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Journal of Intellectual Property Law

Volume 17

Issue 1 *Symposium - The Changing Face of
Copyright Law: Resolving the Disconnect
Between 20th Century Laws and 21st Century
Attitudes*

Article 5

October 2009

Copyright--My Story: A One-Woman Play

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Recommended Citation

Corey Field, *Copyright--My Story: A One-Woman Play*, 17 J. INTELL. PROP. L. 35 (2009).

Available at: <https://digitalcommons.law.uga.edu/jipl/vol17/iss1/5>

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COPYRIGHT—MY STORY: A ONE-WOMAN PLAY

Corey Field*

SETTING: The stage evokes a timeless, mysterious, and forgotten place, suggestive of a deep and mysterious cave, or of an isolated, magical, otherworldly location that exists apart from time, or suggestive of the deep recesses of the mind. The stage is dark but there are one or more large black or gray translucent rear-projection screens upon which multiple photographs of beautiful and graceful prehistoric cave paintings (from the Chauvet cave in France) are rear-projected in slow sequence as the audience enters the theatre, giving the appearance of actually being in a prehistoric cave. The sound of wind blowing is in the background, as might be heard from inside a cave in the dark of night, swelling and subsiding in turn. In contrast to the generally timeless setting, a few pieces of comfortable and simple furniture are on stage, including a padded armchair, next to which is a small side table upon which rests a white candle in a small, unadorned candle holder, a clear glass pitcher of water and an empty water glass, and two books. Next to the side table there is a couch. There is also an armoire facing the audience at an angle, inside of which are several props used during the play. However, the angle of the armoire doors does not let the

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Corey's first career, before becoming an attorney, was as an executive in the international music publishing industry. He attended Widener University School of Law while working full time in the music industry, where he graduated cum laude and served on the Delaware Journal of Corporate Law. He also holds a Doctorate in Music Composition from the University of York, England, and a B.A. in Music from the University of California at Santa Barbara. He is the author of several published and recorded musical works, and the editor of The Musician's Guide to Symphonic Music. *Copyright—My Story* is a play with an underlying plot structure that references the origins and basic principles of copyright law, with an emphasis on how the law fosters and protects creativity. For those interested in the legal underpinnings, footnotes are provided. Any opinions expressed are solely those of the play's central fictional character and do not necessarily reflect the opinions of the author or anyone else.

*audience see what is inside. As the audience enters, minimum house lighting should be used, so that the audience, as it waits for the production to begin, experiences the feeling of actually being in the cave, admiring the shifting panorama of prehistoric cave paintings, and listening to the howling wind.*¹

TIME: Although the play takes place in a timeless, surreal place, the actual time, and many of the references, are to the present day.

As the play begins, the house lights dim to black and the only light is from the illuminated cave art. A WOMAN enters slowly from stage right carrying a lit candle in a candle holder and protecting the flame from the winds with her hand. SHE is middle aged, graceful and dignified, dressed in flowing cloth and soft shoes suggestive of ancient times. At first SHE speaks in grand, flowing, rhetorical phrases, Shakespearean in tone and weight. SHE stops center stage and gazes up at the paintings. SHE slowly raises her other hand towards them, as if to touch them and caress them. SHE lowers her hand slowly, as the sound of the winds dies away and all is silent. Slowly SHE turns towards the audience.

WOMAN. (Speaking slowly, almost as if in a trance.) I was born in a cave such as this. Time did not exist. Thoughts did not exist. Memories did not exist.

(Looking at candle flame.) Only fire was truth. (Passing hand over the flame to sense the warmth.) Only the warmth of fire was real.

In those times, before consciousness, all of mankind together could not summon up even one spark of creativity, one bright explosion in the brain that could make thoughts and memories come into being. Mankind still awaited the time it would awake and be able to harness the heat of the universe inside our minds, the stars and galaxies and eternities within us that cannot only create time, but stop it. For millennia, mankind awaited that infinitely small, hot, bright, and dense flame of creativity, that spark, that was waiting to explode into consciousness.

It was heat and flame that gave birth to these paintings. The first person to feel the heat of creativity within her used fire itself to express herself. The charcoal from the fire has adorned these walls, unseen, for 32,000 years. But mere flames are nothing compared to the white hot spark that ignited the mind of mankind that mighty day, the day that creativity was born . . . here, in this cave.

(Looking at the paintings.) Look at the grace, the beauty, the perspective, the movement. Look at this utter, white-hot masterpiece that set mankind on the path of creation, the moment that awakened our thoughts, and minds, and hearts, and

¹ See generally JEAN-MARIE CHAUVET, ELIETTE BRUNEL DESCHAMPS & CHRISTIAN HILLAIRE, *DAWN OF ART: THE CHAUVET CAVE* (1996) (including description and photos of magnificent earliest known cave art, some works estimated to be approximately 32,000 years old).

made gods of all of us by giving us the power to create. Kneel before the beauty, the truth, the light, the heat, of the moment mankind's creativity was born.

(Overcome, SHE at first kneels as if in silent and deep prayer, putting the candle on the floor, then raises her arms to the image, then spreads them wide in worship, palms facing the images.)

