Film, video, and television, joint works, **2:23**
Title and ownership disputes, **8:5**

JUDGMENTS

Copyright infringement
Divisibility, **17:28**
Receiver to collect, **17:29**
Costs of action, **18:7**
Damages, **17:20**
Declaratory Judgment (this index)
Summary Judgment (this index)

JUDICIAL ESTOPPEL

Defenses, reviewing, **13:29**

JUDICIAL NOTICE

Evidence, **15:9**

JURISDICTION

Cease and desist letters, **6:5**
Development of law, **1:23, 1:27**
Discovery, **14:8**
Evidence, **15:4**
Exclusive Jurisdiction (this index)
Federal Question Jurisdiction (this index)
Infringement (this index)
Motion to dismiss, **9:9, 9:10, 9:15**
Supplemental Jurisdiction (this index)

INDEX

JURY AND JURY TRIALS

- Damages, **17:14**
- Infringement, **7:15**
- Instructions to Jury** (this index)

KARAOKE

- Music, **2:12**

LACHES

- Delay** (this index)
- Limitation of actions, **5:15**
- Reviewing defenses, **13:12**

LAFFEY MATRIX

- Costs of hourly attorneys' fees, calculation, **18:12**

LANHAM ACT

- Infringement, **7:16, 7:34**

LEARNED TREATISES

- Evidence, **15:18**

LEGISLATIVE HISTORY

- Development of law, **1:3 to 1:5**

LETTERS

- Correspondence** (this index)

LIBEL

- Communications Decency Act, development of law, **1:34**

LICENSES AND LICENSING

- Generally, **8:8 to 8:17**
- Agreements, choice of law and forum clauses, **8:15**
- Arbitration clauses, **8:20**
- Assignments, beneficial ownership, **8:12**
- Choice of law and forum clauses, **8:15**
- Commercial agents, licensee use of, **8:22**
- Compulsory license, music, **2:7**
- Conditions, **8:9**
- Contracts to use work, **8:8**
- Copyrightable matter, music, **2:7**
- Covenants, **8:9**

LICENSES AND LICENSING

—Cont'd

- Damages, reasonable license fee, **17:10**
 - Defective copyright registration, **8:24**
 - Defenses, **13:13 to 13:15**
 - Development of law, **1:23**
 - First sale doctrine, **8:13**
 - Implied licenses, **8:17**
 - Inaccurate copyright registration, **8:24**
 - Indemnification clauses, **8:16**
 - Invoice instead of license, constructive knowledge of infringement, **15:7**
 - Licensee use of commercial agents, **8:22**
 - Mechanical license, music, **2:7**
 - Operation of law, transfer of copyright ownership by, **8:18**
 - Parol evidence of license agreement, **8:11**
 - Rescission, **8:10**
 - Reviewing defenses, implied license, **13:37**
 - Sales, first sale doctrine, **8:13**
 - Software license agreements, **8:14**
 - Synchronization license, music, **2:7**
 - Terminations, **8:23**
 - Transfer of copyright ownership generally, **8:20**
 - operation of law, **8:18**
 - Use of work, **8:8**
- ### LIMITATION OF ACTIONS
- Generally, **5:7 to 5:15**
 - Accrual date calculation rules, **5:9**
 - Accrual of ownership claim, determining date of, **5:7**
 - Class actions, **5:14**
 - Concealment, **5:13**
 - Continuing wrong theory, **5:10**
 - Contracts and agreements, **5:12**

LIMITATION OF ACTIONS

—Cont'd

- Defenses, **13:33**
- Equitable estoppel, **5:13**
- Equitable tolling, fraudulent concealment or equitable estoppel, **5:13**
- Estoppel, **5:13**
- Fraudulent concealment, **5:13**
- Infringement, **5:8, 7:5**
- Injury rule, **5:9**
- Laches, **5:15**
- Title and ownership, **5:7, 5:8**
- Tolling
 - agreement, **5:12**
 - sources of, **5:11 to 5:14**

LIMITATIONS AND RESTRICTIONS

- Limitation of Actions** (this index)

LISTENERS

- Evidence, **15:13**

LITERARY WORKS

- Characters, **2:40**
- Collective works, freelance contributions, **2:42**
- Copyrightable matter, **2:37 to 2:42**
- Fair use, **2:41**
- Freelance contributions, **2:42**
- Prerequisites to registration, **2:38**
- Registration
 - generally, **2:39**
 - prerequisites, **2:38**

LITIGATION HOLDS

- Client interview and initial investigation, **3:9**

LIVE PERFORMANCES

- Generally, **2:09**
- Bootlegs and illegal recordings, **2:11**
- Copyrightable matter, **2:9 to 2:11**
- Dramatic Works** (this index)
- Music** (this index)

