Organizing Chaos and Law…

Managing Policy, Possibility, and (risk)?

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We are here because...
Life is about…

“Possibility and risk but not always in that order”
...and then there’s © law

the Exclusive Rights

• reproduction
• distribution
• preparation of derivative works
• public performance
• public display
© law probably oughta’ …

- Reflect fairness and balance in application and perspective
- Encourage and value the cumulative development of enduring knowledge
- Support opportunities to use protected works, new technologies, and the development of the “public domain”
- Not create a nation of scofflaws, lawbreakers, ne’er-do-wells, and “pirates”
limitations on Exclusive Rights

• Sec.107 - fair use doctrine
• Sec.108 - libraries & archives
• Sec.109 - transfer of copies
• Sec.110 - performances & displays
fair USE...

• common law… “[L]ook to the nature and objects of the selections made, the quantity and value of the materials used, and the degree in which the use may prejudice the sale, or diminish the profits, or supersede the objects, of the original work” Folsom v. Marsh, 9 F. Cas. 342 (No. 4,901) (CCD Mass. 1841)
“[F]air use doctrine … ‘permits [and requires] courts to avoid rigid application of the … statute when, on occasion, it would stifle the very creativity which that law is designed to foster… . The task is not to be simplified with bright-line rules, for the statute, like the doctrine it recognizes, calls for case-by-case analysis.”” Campbell v. Acuff-Rose Music, 510 U.S. 569 (1994).
Sec. 107 - the 4 factors

- Purpose and character of the use
- Amount of the portion used
- Nature of the copyrighted work
- Effect on the value or potential market
A.V. v. IPARADIGMS, 562 F.3d 630 (4TH Cir. 2009)
MetaArchive…

• Cooperative Charter
  – establishes governing structure and framework for membership organization
  – the legal entity

• Membership Agreement
  – the legal agreement
  – “incorporated by reference herein”
  – some contract questions…
    • rights
    • responsibilities
  breach, disruption, and bye-bye