(After a moment, SHE rises from her worship of the paintings, and blows out the candle. As the candle goes out, the back projection screens go dark as well. At the same time, the stage lights gradually come up, using light to slowly transform the setting from the cave to the area with furniture. SHE puts the candle on the table, where there is also a second candle, unlit.)

(SHE is obviously a bit shattered, moved, and trying to recover. SHE goes to the armoire with determination, opens the doors, and brings out a wine glass and bottle. SHE pours a glass of red wine, puts the bottle on the table, and turns to the audience with the glass in her hand. SHE is suddenly more lighthearted in her gestures, more conversational, more "normal.")

I don't know about you, darlings, but I could use a drink. *(SHE drinks. SHE sits in the armchair, pausing for a moment to regard and enjoy the wine silently as if reviewing the previous moments, before engaging the audience in conversation.)*

I was there, on that day, in this cave, 32,000 years ago, the day that creativity was born. And yes, yes, yes, sweeties, I do know I look great for my age. *(SHE toasts the audience with her wine glass and drinks.)*

What a magnificent, beautifully cataclysmic moment it was. Can you imagine, duckies? There I was, waiting, waiting, and waiting for what seemed like eternity, for the "Big C," "creativity," to finally arise on planet earth. I mean, I may be the eternal, living embodiment of creativity, but I still have to wait until SOMEBODY actually gets creative. I myself am no more than what you might call a cosmic cheerleader. *(SHE leaps up, suddenly like a crazed cheerleader).* Give me a C! Give me an R! Give me an E! Give me an A! Give me a T-I-V-I-T-Y! What's that spell?! What's that spell?! What's that spell?! *(SHE laughs at the silliness of the cheer, plops down in the chair, and drinks again.)*

You see, my pumpkins, my whole existence is all about creativity. I like to refer to myself as the "Gorgeous Glamorous Goddess of Creativity." *(SHE caresses her body and gently sways her hips, channeling a movie star.)*

Anyway, my sweet ones, the one thing that's such a shame is that the artist of the cave, who could draw anything so beautifully, did not bother to actually draw any people! Prehistoric animals depicted in glorious beauty, but not one human face to gaze upon us across the centuries. Can you imagine how glorious that would have been, to have a beautiful portrait of someone from 30,000 B.C.? In this case it would have been especially sweet to have a self-portrait. You see, my lovelies, the first member of the human race who saw the world as a creative artist was *not* a man.

The first artist the world ever knew, my precious artist in the cave, was a young woman. Poor little flower, what a life she had. How lonely, to wake up one day

with modern consciousness and the mind of a genius, and absolutely nobody understands. How lonely to feel love as we feel it, with no hope of it being returned. How lonely, to be a genius such as she, to be the vessel of all the beauty that mankind is capable of, yet to live without one other kindred soul to comfort you. To love you in return. To feel and think as you do. How solitary it is, to be a true “star,” shining brightly in the dark vacuum of the cold heavens. For her, only fire, and heat, provided solace, and warmth. (*SHE contemplates the now unlit candle on the table, passing her hand over it as if remembering the heat that was formerly there.*)

You’re probably wondering why I summoned you here tonight, to my cave. *Au contraire* my friends. It is you who have summoned me. You sense disquiet among your creative brethren, the poets, musicians, artists, writers . . . all those whom I adore and try to look after. All those for whom I am their patron saint. All those who have that “spark” born in the cave, and who create beautiful things: songs, stories, illustrations, movies, books, software, sculpture.

Those who are descended from Shakespeare, Beethoven, Mozart, Rembrandt, Michelangelo, Dickens, Picasso, Stravinsky. And those who were equally great, but whose time on earth was too short, or too tragic, to allow their genius to blossom. As you know, all good things come in time. Great things come in lifetimes. Beyond lifetimes, the creative heart beats as warmly for those who fail to win fame and fortune. Those who nonetheless send their art, and their love, to the stars.

I have been here for an eternity. I was there at the birth of the first artist, and ever since have been looking after them, guiding them, helping them find inspiration, making them wine to celebrate the creation of their works, and sometimes, to celebrate their fame.

I was there at their deaths, and tasted the bitter tears of their loved ones, departing from them and this world forever. I see their souls even now, floating high above the earth, forming a ring of souls that keep love in our hearts and prevent it from escaping into the darkness of the universe. Their love is gravity itself, hovering over us, binding us to this world, until we are reunited with them. (*SHE is very moved, staring out into space with arms outstretched.*)

(*SHE goes to the armoire and takes out a guitar. SHE caresses the guitar and hugs its curves as if it is a living person. SHE looks at it as SHE speaks, clearly personifying the guitar as the creative artist SHE brought into being, her “Artsie.”*)

They are alive to me, always. I call them my “Artsies.” My creative artist darlings. Not even their death can end my love for them. (*As SHE speaks, SHE solemnly lays the guitar down on the couch, on its side, with the strings facing the audience, as if laying a person down.*) Poor, poor Artsie. Such a difficult journey when the gods grant you the gift of creativity.