LIVE PERFORMANCES

—Cont'd

- Registration, **2:5, 2:10**

LODESTAR METHOD

- Costs of action, **18:3**

LOST SALES

- Damages, **17:7**

LOW PRICE

- Constructive knowledge of infringement, evidence, **15:6**

LOWRY'S REPORTS v. LEGG MASON

- Instructions to jury, **16:8**

MAKEUP

- Visual arts, **2:55**

MALICE

- Finding, instructions to jury, **16:7**

MANAGEMENT INFORMATION

- Removal of, reviewing defenses, **13:50**

MANAGEMENT SYSTEMS

- Copyright protection, **App A12**

MANDAMUS

- Infringement, relief, **7:40**

MANDATORY INITIAL DISCLOSURE

- FRCP Rule 26, **14:4**

MANDATORY INJUNCTIONS

- Standard of proof, **12:5**

MANUFACTURING REQUIREMENTS

- Generally, **App A6**

MECHANICAL LICENSE

- Copyrightable matter, music, **2:7**

MEMORANDA

- Trial memoranda or bench memoranda, **15:8**

INDEX

MERGER CLAUSES

Litigation, title and ownership,
8:25

MERGER DOCTRINE (IDEA/CONCEPT)

Defenses, reviewing, **13:23**

MISAPPROPRIATION

State court, preemption, **10:20**

MISREPRESENTATION

State court preemption, **10:17**

MISTAKE AND ERROR

Client interview and initial
investigation, **3:15**

U.S. Copyright Office, **4:10**

MISUSE OF COPYRIGHT

Defenses, reviewing, **13:30**

MODELS

Copyrightable matter, computer-
assisted design and 3D
models, **2:60**

MONETARY DAMAGES

Generally, **17:1**

MOOTNESS

Declaratory judgment, **6:14**

Injunctions and seizures, **12:14**

MORE DEFINITE STATEMENT

Motions, **9:16**

MOTION IN LIMINE

Evidence, **15:2 to 15:5**

MOTIONS

Generally, **9:1 to 9:25**

Arbitration, costs of action, **18:17**

Avoid summary judgment,
requesting discovery to, **9:21**

Checklist for attacking infringe-
ment pleadings on, **9:25**

Complaint, motions attacking,
generally, **9:1 to 9:25**

Compulsion, discovery, **14:11**

MOTIONS—Cont'd

Convenience, **9:14**

Copyright infringement claims,
default judgment, **9:23**

Costs of action, arbitration, **18:17**

Damages, **17:12, 17:13**

Default judgment, **9:23, 18:20**

Definite statements, **9:16**

Discovery

generally, **14:7**

requesting to avoid summary
judgment, **9:21**

Dismiss. **Motion to Dismiss** (this
index)

Dismissals and defaults, local
rules, **9:24**

Federal question, **9:9**

Foreign

defendants, forum non conveni-
ens, **9:14**

sovereign immunity, motion to
dismiss for lack of subject
matter jurisdiction, **9:15**

Forum non conveniens, **9:14**

Frivolous motion practice, **9:18**

Immunity, **9:15**

Infringement claims, summary
judgment, **9:20**

Intervention, answers and
defenses, **13:9**

Joinder, answers and defenses,
13:10

Judgment on the pleadings, **9:5**

Jurisdiction, **9:9, 9:10, 9:15**

Jury demand, **13:14**

More definite statement, **9:16**

Personal jurisdiction, lack of, **9:10**

Preempted claims, **9:6**

Pre-motion letters, **9:2**

Registration, lack of, **9:7**

Removal and motions to dismiss
preempted claims, **9:6**

Rule

11, **9:18**

12 (f), **9:17**

MOTIONS—Cont'd

- Sanctions for frivolous motion practice, rule 11, **9:18**
- Silent motions, **9:4**
- “Speaking motions,” **9:3**
- Standing, lack of, **9:8**
- State claim, failure to, **9:11**
- Strike pleading pursuant to rule 12(f), **9:17**
- Subject matter jurisdiction, **9:9, 9:15**
- Summary judgment, **9:20, 9:21**
- Summary judgment, Copyright-ability hearing, **9:22**
- Transfer, **9:13**
- Vacation of judgment, **13:40**
- Venue, **9:10, 9:13**

MOTION TO COMPEL

- Discovery, **14:11**

MOTION TO DISMISS

- Generally, **9:3 to 9:18**
- Amendment of pleadings, **9:19**
- Checklist for attacking infringement pleadings on, **9:25**
- Federal question, **9:9**
- Foreign sovereign immunity, lack of subject matter jurisdiction, **9:15**
- Forum non conveniens, **9:14**
- Frivolous motion practice, application of Rule 11, **9:18**
- More definite statement, **9:16**
- Personal jurisdiction, lack of, **9:10**
- Preempted claims, **9:6**
- Registration, lack of, **9:7**
- Silent motions for dismissal, **9:4**
- Standing, lack of, **9:8**
- State claim, failure to, **9:11**
- Striking pleading pursuant to Rule 12(f), **9:17**
- Subject matter jurisdiction, lack of, **9:9**
- Timely service, lack of, **9:12**

