

**Copyright Society of the USA
Mid-Winter Meeting**

**Feb 4-6, 2011
Santa Fe, New Mexico**

Friday, February 4

2:30 pm – 4:00 pm

Cutting Edge: What's Hot and New in Copyright

Panelists:

Sherry Burr, *Professor, University of New Mexico School of Law*

Marsha Baum, *Professor, University of New Mexico School of Law*

“Cutting Edge: What’s Hot and New in Copyright”

by

Marsha L. Baum, Regents Professor of Law, and Sherri L. Burr, Dickason Professor of Law
University of New Mexico School of Law

Professor Marsha Baum teaches Property, Intellectual Property, Ethics, and Commercial Law at the University of New Mexico School of Law in Albuquerque. Baum has been on the faculty at UNM for over a decade with previous academic experience at the University of South Carolina, University of Connecticut, University of Minnesota, and SUNY at Buffalo. Baum’s J.D. is from SUNY at Buffalo and is a member of the NY bar. Baum also has degrees from Columbia and the University of Rochester.

Professor Sherri Burr, a graduate of Yale Law School and member of the California bar, has taught at the University of New Mexico for over 23 years. Her current courses include Intellectual Property, Art Law, Entertainment Law, International Entertainment Law, and Wills & Trust. She is the author or co-author of 14 books including the 2010 *Art Law: Cases and Materials* (Aspen) and *Entertainment Law: Cases & Materials in Established and Emerging Media* (West 2011). Burr is also the producer and host of *Arts Talk*, a Comcast cable access television show.

The presenters will discuss the following copyright cases that have been decided since 2010.

Baum will discuss:

Lahini v. Universal Music and Video Distribution, 606 F. 2d 1216 (9th Cir. 2010) (attorney sanctioned for frivolous claim).

Maverick Recording Co. v. Harper, 598 F. 3d 193 (5th Cir. 1020), *cert. den.* 131 S.Ct. 590 (2010) (damages and innocent infringer status in audio file downloading).

RIAA v. Librarian of Congress, 608 F. 3d 861 (D.C. Cir. 2010) (appeal of Copyright Royalty Board order instituting late fee for late payments of royalties and royalty structure for ringtones).

Penguin Group(USA) Inc. v. American Buddha, 690 F.3d 30 (2d Cir. 2010) (long arm jurisdiction for Internet).

Brayton Purcell v. Recordon & Recordon, 606 F. 3d 1125 (9th Cir. 2010) (jurisdiction and Internet).

Mon Cheri Bridals v. Wen Wu, 383 Fed. Appx. 228 (3d Cir. 2010) (copyrightability of designs on clothing).

Montz v. Pilgrim Films, 606 F. 3d 1153 (9th Cir. 2010) (federal preemption).

Salinger v. Colting, 607 F. 3d 68 (2d Cir. 2010) (infringement).

Stephens v. Hayes, 374 Fed. Appx. 620 (6th Cir. 2010) (fair use of excerpts in parental rights termination case).

HarperCollins Publishers v. Gawker Media, 721 F.Supp. 2d 303 (S.D.N.Y. 2010) (*Harper & Row v. Nation* redux).

Burr will discuss

Allen v. Scholastic Inc., 2011 WL 43448 (S.D.N.Y. Jan. 6, 2011) (granting Scholastic's summary judgment motion against Allen who, in his capacity as the trustee of Adrian Jacobs' estate, claimed copyright infringement from the 2000 publication in the United States of J.K. Rowling's *Harry Potter and the Goblet of Fire*. Allen alleged that *Goblet of Fire* unlawfully used protected expressions from Jacob's *The Adventures of Willy the Wizard- No 1 Livid Land* published in the United Kingdom in 1987.)

Cabell v. Sony Pictures Entertainment, Inc., 714 F.Supp.2d 452 (S.D.N.Y. 2010) (holding that the character and plotline in the feature film *You Don't Mess With the Zohan* was not substantially similar to plaintiff's character and plot line in his novel, comic books and related works, thereby precluding copyright infringement claim. In the follow-up case *Cabell v. Sony Pictures Enterprises, Inc.*, 2011 WL 92765 (S.D.N.Y. Jan. 7, 2011), defendant's requests of \$568,485.63 in fees and \$767.78 in costs was reduced to a total of \$1,000 in light of plaintiff's impoverished status.

Glass v. Sue, 2010 WL 4274581 (C.D.Cal. Oct. 22, 2010) (granting summary judgment on five of plaintiff's six claims that Wiley & Sons infringed her copyrights by writing and publishing, "Toxic People, Decontaminate Difficult People At Work Without Using Weapons or Duct Tape," and infringed her trademark, "Toxic People," by using the same phrase across a variety of goods and services).

Gnat Booty Music v. Creative Catering of Wadhams, LLC, 2011 WL 43427 (E.D.Mich. Jan. 6, 2011) (granting summary judgment and awarding statutory damages to Gnat Booty Music et al., which alleged that Creative Catering had, through its use of a hired disc jockey, publicly published or played some of their musical compositions without authority).

Massachusetts Museum Of Contemporary Art Foundation, Inc. v. Büchel, 593 F.3d 38 (1st Cir. 2010) (holding that the artist Christoph Büchel's football-field-sized art installation entitled "Training Ground for Democracy, although unfinished, was entitled to protection under VARA, however the Museum's covering installation with tarpaulins, after the artist refused to finish the work, did not violate 's Büchel right of integrity under VARA and the Museum's exhibiting the installation in its unfinished state did not violate Büchel 's right of integrity under VARA).

McNunigal v. Bloch, 2010 WL 5399219 (N.D. Cal. Dec. 23, 2010) (dismissing with prejudice a law professor's complaint against another law professor over their failure to come to an agreement to sever their joint authorship of a criminal law casebook).

Reed Elsevier, Inc. v. Muchnick, 130 S.Ct. 1237 (2010) (holding that the Copyright Act's registration requirement is a precondition to filing a copyright infringement claim that does not restrict a federal court's subject-matter jurisdiction with respect to infringement suits involving unregistered works).

Sheldon Abend Revocable Trust v. Spielberg, 2010 WL 3701343 (S.D.N.Y. Sept. 21, 2010) (partially granting summary judgment for a claim that the motion picture *Disturbia*--a film produced by Spielberg, --infringed upon Plaintiff's copyright in the short story *Rear Window* and the Alfred Hitchcock film).

Viacom Intern. Inc. v. YouTube, Inc., 718 F.Supp.2d 514 (S.D.N.Y. June 23, 2010) (interpreting whether defendant is entitled to protection under the Digital Millennium Copyright Act's "safe harbor" provisions because they had insufficient notice of the particular infringements in the lawsuit).