You summoned me to give you the truth about something. For a tiny fraction of the existence of the universe, in one small part of the cosmos, the United States

of America has been passing laws known as “copyright law.”² Truly, duckies, I must laugh at this whole silly concept of a “law” that applies to my Artsies. They don’t need any law! They have *me!* (*Arms outspread as if acknowledging applause in a sweetly self-absorbed way.*)

But tell me, my lotus blossoms, why would such a law be hard to understand? It’s all so simple! Isn’t it, darlings? Just protect whatever Artsie does, and let Artsie eat! Goodness, eight words! Isn’t that enough? These are my “Eight Copyright Words to Live By”: (*Announcing the following words as if making an important public proclamation.*) “Protect whatever Artsie does, and let Artsie eat!” For goodness sake, it’s shorter than the Ten Commandments! How difficult can this be?

(SHE sits. Heavy sigh.)

Well, as you can imagine, nobody listens to me when it comes to lawmaking or how to write copyright law. Here in the United States, copyright law at least started out nice and simple. Whoever wrote the United States Constitution was smart. They took a simple concept of protecting creative works and let Congress figure out the details from there. Here’s all the Constitution had to say on the subject: (*SHE takes a scrolled copy of the United States Constitution out of the armoire, unfurls it, and reads the following quote like a proclamation.*)

The Congress shall have Power . . . [t]o promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.³

Sweet! Nice and short! Crystal clear, no? (*SHE looks to the audience for affirmation, nodding her head, but does not find it, and eventually is shaking her head in some small state of confusion.*)

Ever since then, Congress has been writing and rewriting copyright law, starting with the first Copyright Act in 1790.⁴ This thing, “Congress,” is the legislature.⁵ Where elected officials write the laws of the land. I love those Senators and Congressmen. Since they write legislation, I like to call them “Leggie” for short.

(SHE takes a large cowboy hat out of the armoire and a cloth that has the image of the United States flag on it, either a shawl or blanket in the pattern of a flag. SHE puts on the hat, and drapes the cloth over one shoulder in a jaunty manner, perhaps tucked into her belt.)

² See 17 U.S.C. §§ 101–1322 (2009).

³ See U.S. CONST. art. I, § 8, cl. 8.

⁴ See Act of May 31, 1790, ch. 15, 1 Stat. 124.

⁵ See U.S. CONST. art. I.

Leggie has been so hard at work over the centuries, that the United States Copyright Act now is as long as an entire book!⁶ (*SHE picks up one of the books on the table, an official copy of the Copyright Laws of the United States, and waves it in her hand.*) And here it is! Can you believe this, sweeties? Instead of my eight word copyright law, it's a whole book! Has Leggie gone insane? What has Leggie done to Artsie in this gigantic book, this Copyright Act? Poor Artsie! How on earth did this happen? How did we get so far from "Protect whatever Artsie does, and let Artsie eat!"

Well, I may have been in a cave for the last 32,000 years, but I do know a thing or two about legislation. In fact, being ancient and from a remote cave might even be a great qualification to write legislation. (*SHE adjusts the hat.*)

First of all darlings, it turns out that lots and lots of people have differing points of view about how Leggie should write laws! Imagine! I thought that Leggie just wrote the law based on what the Constitution says the law should contain, and that's that! But nooooooooooooo. Poor Leggie has to hear the views of everyone. Try to get everyone's wishes into the law. Write, and rewrite, and hold hearings and meetings. With that system, it's no wonder the law has so many words. It seems like it includes just about everyone's point of view! And the end result sometimes seems to be that nobody is happy with the way the law turned out, precisely because the law has more than one point of view!

Of course, my darling sweet Artsies try to put their views forward as well, but the poor snookums just don't seem to be listened to all that much by Leggie. Even if Artsie is famous and good looking, and can get Leggie's photo in the newspaper, it's hard for Artsie to be heard.

Leggie also has to listen to the businesses that use Artsie's creations, the publishers and music companies and movie companies that also want Leggie to include their points of view in copyright law. Also the high technology industries, the ones that own the internet! Even the general public are demanding to be heard, because once the public got onto the internet, they were personally affected by copyright law, and were really astonished to find out most of what they enjoyed on the internet was copyright infringement. SURPRISE!⁷

Sweeties, with all those players at the table, it's a wonder that the Copyright Act (*SHE holds up the Copyright Act book.*) is not longer than it already is. Poor, poor Leggie! Silly Leggie! No matter what choices Leggie makes about copyright law, somebody is going to be very unhappy. (*SHE drapes the flag cloth over one of the arms*

⁶ See 17 U.S.C. §§ 101–1332 (2009).

⁷ See *Metro-Goldwyn-Mayer Studios Inc. v. Grokster, Ltd.*, 545 U.S. 913 (2005) (holding that online contributory copyright infringement occurs where provider of new online file sharing technology affirmatively induces infringement).

of the couch and the hat over the cloth. From the armoire, SHE takes out the sunglasses and gigantic cigar but conceals them for the moment.)

I want to make one teensy weensy point about the businesses that Artsie works with, you remember, the publishers, music companies, movie companies, and so on? Why do so many people see them as the bad guys?