MOTION TO DISMISS—Cont'd

- Venue
 - lack of, **9:10**
 - motion to transfer, **9:13**

MOTION TO REMAND

- State court preemption, **10:11**

MOTION TO VACATE

- Defenses, **13:40**

MULTIPLE WORKS

- Registration, **4:18, 4:21**

MUNICIPALITIES

- Claims against, infringement, **7:24**

MUSIC

- Compulsory licenses, **2:7**
- Contract dispute, **2:2**
- Copyrightable matter, **2:1 to 2:15**
- Copyright dispute, **2:2**
- Digital sampling, **2:8**
- Disputes, **2:2**
- Exclusive rights under Copyright Act, **2:6**
- Joint works, **2:15**
- Karaoke, **2:12**
- Licenses, **2:7**
- Mechanical licenses, **2:7**
- Performances
 - bootlegs and illegal recordings, **2:11**
 - karaoke, **2:12**
 - live performance, registration, **2:10**
 - registration, **2:5, 2:10**
- Prerequisites to copyright protection, **2:3**
- Registration
 - live performances, **2:10**
 - performances, **2:5, 2:10**
 - scores and underlying compositions, **2:4**
 - sheet music, **2:4**
 - sound recordings, **2:5**
- Resales of digital music files, **2:14**

INDEX

MUSIC—Cont'd

- Scores and underlying compositions, registration, **2:4**
- Sheet music registration, **2:4**
- Videos, statutory law, **App A11**

NECESSARY PARTIES

- Infringement, **7:17, 7:25**

NEGOTIATIONS

- Evidence, **15:3, 15:5**

NON-EXCLUSIVE LICENSE

- Defenses, reviewing, **13:15**

NON-FUNGIBLE TOKENS (“NFTS”)

- Computer programs, **2:63**

NOTICE

- Berne Act of 1988, **1:4**
- Declaratory judgment, **6:10, 6:12**
- Evidence, **15:9**
- 17 U.S.C.A. Ch. 4, **App A4**
- State court, **10:31, 10:32**

OBJECTIONS

- Damages, **17:12**

OFFER OF JUDGMENT

- Costs of action, **18:7**

OFFICE PROCEDURES

- Answer, **13:1**

OFFICERS

- Infringement, **7:18**

OPERATION OF LAW

- Transfer of copyright ownership by, **8:18**

OPINION

- Client interview and initial investigation, **3:2**

ORDERS

- Preservation orders, **14:2**
- Protective orders, **14:11**
- Recall of product, **12:13**

ORDERS—Cont'd

- Temporary restraining orders, **12:6**

ORIGINAL DESIGNS

- Generally, **App A13**

ORIGINALITY

- Defenses, reviewing, **13:17**
- Expert witnesses, **15:28**

OVERHEAD

- Damages, **17:6**

OVERTURN

- Class action certification, **11:6**

OWNERSHIP

- Title and Ownership** (this index)

PARALLEL ACTIONS

- State court preemption, **10:24**

PARODY

- Defenses, reviewing, **13:27**

PAROL EVIDENCE

- License agreement, **8:11**

PARTIAL FINDINGS

- Damages, **17:13**

PATENTS

- State court, preemption, **10:21**
- Transfers, title and ownership, **8:19**

PEER-TO-PEER PIRACY

- Damages and profits, **17:26**

PENDING ACTS AND MATTERS

- Special handling procedure, **4:20**

PERJURY

- Client interview and initial investigation, sanctions, **3:25**

PERSONAL JURISDICTION

- Answer and defenses, **13:58**
- Infringement, **7:10**
- Motion to dismiss, **9:10**

PERSONAL LIABILITY

Infringement, corporate officers,
7:18

PHOTOGRAPHS

Architectural works, copyrightable
visual arts matter, **2:53**

PIRACY

Peer-to-peer, damages and profits,
17:26

PLAGIARISM

State court preemption, **10:13**

PLANNED LAWSUIT

Declaratory judgment, **6:10**

PLEADING

Amendment following removal
from state court, **10:26**
Amendment of pleadings, **9:19**
Infringement, pleading standing,
7:6

POTENTIAL AVAILABILITY

Statutory damages and attorneys'
fees, **1:29**

PRACTITIONER'S BACKUP

Hearsay, getting into evidence,
15:19

**PRE-1972 SOUND
RECORDINGS**

Preemption, state court, **10:29**

**PRECONTRACTUAL
NEGOTIATIONS**

Admissibility of evidence, **15:3,**
15:5

PREEMPTION

Damages, **17:4**
Infringement, **7:36**
Motion to dismiss, **9:6**
State Court (this index)

**PREEXISTING COPYRIGHTED
WORKS**

Film, video, and television, **2:27**

PREJUDGMENT INTEREST

Damages, **17:20**

PREJUDGMENT REMEDIES

Injunctions and Seizures (this
index)

PRELIMINARY INJUNCTION

Evidentiary hearings, **12:10**
Fair use defense, **12:12**
Federal Rules of Civil Procedure,
Rule 65, **12:3**
Test for availability of, **12:4**