I will grant you that these media and publishing companies often have very powerful, important, intelligent, and fiscally motivated ex-ec-u-tives (*SHE emphasizes each syllable.*) working there. I like to call them “Zeckie” for short. “Ex-ZECK - u - tive.” Sweet, dear, Zeckie! (*SHE puts on the sunglasses and holds out the cigar as if enjoying the enormous stogie.*)

Well, some people might leap to conclusions and think that Zeckie is always a bit greedy, because Zeckie’s companies use Artsie’s beautiful creative works, and sometimes Zeckie gets really rich while Artsie sometimes doesn’t really get paid very well in return. You know, some people only see a cliché: rich Zeckie and starving Artsie. Like all clichés, sometimes there is a grain of truth. Poor Artsie.

Well, kittens, I really must put in a good word for Zeckie, because when Zeckie and Artsie work well together, it’s a beautiful thing. Zeckie puts up all the money to bring Artsie’s work to the public. Often Zeckie gives Artsie money to live on while Artsie creates more works. Sometimes, Zeckie even loses a ton of money! And so long as Artsie has a decent financial deal with Zeckie, and Zeckie is fair to Artsie, and Zeckie pays Artsie like Zeckie should, then Artsie will share in the success and be able to concentrate on more creativity. Once in a blue moon, Artsie might even make as much money as Zeckie! Yay!!!! (*SHE jumps up and down, arms in the air incredibly happy.*) Artsie won’t have to go to work at a job that leaves no time for creativity. And in that case, my eight word copyright law works perfectly: “Protect whatever Artsie does, and let Artsie eat!” (*SHE puts the sunglasses and cigar on the couch, goes to the armoire, and takes out a laptop computer and a small blanket. SHE opens the laptop, wraps it in a blanket, and cradles the opened laptop in her arms like a baby.*)

You know, honeybuns, there is more than one way to look at the high-technology crowd, my “Techies.” I just love my Techies. They are sooooo cute! They love love love love machines, and computers, preferably machines that are computers. (*Talking to the laptop computer like it’s a baby.*) Don’t you, little one? Google google google google google google google google google! (*SHE is speaking the word like nonsensical baby talk addressed to the laptop cradled in her arms as if it’s a gurgling baby. SHE tickles the laptop under its “chin” and generally treats it like a baby.*) My Techie-weckies are also soooooo creative! Software is copyrightable. Computer games too! I love my widdle iddy bitty Techie!

Techie is great! Techie can help Artsie reach everyone in the world on the internet! Artsie can use Techie to bring Artsie’s lovely creativity to everyone!

Everyone in the world can be in awe of my Artsie's genius! Yay!!!! (*SHE smiles at the laptop-baby, cheering with it.*)

The only slight problem is that Techie sometimes makes Artsie's life, and even Zeckie's life, sooooooo miserable. Techie can let people do whatever they want to with Artsie's works! Techie is magic! Even if Artsie and Zeckie want to make a living and have people pay some money for their creative works of art, Techie makes it possible for everyone to get stuff for free! Music! Films! Software! Photos! Books! Artsie can't stop Techie! Zeckie can't stop Techie! Even Leggie can't stop Techie!!! (*In mock horror, now holding up the laptop as if it has turned into some sort of monster. SHE then puts the laptop on the couch, throws the blanket over it, and forms her fingers into a protective sign of the cross, as if the laptop is now a vampire.*)

Nooooooooooooooooo! (*SHE throws herself over the guitar as if protecting it from a blast, turning her back towards the offending laptop.*)

(*After a moment, SHE looks up, as if surveying a post-apocalyptic landscape, and eventually fixes her gaze upon the audience.*)

Isn't it so so sad, my loves? We all love Artsie's work. And yet, sometimes, all of us hurt the thing we love. We can't help it. Sometimes we love it too much. We are addicted to beauty, to art. We starve without it. Like starving men who need bread, we need beauty to feed to our souls. (*SHE reaches into the armoire and takes out a large, round, golden, crusty loaf of fresh bread. SHE holds it as something unspeakably precious. SHE breaks the loaf in two, exposing its center, and plucks a piece from the center, eating it with eyes closed and immense satisfaction and relief. SHE puts the two halves of bread on the table.*)

(*SHE goes to the armoire, and takes out a red shawl, on the center of which is a large red heart. SHE opens the shawl so the audience can see the heart, then drapes it tenderly over her shoulders, kissing it once, tenderly, as SHE does.*)

(*Addressing the audience.*) You see, lovies, we both love Artsie, you and I. I like to call all of you my darling "Lovies." Poor sweet Lovies, how could you possibly be expected to be "free" and what isn't when everything seems to be available so easily? And how could poor Lovie know the difference between "sharing" something Lovie loves with her friends on the internet, and stealing Artsie's work? Even Leggie and Zeckie and Techie and Artsie can't always agree on what copyright law is. Poor Lovie, what a shock to discover you are a copyright infringer! And so many of you are, my Lovies. So many of you are eating Artsie's bread. There's none left for Artsie. (*Wisfully, remembering.*) "Let Artsie eat . . ."

(*SHE uncovers the still-open laptop, and wraps the blanket around it on the couch, nestling it among pillows.*)

Google google google google google! (*Talking baby talk to the laptop, smiling. SHE slowly removes the red shawl from her shoulders, and drapes it over the back of the couch, with the heart visible.*)

When people fight over the law, they go to court. In the courtroom, there is a Judge. My dear sweet “Judgie.” Poor Judgie! When Leggie is busy writing copyright law, after Leggie is done listening to Artsie and Zeckie and Techie and Lovie (*SHE gestures, in turn, to the cowboy hat, guitar, sunglasses, blanket covered laptop, and red heart shawl.*), and finishes writing the oh so all-encompassing copyright law of the United States, and once both houses of Congress vote on it and approve it, and once the President of the United States signs the legislation into law, that’s only the beginning! That’s just the law they passed! The hard part is getting everybody (*SHE gestures to the entire couch full of props.*) to pay attention!

But what if someone doesn’t pay attention? What if someone doesn’t play by the copyright rules? What if someone just does what they want to with poor Artsie’s creations, takes them against Artsie’s objections? (*SHE takes a judge’s gavel and black judge’s robe out of the armoire and calmly puts on the robe.*)

Copyright law, dear honeybuns, is the law that says that creative works are something that can be owned.⁸ Something that, even though you can’t touch it or physically feel it, like a beautiful piece of music, can still be someone’s property.⁹ Imagine that—property that’s not a thing you can touch, or a piece of land you can stand on, but something beautiful that springs from someone’s dreams. So beautiful it is, this property borne of dreams. Copyright is the law of dreams. . . . (*SHE speaks this last line slowly, inspired.*)

Oh I know, some of those beautiful things were created so long ago, by people who died so long ago, that now, they are no longer protected by copyright.¹⁰ They belong to us all. They belong to the public. They are in the public domain. Or sometimes creative works are not protected by copyright law when they are in special categories described in the deep dark recesses of copyright law, or for other reasons Leggie comes up with, or Judge decides.¹¹ Copyright law can be soooooo complicated when it comes to figuring out which works it still protects, and which works it does not protect, works that are in the glorious “public domain,” available for all of us to use any way we like!

But most works created in more recent times, and works created by people who are still living, are protected by copyright law. They are protected from the moment of creation, then for the life of the author, plus seventy years.¹² So for that length of time, they are someone’s property. Someone’s copyright.

⁸ See *id.* § 201 (“Ownership of copyright.”).

⁹ See *id.* § 202 (“Ownership of copyright as distinct from ownership of material object.”).

¹⁰ See *id.* § 302 (“Duration of copyright: Works created on or after January 1, 1978.”); see also *id.* § 303 (“Duration of copyright: Works created but not published or copyrighted before January 1, 1978.”); *id.* § 304 (“Duration of copyright: Subsisting copyright.”).

¹¹ See, e.g., *id.* § 105 (“Subject matter of copyright.”).

¹² *Id.* § 302.

So Artsie's beautiful works are either owned by Artsie when she creates the work, or, a bit later, they are owned by Zeckie, if Zeckie later buys the creative work from Artsie.¹³ The owner of the copyright can sue in federal court when she thinks her rights have been violated, or infringed, by someone.¹⁴ That someone is called a copyright infringer.

That's where my dear sweet Judgie has so much work to do in court. Judgie is sort of like the referee for the fight that takes place in court. Sometimes, Judgie even decides important things like who wins, and how much money the loser must give the winner.¹⁵ Sometimes Judgie even has to decide whether the Copyright Act dear Leggie wrote actually makes any sense.¹⁶

Dear sweet Judgie! Judgie helps Artsie! Judgie helps Zeckie! Judgie helps Techie! Judgie figures out what Leggie is trying to say! Most of the time, when Judgie helps Artsie, I loooooove Judgie! (*SHE hugs the gavel. SHE picks up the guitar in her other hand, and has the gavel and guitar engage in mock kisses, with her supplying the kissing sounds each time the gavel and guitar meet.*) Kissie! Kissie! Kissie! (*SHE puts the guitar and the gavel back on the couch, and carefully removes the robe, draping it gently over the curve of the guitar, but not covering the entire guitar.*)

You see, my little apple blossoms, my Artsie creates beautiful things for Lovie, and Zeckie helps Artsie earn enough money to eat, and maybe lots more money, so Artsie can keep creating beautiful things, and Techie is an enormous help, what with CDs and television and movies and the internet and computers and mobile phones, but sometimes Techie lets Lovie get Artsie's beautiful works without paying, when Artsie really would rather eat, and sometimes Zeckie is unfair to Artsie, and sometimes Leggie tries to get everyone in a room together to write a law that solves everything, and sometimes that works and sometimes that really does not work, and sometimes Judgie has to help Artsie, so Artsie can eat, and sometimes Judgie helps Zeckie, and sometimes Judgie helps Techie, and sometimes Judgie helps Lovie, and sometimes Judgie listens to Leggie and sometimes Judgie does not listen to Leggie. Actually, Judgie is sometimes unpredictable, I suppose.