PRE-LITIGATION PRACTICE

Generally, **1:1 to 1:33**

PRESERVATION ORDERS

Discovery, **14:2**

PRESUMPTIONS

Answer and defenses, **13:2**

PRETRIAL CERTIFICATION

Class actions, **11:5**

PRETRIAL DISCLOSURES

Generally, **14:5**

**PREVIOUSLY UNREGISTERED
WORK**

U.S. Copyright Office, **4:9**

PREVIOUS REGISTRATION

U.S. Copyright Office, **4:5**

PRIMA FACIE EVIDENCE

Infringement, **1:20, 7:11, 15:16**

PRIOR INSTANCES

Infringement
Character evidence, **15:26**

PRIOR RESTRAINTS

First Amendment, injunctions and
seizures, **12:20**

INDEX

PROCEDURAL ISSUES

Development of law, **1:25**

PROFESSIONAL RESPONSIBILITY

Client interview and initial
investigation, **3:14 to 3:25**

PROFITS

Damages
Unjust enrichment
avoided costs, **17:9**
Damages and Profits (this index)
Divisibility of copyright infringement
judgments, **17:28**
Receiver to collect
copyright infringement
judgments, **17:29**

PROHIBITORY INJUNCTION

Standard of proof, **12:5**

PROTECTION OF COPYRIGHT

For detailed matters, see more
specific entries throughout
this index
Management systems, **App A12**
Original designs, **App A13**

PROTECTIVE ORDERS

Discovery, **14:11**

PUBLICATION

Calculating dates prior to com-
mencing litigation, **5:4 to 5:6**
Defenses, reviewing, **13:16**

PUBLIC DOMAIN

Defenses, reviewing, **13:20**

PUBLICITY RIGHTS

State court preemption, **10:19**

REASONABLENESS

Costs of action, **18:6**
License fee, **17:10**

RECALL OF PRODUCT

Injunctions and seizures, **12:13**

RECORDS AND RECORDING

Client interview and initial
investigation, time records,
3:7
Costs of action, **18:5**
Declaratory judgment, **6:9, 6:10**
Digital audio recording devices
and media, **App A10**
Evidence (this index)
Sound Recordings (this index)
State court preemption, **10:24**
Title and ownership, **8:7**
U.S. Copyright Office (this
index)

REGISTRATION

Generally, **App A4**
Berne Act of 1988, copyright
registration requirement, **1:3**
Collections of work, **4:18, 4:21**
Copyrightable matter, computer
programs, **2:59**
Costs of action, **18:1**
Defenses, inaccuracies in copy-
right registration, **13:31**
Development of law, **1:3**
Dramatic works, **2:19**
Film, video, and television, **2:22**
Infringement, **7:3, 7:37**
Legislative history, **1:3**
Literary Works (this index)
Live performances, generally, **2:5,**
2:10
Motion to dismiss, **9:7**
Multiple works, **4:18, 4:21**
Music (this index)
Television, video and film, **2:22**
Time and date, calculating dates
prior to commencing litiga-
tion, **5:1, 5:2**
U.S. Copyright Office (this
index)
Video, film, and television, **2:22**

REGISTRATION—Cont'd

Visual Arts (this index)

REGRESSION ANALYSIS

Expert witnesses, **15:33**

REMAND

State court preemption, **10:10, 10:11**

REMITTITUR

Damages, **17:14**

REMOVAL OF CASES

Motion to dismiss, **9:6**
State Court (this index)

REPUBLICATION

Defenses, reviewing, **13:16**

RESCISSION

License, **8:10**

RESEARCH

Defenses, reviewing, **13:26**

RES JUDICATA

Answer and defenses, **13:47**

RESPONSE

Cease and desist letters, **6:4**

RESTORATION

Pre-1976 foreign works in public domain, Copyright Restoration Act, **1:5**

RESTRAINING ORDERS

Temporary restraining orders, **12:6**

RETAINERS

Client interview and initial investigation, **3:7**

RIGHTS OF PUBLICITY

State court preemption, **10:19**

RIPENESS

Answer and defenses, **13:56**
Declaratory judgment, **6:15**

ROYALTY

Development of law, **1:23**
Judges, proceedings by, **App A8**
Preemption and resale royalty rights for fine artworks, **10:30**

SALES

Damages, **17:7**
Defenses, reviewing, **13:35**
Licenses and licensing, **8:13**

SANCTIONS

Client interview and initial investigation, **3:15, 3:16**
Client Interview and Initial Investigation (this index)
Discovery, **14:9**
Injunctions and seizures, **12:7**
Instructions to jury, **16:4**
Motions, **9:18**
Scheduling orders or conference, **14:13**

SATELLITE TRANSMISSIONS AND TELEVISION BROADCASTS

Generally, **2:30**
Choreography, **2:36**
Ephemeral recordings, **2:33**
Federal Communications Act development of law, **1:33**
IPTV, **2:34**
Filesharing, **2:32**
Geoblocking, **2:31**
IPTV and Federal Communications Act, **2:34**
Registration prerequisites, **2:22**
Secondary transmissions, **2:31**

SCENES A FAIRE DOCTRINE

Defenses, reviewing, **13:24**
Expert witnesses, **15:29**

SCHEDULING ORDERS

Sanctions, **14:13**

INDEX

SCREEN DISPLAYS

Copyrightable matter, computer programs, **2:57**

SCREENPLAYS

Copyrightable matter, film, television and video, **2:29**

SCRIPTS

Copyrightable matter, film, television and video, **2:29**

SCULPTURAL WORKS

Copyrightable matter. **Visual Arts** (this index)

SECONDARY SOURCES

Development of law, **1:36**

SECONDARY TRANSMISSIONS

Geoblocking, **2:31**
Television broadcasts and satellite transmissions, **2:31**

SECOND-FILED PARALLEL ACTIONS

State court preemption, **10:24**

SEIZURES

Injunctions and Seizures (this index)

SEMICONDUCTOR CHIP PRODUCTS

Generally, **App A9**

SEQUELS

Copyrightable matter, film, television and video, **2:25**

SERVICE OF PROCESS

Foreign defendants, **7:31**
Motion to dismiss, lack of timely service, **9:12**

SETTLEMENTS

Attorneys' fees, effect on subsequent awards, **18:8**
Cease and desist letters, settlement offers, **6:8**

17 U.S.C.A

Generally, **App. A1 to App. A13**
See also other entries throughout this index

SILENT MOTIONS

Dismissal, **9:4**

SIMILARITY

Expert witnesses, **15:30**
Infringement, **7:12**

SMALL-CLAIMS

ENFORCEMENT “CASE ACT”
2020, **1:12**

SOFTWARE LICENSE AGREEMENTS

Generally, **8:14**

SOUND RECORDINGS

Generally, **App A11**
Digital audio recording devices and media, **App A10**
Music performances, bootlegs and illegal recordings, **2:11**
Pre-1972, **2:13**
Registration of sound recordings, **2:5**
Resales of digital music files, **2:14**
Television broadcasts and satellite transmissions, ephemeral recordings, **2:33**
Time and date, calculating dates prior to commencing litigation, **5:5**

SOVEREIGN IMMUNITY

Answer and defenses, **13:46**

“SPEAKING MOTIONS”

Generally, **9:3**

SPECIAL HANDLING PROCEDURE

Expediting new or pending registration applications for litigation, **4:20**

SPOILIATION

Discovery, **14:3**

STANDING TO SUE

Infringement, **7:6**
 Injunctions and seizures, **12:11**
 Motion to dismiss, **9:8**
 U.S. Copyright Office, **4:1**

STATE CLAIM, FAILURE TO

Motion to dismiss, **9:11**

STATE COURT

Amendment of pleading following removal, **10:26**
 Analysis under Copyright Act, **10:5**
 Arising under Copyright Act, **10:9**
 Artful pleading, **10:6**
 Complaint, **10:6**
 Complete preemption, **10:6, 10:7, 10:8, 10:10**
 Computer crimes, **10:22**
 Contracts, **10:15, 10:17, 10:18**
 Copyright Act
 analysis under, **10:5**
 cases arising under, **10:9**
 Declaratory judgment actions, preemption, **10:28**
 Dilution claims, **10:14**
 Dismissal, **10:10**
 Diversity and removal, **10:12**
 Equivalent rights in state law, **10:8**
 Fine art resale rights, **10:23**
 Forms
 amendment of pleading following removal, **10:26**
 notice of removal, **10:31, 10:32**
 General scope requirement for complete preemption, **10:8**
 Implied-in-fact contract, **10:17**
 Interference, **10:18**
 Lanham Act, **10:14**
 Misappropriation, **10:20**
 Misrepresentation and trade secrets claims, **10:17**

STATE COURT—Cont'd

Motion to remand, **10:11**
 Non-federal claims, supplemental jurisdiction, **10:27**
 Notice, **10:31, 10:32**
 Parallel actions, **10:24**
 Patents, **10:21**
 Plagiarism and preemption, **10:13**
 Pre-1972 sound recordings, preemption, **10:29**
 Preemption
 generally, **10:10 to 10:30**
 analysis under Copyright Act, **10:5**
 complete preemption, **10:6 to 10:8, 10:10**
 computer crimes, **10:22**
 contract claims, **10:15**
 declaratory judgment actions, **10:28**
 dismissal, **10:10**
 diversity and removal, **10:12**
 fine art resale rights (droit de suite), **10:23**
 fine artworks, **10:30**
 implied-in-fact contract, **10:17**
 improper removal, dangers of, **10:25**
 misappropriation, **10:20**
 misrepresentation and trade secrets claims, **10:17**
 motion to remand, **10:11**
 non-federal claims, **10:27**
 patents, **10:21**
 plagiarism, **10:13**
 pre-1972 sound recordings, **10:29**
 publicity rights, **10:19**
 remand, **10:10, 10:11**
 removal of cases, below resale royalty rights, **10:30**
 second-filed parallel actions, **10:24**
 supplemental jurisdiction, **10:27**