(During this speech, SHE tries to touch each of the props related to each "character," her touches start out affectionately, then become robotic as SHE becomes increasingly confused, and disoriented, and in an unstable whirl. By the end SHE is holding her forehead as if overwhelmed

¹³ See *id.* § 204 ("Execution of transfers of copyright ownership.").

¹⁴ See *id.* § 501 ("Infringement of copyright.").

¹⁵ See *id.* § 502 ("Remedies for infringement: Injunctions."); *id.* § 503 ("Remedies for infringement: Impounding and disposition of infringing articles."); *id.* § 504 ("Remedies for infringement: Damages and profits."); *id.* § 505 ("Remedies for infringement: Costs and attorney's fees.").

¹⁶ See, e.g., *Eldred v. Ashcroft*, 537 U.S. 186 (2003) (reviewing constitutionality of Copyright Term Extension Act).

and frustrated. SHE collapses in front of the couch with arms outspread over the couch, as if trying to touch all the props at the same time with outstretched arms, but exhausted from the effort.)

(SHE stumbles towards the armoire, and takes a bottle of prescription pills out of it, noisily shaking the bottle so its contents are obvious, SHE clutches the bottle to her breast, and stumbles toward the armchair, falling into it. On the side table is a pitcher of water and a glass. SHE pours the water into the glass, noisily opens the bottle of pills with much rattling of the pills, and eventually takes one pill and swallows it with a big noisy gulp of water, followed by a sigh and a gasp, and the onset of relaxation.)

(After a moment, SHE takes an iPod out of one of her pockets, and puts the earbuds into her ears as SHE starts up the device. SHE returns to the chair, obviously enjoying some music, happy and smiling, moving her body in time to the unheard music. After a few moments, SHE notices the audience, and seems surprised. SHE removes one of the earbuds and holds it with outstretched arm to the side of her head. SHE speaks in that overly loud semi-shouting voice used by people who have earbuds in their ears.)

WHAAAAT? WERE YOU TALKING TO ME? I COULDN'T HEAR YOU. OOPS! SO SORRY!

(SHE realizes that the earbuds have made her disconnected from the audience, and gestures to the audience with one index finger held up as if to say "just a moment," and turns off the iPod, and takes out the other earbud.)

Oh! Forgive me my little apple blossoms! Sometimes the best thing in the world is just me, and my Artsie, and nothing else.

(SHE takes another drink out of the glass of wine. Sighs. Puts the iPod in her pocket and drapes the earbud wires around the back of her neck, but not back in her ears.)

(SHE snuggles onto the couch, and arranges the guitar, the judge's robe, the red heart shawl, the flag shawl, the laptop, and the blanket around her as if they are warm living things, very cozy, as SHE hugs them, like children about to hear a bedtime story. SHE picks up the Copyright Act book and fans through its many pages. SHE settles in at the beginning of the book and starts to read silently to herself. SHE is clearly enjoying the book, starts to giggle at a passage, then looks very concerned as SHE turns the page, as if the book takes a dramatic turn. Clearly it's a fascinating, dramatic, and funny book.)

You know, darlings, the Copyright Act is truly a fine read. Soooooo dramatic! So, how shall I put it, so "Promethean!" As if the gods themselves gave us the recipe for creation! Zowie! Also, it's sooooo comedic! Descriptions of what to do and not to do that must surely be satirical, I mean they can't actually mean all this stuff, can they? Do this, don't do that. Maybe do this, maybe do that! Wow! Ha! I love this story! Why look right here on page one where it says . . .

(SHE is suddenly interrupted by the sound of a cell phone ringing. Out of her pocket SHE produces a PDA phone with mini keyboard for thumb texting.)

Hello? Hi! Huh? Really? Yep. OK. Uh-uh. Hmm. Right. No. OK. OK. OK. Luv ya!

(SHE begins to furiously type with her thumbs on the mini keyboard of the PDA. As SHE types, SHE alternately smiles, giggles, looks concerned, grunts, looks to the ceiling, shakes her head, nods her head.)

(Speaking like a stereotypical young teenage girl.) OMG! That was my BFF. She just sent me a top secret link to my favorite new movie, even though it hasn't been released on DVD yet. I can watch it on my computer for free! Yippee!! *(Suddenly realizing what SHE is proposing might be wrong.)* Of course, I texted her back to tell her that is soooooooooo not cool. Sooooooo infringing copyright.

(SHE looks around furtively, grabs the laptop, opens it, and types some commands. We hear the sound of film dialogue and background music. SHE settles happily back on the couch clearly enjoying the film. The earbuds are put back in her ears and we begin to simultaneously hear the sound of some pop music at the same time as the film soundtrack as SHE occasionally moves her head to the music and hums a bit. SHE is also holding the PDA and is texting or emailing her friend on the PDA with both thumbs, occasionally speaking aloud some of the things SHE is texting. The PDA phone begins to ring continuously, but SHE does not answer it because SHE is too busy texting. Meanwhile, the Copyright Act book is open on her lap and SHE appears to be occasionally reading it and turning pages, continuing to enjoy it, shifting her attention between the laptop, the PDA, and the book. At one point SHE reaches back to the table and takes a bit of the loaf of bread to eat, and a sip of wine, while juggling all the electronic equipment and the book, while the sounds of the film, music, and cell phone ringing continue.)