INDEX

STATE COURT—Cont'd

Preemption—Cont'd

- tortious interference with prospective contractual relations preempted, **10:18**
- trademarks and dilution under state law, **10:14**
- trade secrets claims, **10:17**
- untimely removal procedure, **10:16**

Publicity rights, **10:19**

Records and recording, **10:24**

Remand, **10:10, 10:11**

Removal of cases

- generally, **10:1 to 10:32**
- amendment of pleading following removal, **10:26**
- circumstances warranting, **10:1**
- Copyright Act, cases arising under, **10:9**
- equivalent rights in state law, **10:8**
- forms, **10:31, 10:32**
- general scope requirement for complete preemption, **10:8**
- notice of removal, **10:32**
- notice to state court, **10:31**
- preemption
 - general scope requirement for complete preemption, **10:8**
 - improper removal, dangers of, **10:25**
 - subject matter requirement for complete preemption, **10:7**
 - untimely removal procedure, **10:16**
 - well-pleaded complaint rule and complete preemption (or artful pleading) doctrine, **10:6**
- procedure, **10:3**
- subject matter requirement for complete preemption, **10:7**

STATE COURT—Cont'd

Removal of cases—Cont'd

- triggering 30-day deadline for, **10:4**
- well-pleaded complaint rule and complete preemption (or artful pleading) doctrine, **10:6**
- Rights of publicity, **10:19**
- Second-filed parallel actions, **10:24**
- Statutes, **10:9**
- Subject matter requirement for complete preemption, **10:7**
- Supplemental jurisdiction over non-federal claims, **10:27**
- Tortious interference with prospective contractual relations preempted, **10:18**
- Trademark claims, **10:14**
- Trade secrets, **10:17**
- Triggering 30-day deadline, **10:4**
- Untimely removal procedure, **10:16**
- Well-pleaded complaint rule and complete preemption (or artful pleading) doctrine, **10:6**

STATE OF MIND

- Hearsay exception, **15:20**

STATES

- Claims against, infringement, **7:24**
- Development of law, **1:27**
- Laws, claims
 - damages, **17:4**
 - infringement, **7:35, 7:36**

STATUTE OF FRAUDS

- Defenses, reviewing, **13:14**

STATUTE OF LIMITATIONS

- Limitation of Actions** (this index)

STATUTES

- Berne Act of 1988, **1:3, 1:4**
- Calculating dates prior to commencing litigation, **5:6**

STATUTES—Cont'd

- Copyright Act, costs of action, **18:2**
- Copyright Act** (this index)
- Copyright Restoration Act, **1:5**
- Copyright Term Extension Act of 1998, **1:3 to 1:5, 1:8**
- Costs of Action** (this index)
- Damages, **17:2**
- Digital Millennium Copyright Act** (this index)
- Infringement, foreign law, **7:30**
- Injunctions and seizures, **12:2**
- Lanham Act, **7:34**
- State court, removal of cases, **10:9**
- Visual Artists Rights Act, **1:11**

STATUTORY DAMAGES

- Generally, **17:15 to 17:18**
- Compilations, **17:23**
- Defenses, **13:39**
- Development of law, **1:29**
- Instructions to jury, **16:8, App B2**
- Joint and several liability, downstream infringements, **17:27**

STIPULATIONS

- Attorneys' fees, effect on subsequent awards, **18:8**

STRATEGIC PLANNING

- Infringement, **7:2**

STRIKE PLEADING

- Motions, **9:17**

SUBCLASSES

- Class actions, **11:8**

SUBJECT MATTER

- Copyrightable Subject Matter** (this index)
- Defenses, **13:22**
- Development of law, **1:26, 1:28**
- State court, removal of cases, **10:7**

SUBJECT MATTER

JURISDICTION

- Evidence, **15:4**
- Infringement, **7:7**
- Motion to dismiss, **9:9, 9:15**

SUBSTANTIAL SIMILARITY

- Expert witnesses, **15:30**
- Infringement, **7:12**

SUMMARY JUDGMENT

- Avoid, requesting discovery to, **9:21**
- Copyrightability hearing, **9:22**
- Discovery, requesting to avoid, **9:21**
- Infringement, **9:20**

SUPPLEMENTAL JURISDICTION

- Development of law, **1:27**
- Infringement, **7:35**
- State court preemption, **10:27**

SUPPLEMENT DISCLOSURE

- Generally, **14:9**

SUPPLEMENTING REGISTRATION

- U.S. Copyright Office, **4:10**

SYNCHRONIZATION LICENSE

- Copyrightable matter, music, **2:7**

TECHNICAL DRAWINGS

- Visual arts, **2:54**

TELEPHONE

- Client interview and initial investigation, **3:4**

TELEVISION

- Film, Video, Television, Television Broadcasts and Satellite Transmissions** (this index)

TEMPORARY RESTRAINING ORDERS

- Generally, **12:6**

INDEX

TERMINATIONS

- Licenses, generally, **8:23**
- Litigation, title and ownership, **8:6**

TESTS AND TESTING

- Class actions, **11:9**
- Injunctions and seizures, **12:4**

THIRD PARTY BENEFICIARIES

- Arbitration clauses, ownership and licenses, **8:21**

THIRD-PARTY PRACTICE

- Answer, **13:7**

3D MODELS

- Copyrightable matter, computer-assisted design and 3D models, **2:60**

TIME AND DATE

- Calculating dates prior to commencing litigation
 - generally, **5:1 to 5:24**
 - checklist of calendar considerations, **5:24**
- Copyright Act of 1909, publication under, **5:6**
- creation date, determining, **5:3**
- duration of copyright
 - generally, **5:16 to 5:23**
 - calendar year, terms expire at end of, **5:18**
 - chart, **5:23**
 - expiration of protection, determining date of, **5:17, 5:18**
- January 1, 1950, and December 31, 1963, works originally copyrighted between, **5:20**
- January 1, 1964, and December 31, 1977, works originally copyrighted between, **5:21**

TIME AND DATE—Cont'd

- Calculating dates prior to commencing litigation—Cont'd
 - duration of copyright—Cont'd
 - January 1, 1978, works created on or after, **5:22**
 - prior to 1978, U.S. works protection, **5:19**
 - U.S. Constitutional basis, **5:16**
 - duration of copyright, below forms, checklist of calendar considerations, **5:24**
 - January 1, 1978 and after, determining date of publication, **5:4**
- Limitation of Actions** (this index)
 - Pre-1972 sound recordings not subject to analysis applicable to other works, **5:5**
 - publication, determining date of, **5:4 to 5:6**
 - registration, **5:1, 5:2**
 - timely registration, **5:2**
- Calendar year, terms expire at end of, **5:18**
- Chart, **5:23**
- Checklist of calendar considerations, **5:24**
- Client interview and initial investigation, **3:7**
- Constitutional law, **5:16**
- Copyright Act of 1909, publication under, **5:6**
- Copyright Term Extension Act of 1998, **1:8**
- Creation date, determining, **5:3**
- Development of law, **1:8**
- Duration of copyright. Calculating dates prior to commencing litigation, above
- Expiration of protection, determining date of, **5:17, 5:18**

TIME AND DATE—Cont'd

- Forms, checklist of calendar considerations, **5:24**
- Prior to 1978, U.S. works protection, **5:19**
- Publication, determining date of, **5:4 to 5:6**
- Registration, **5:1, 5:2**
- Sound recordings, **5:5**
- Statutes, **5:6**
- Timely registration, **5:2**
- U.S. Constitutional basis, **5:16**

TIME IS OF THE ESSENCE LETTER

- Client interview and initial investigation, **3:5, 3:31**

TIMELINESS

- Calculating dates prior to commencing litigation, **5:2**
- State court preemption, **10:16**

TITLE AND OWNERSHIP

- Generally, **8:1 to 8:6, App A2**
- Authorship disputes, **8:5**
- Choice of law, **8:3**
- Client interview and initial investigation, **3:2, 3:10**
- Copyrightable, dispute over, **8:2**
- Development of law, **1:14, 1:15**
- Foreign copyrights, **8:3**
- Heirship litigation, **8:6**
- Joint authorship disputes, **8:5**
- Limitation of actions, **5:7, 5:8**
- Records and recording, **8:7**
- 17 U.S.C.A. Ch. 2, **App A2**
- Termination litigation, **8:6**
- Transfers
 - generally, **8:19**
 - operation of law, **8:18**
 - patents, **8:19**
 - recording and disputes involving, **8:7**
- U.S. Copyright Office (this index)

TOLLING

- Limitation of actions, **5:11 to 5:14**

TOLLING AGREEMENT

- Limitation of actions, **5:12**

TORTIOUS INTERFERENCE

- State court preemption, **10:18**

TRADEMARKS

- State court preemption, **10:14**

TRADE SECRETS

- State court preemption, **10:17**

TRANSFERS

- Motion, **9:13**
- Title and ownership, **8:7, 8:18**
- U.S. Copyright Office, **4:15**

TRANSMISSIONS FROM SATELLITES

- Satellite Transmissions and Television Broadcasts (this index)