(Speaking in an exaggerated loud shouting voice because of the earbuds and music, and needing to shout over the din.) YOU KNOW, DUCKIES, I JUST CAN'T SEEM TO JUST FOCUS ON ONE THING ANYMORE. TOO BORING!

(SHE gradually looks at the various electronic devices as if thinking "what am I doing?" and begins to disconnect from each. As SHE takes out the earbuds, the earbud music stops. As SHE shuts the laptop, the film soundtrack stops. As SHE turns off the PDA, the ringing stops. SHE rises from the couch with the Copyright Act book, careful to leave the various props laid out and visible on the couch, and walks over to the chair and sits.)

(Suddenly very excited at something SHE found in the book.) Look! Lookie here! Right here at the very beginning, section 101!¹⁷ My favorite word! "Create." Look here! Right at the beginning! Yay copyright law! It says a work is created when it's set down in some way in a fixed format!¹⁸ You know, written down, or recorded, or whatever, so long as it's something tangible. Yay! Artsie does that all the time! I mean, I suppose Artsie could just make up beautiful things in her mind, like a glorious poem, and she could even recite the glorious, epic, touching, beautiful, poem from memory out loud. And we could all say it's the greatest

¹⁷ See 17 U.S.C. § 101 (2009) ("Definitions.").

¹⁸ See *id.* § 102 ("Subject matter of copyright: In general.").

poem EVER! Or Artsie could improvise some music and play it for us, and it might be the best music EVER! But there's nothing to own under copyright law until sweet Artsie actually writes it down, or records it, and somehow makes it permanent! Even a computer file can be good enough. Anything "real" and tangible. Leggie likes to call this (*Reading in a stentorian academic tone.*) "fixed in a tangible medium of expression."¹⁹ (*Laughing.*)

Dear, sweet, silly Leggie. Always coming up with such legal mumbo jumbo. "Tangible medium of expression" indeed. Why doesn't Leggie just say that Artsie needs to actually do what creative people normally do, which is to try and put their work into a format that is real and solid? Artsie can't just dream stuff up. Artsie has to produce something to show for her efforts. Poor Artsie can't just sit around being a dreamer, I'm afraid! Artsie isn't just a dreamer, Artsie works hard creating lovely, finished, works of art. Works that people want, works that Artsie can be paid for, that help Artsie make a living, works that let poor Artsie eat! Wow, Artsie is going to love this book! (*SHE dives back into the book with great excitement.*)

Also, it says that copyright protects so many different kinds of creative works my Artsie might care to create! Artsie can create literary works, musical works, dramatic works, choreography, pictorial, graphic, and sculptural works, movies, TV shows, sound recordings, even works of architecture!²⁰ Imagine that! Artsie can get a copyright on almost anything! Jewelry, dolls, toys, computer programs, posters. And more! Yay Artsie! (*SHE smiles happily. Her smile suddenly turns to a frown.*)

Wait a minute, what's this in the fine print? Oh no! It says that whatever Artsie creates has to be "original."²¹ There must be at least some "creative spark."²² (*Suddenly dreamy.*) Ummmm, I love sparks. Fire. Heat. Warmth.

(*Suddenly back to earth.*) Unless something is "original" and has a creative spark it does not qualify for copyright protection. What on earth does Leggie mean, "original?" I guess Leggie means that some things just exist. Nobody created them. Nobody can own them.

Let's take the circle shape for example. If I drew a circle on paper and claimed it was my copyright, should I be able to own the shape of a circle? Wouldn't that mean that everyone who has the letter "O" in their name would be a copyright infringer, and would have to pay me every time they used the letter "O" in their name? What about all the manufacturers of wheels, and baseballs, and everything

¹⁹ *Id.*

²⁰ *See id.*

²¹ *See id.*

²² *See* Feist Publ'ns, Inc. v. Rural Tel. Serv. Co., 499 U.S. 340, 359 (1991) (stating that for a work to have sufficient originality to be copyrightable, there must be a "creative spark").

else that is round? The round earth itself! Mine! They would all have to pay me, the all-powerful copyright owner of the circle! (*Her thoughts of copyright conquest have become increasingly grand, her voice louder and broader as SHE rises from the chair and imagines her worldwide domination over everything circular.*)

Oh dear, now I understand why some things just can't be copyrighted. The same goes for basic facts. For example, poor Artsie can never "own" a fact because facts belong to us all. Otherwise, Artsie could claim to "own" information and demand payment every time a school child said that George Washington was the first President of the United States. Or that two plus two equals four. Or any other plain, simple fact.²³

(*Reading the book further.*) And look at this, there's more stuff that poor Artsie can never claim under copyright. Leggie says there is no copyright protection for what Leggie calls (*Reading the quote in an "official" voice.*) "any idea, procedure, process, system, method of operation, concept, principle, or discovery."²⁴ Yikes! What on earth does Leggie mean? It looks like Artsie can't claim to own an "idea" or a "concept." I suppose that poor Artsie will have to work really hard, and come up with something more original than just an "idea," something with a bit of creativity, detail, thought, something fleshed out and creative. You can do it, Artsie! I know you can!