TRIAL MEMORANDA

- Evidence, **15:8**

TRIGGERING 30-DAY DEADLINE

- State court, removal of cases, **10:4**

UNCLEAN HANDS

- Answer and defenses, **13:54**

UNDERLYING RIGHTS

- Copyrightable matter, film, television and video, **2:26**

UNDESIRABLE MATTERS

- Client interview and initial investigation, **3:3**

UNJUST ENRICHMENT

- Scope of damages avoided costs, **17:9**

URGENT INJUNCTIVE RELIEF

- U.S. Copyright Office, **4:19**

INDEX

U.S. COPYRIGHT OFFICE

Generally, **4:1 to 4:20, App A7**
Amendments, **4:10**
Applications, **4:20**
Certificates and certification, **4:7, 4:12**
Collections of work, registration of, **4:18, 4:21**
Competing claims, **4:17**
Copies, **4:12, 4:17**
Correcting ownership and registration records
generally, **4:9 to 4:17**
amendments, **4:10**
certified copies, **4:12**
competing claims, **4:17**
derivative works, **4:14**
foreign copyrights, **4:16**
mistake and error, **4:10**
previously unregistered work, **4:9**
refusal to register, **4:11**
supplementing registrations, **4:10**
transfers, **4:15**
Derivative works, **4:14**
Development of law, **1:9**
Evidence, **4:3, 4:4, 15:14**
Expedited registration, **4:19 to 4:21**
Foreign copyrights, **4:16**
Forms, **4:8**
Infringement action, requirement of registration or refusal as prerequisite to, **4:2**
Injunctions, **4:19**
Inspection, **4:7**
Instructions to jury, **16:5**
Mistake and error, **4:10**
Multiple works registration, **4:18, 4:21**
Ownership, documenting, **4:1 to 4:3**
Pending acts and matters, **4:20**

U.S. COPYRIGHT OFFICE

—Cont'd

Previously
registered works, **4:5**
unregistered work, **4:9**
Records and recording. Correcting ownership and registration records, above
Refusal, **4:2, 4:11**
Registered works, **4:3**
Registration and deposit materials, obtaining
generally, **4:2 to 4:8, App A4**
correcting ownership and registration records, above
deposit material, generally, **4:5**
evidence, **4:3, 4:4**
filling out forms, **4:8**
inspecting claims in certificates of registration and evaluating surrounding circumstances, **4:7**
previously registered works, **4:5**
Registration of multiple works, **4:18, 4:21**
Special handling procedure for expediting new or pending registration applications for litigation, **4:20**
Standing to sue, **4:1**
Supplementing registrations, **4:10**
Title and ownership. Correcting ownership and registration records, above
Transfers, **4:15**
Urgent injunctive relief, **4:19**

U.S. CUSTOMS

Injunctions and seizures, **12:16**

U.S. GOVERNMENT AND CONTRACTORS

Infringement, **7:23**

USE

Client interview and initial investigation, **3:2**

USE—Cont'd

- Damages, **17:8**
- Defenses, **13:25 to 13:27, 13:30**
- Injunctions and seizures, **12:12**
- Licenses and licensing, **8:8**

UTILITARIAN ASPECTS OF WORKS NOT COPYRIGHTABLE

- Development of law, **1:17**

VACATE, MOTION TO

- Defenses, **13:40**

VALUE OF USE

- Damages, **17:8**

VENUE

- Copyright venue, **App A16**
- Court of claims, **App A17**
- Infringement, **7:8, 7:10, 7:33 to 7:36**
- Motion to Dismiss** (this index)
- Motion to transfer, **9:13**

VICARIOUS INFRINGEMENT

- Drafting caption and choosing defendants, **7:20**

VICARIOUS LIABILITY

- Damages, **17:19**
- Development of law, **1:24**

VIDEO GAMES

- Copyrightable matter, computer programs, **2:58**

VIDEOS

- Film, Video, Television, Television Broadcasts and Satellite Transmissions** (this index)

VISUAL ARTISTS RIGHTS ACT

- Development of law, **1:11**

VISUAL ARTS

- Architectural works generally, **2:49**

VISUAL ARTS—Cont'd

- Architectural works—Cont'd
 - drawings of architectural works, **2:53**
 - photographs of architectural works, **2:53**
 - registration, **2:50**
 - term of protection, **2:51**
 - works ineligible for registration, **2:52**
- Compilation works, **2:43**
- Copyrightable matter, **2:43 to 2:55**
- Drawings of architectural works, **2:53**
- Exceptions to registration, **2:46**
- Human skin, **2:55**
- Makeup, **2:55**
- Photographs of architectural works, **2:53**
- Registration
 - architectural works, **2:50, 2:52**
 - exceptions, **2:46**
 - sculptural works, **2:48**
 - visual arts, **2:44, 2:47**
- Sculptural works, **2:47, 2:48**
- Technical drawings, **2:54**
- Visual Artists Rights Act, **1:11**

VOLITION, LACK OF

- Defenses, review of, **13:36**

VOLUNTARY DISMISSAL

- Costs of action, **18:9**

WEBSITES

- Contributory and direct infringement, **2:64**

WELL-PLEADED COMPLAINT RULE

- State court, removal of cases, **10:6**

WILLFUL INFRINGEMENT

- Damages, **17:16**

WILLFULNESS

- Finding, instructions to jury, **16:7**

INDEX

WITNESSES

- Expert Witnesses** (this index)
- Fees, costs of action, **18:16**
- Infringement, testimony admitted as prima facie evidence of, **15:16**

WORK FOR HIRE

- Authors and authorship, **8:4**

WORK FOR HIRE—Cont'd

- Defenses, review of, **13:21**

WRITINGS

- Statute of frauds, reviewing defenses, **13:14**

WRONGFUL SEIZURES

- Injunctions and seizures, **12:7, 12:8**