Poor, silly Artsie. I remember one time, Artsie wanted to be a screenwriter. Artsie had an "idea." It was an idea for a movie. The idea was pretty vague I must admit. Artsie just said the movie would be an animated feature that was a cross between "The Sound of Music" and "The Exorcist." Artsie didn't say much more than that. I guess that was just one of those "ideas" or "concepts" that you can't claim under copyright law. On the other hand, if Artsie had just written down a detailed script that would bring her concept into life, give it detail, and characters, and dialogue, and be something creative and alive, then Artsie would have something to own under copyright law. On the other hand, Artsie would still have a movie that nobody in their right mind would go to see.

According to Judgie, and to Leggie, lots of things can never be owned under copyright law because they are so basic, and rightly belong to everyone. The list is soooooo long! For example, it includes titles, names, short phrases, slogans, familiar symbols or designs, mere listings of ingredients or contents, information

²³ See 17 U.S.C. § 102(b) (2009) (stating that "[i]n no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work").

²⁴ *Id.*

that is common property like standard calendars, height and weight charts, lists or tables taken from public documents or other common sources.²⁵

The originality and creativity comes when you start to make creative decisions, come up with something with at least a minimum of uniqueness, something with a creative spark! But people can disagree over whether there's enough creativity for something to be covered by copyright. That's why we have Judgie! Yay Judgie!

(SHE dives back into the book with fascination, reading with her fingertip along the page.)

Hey, here's another cool thing. Once Artsie creates something with at least some creative spark, and in a tangible format, not just in Artsie's head, Artsie is automatically the copyright owner!²⁶ Yaaaayyy!!! Just like in the cave! Artsie creates, Artsie owns!

Now if Artsie wants things to be more "official," Leggie says that Artsie can also do some official legal stuff like registering her copyright in Washington, D.C.²⁷ Artsie can even put a cool piece of art on her work, the "C in a circle" copyright notice, to tell the whole world it's her copyright!²⁸ *(SHE takes out of the armoire and holds up a beautiful, ancient wooden board with a large copyright symbol painted on it with charcoal, in a style similar to the cave art. SHE caresses the board briefly, enjoying the feeling of the wood. SHE then puts the board on the floor leaning against the couch, but with the copyright symbol facing away from the audience so they can no longer see it.)*

There are lots of good reasons to do all those "official" things, but Artsie doesn't have to do them in order to be the owner of what she creates! Yay Artsie!!!!

Then, Artsie can do whatever Artsie wants with her work. She can even sell or license it to somebody, and get money in return! Wow! Imagine that! Artsie can find a way to feed herself by creating something! I looooooove copyright law! Now Artsie can pay the rent and have plenty of time to create more works!

(SHE is suddenly concerned by something SHE just read). Wait a minute, sometimes Artsie might create works for someone else, someone she works for, and that someone else, her boss, will be the copyright owner instead of Artsie! It's called a "work made for hire."²⁹ Artsie! What are you thinking? ARTSIE, WAIT! DON'T! *(Shouting.)*

²⁵ See U.S. COPYRIGHT OFFICE, CIRCULAR NO. 1, COPYRIGHT BASICS, available at <http://www.copyright.gov/circs/circ01.pdf>.

²⁶ See 17 U.S.C. § 201 (2009) ("Ownership of copyright.").

²⁷ See *id.* § 408 ("Copyright registration in general.").

²⁸ See *id.* § 404 ("Notice of copyright: Visually perceptible copies.").

²⁹ See *id.* § 201(b) ("Works made for hire."); see also *id.* § 101 ("Definitions."); Cmty. for Creative Non-Violence v. Reid, 490 U.S. 730 (1989) (examining distinction between works made for hire by an employee and works made for hire by a freelance contractor under the Copyright Act).

Well, I suppose it could be all for the best. If Artsie decided to take a job where Artsie was supposed to create things for someone else, for example being an animator at a cartoon studio working for Zeckie, or a software programmer working for Techie. Then, Zeckie or Techie can be the copyright owner of Artsie's creative work. Artsie would be an employee, so her work would be a "work made for hire" belonging to the boss man, in exchange for MONEY! (*SHE takes a large stack of gold coins from the armoire, and suddenly throws them into the air as SHE shouts the word "MONEY!" The coins fall noisily on the floor.*) Money money money! Artsie can sell her soul and her work for money! Yay Artsie! All Artsie has to do is either work for "the man" or sign contracts and icky stuff like that.³⁰ Ick. Contracts. Lawyers. Ack!

(*SHE makes a gag gesture sticking her finger in her mouth. Then SHE picks up one of the gold coins and carefully regards it in the light. SHE furtively scurries around the stage and picks up several more, as if hoping nobody can see her. When SHE appears to be done picking up coins and is heading back to the armchair, SHE suddenly runs to pick up a few more coins and greedily smiles as SHE grasps them. SHE returns to the chair, takes the coins and stacks them neatly on the table next to her glass of wine, delighted with the coins.*)

(*Returning to the Copyright Act book.*) I told you this was the most dramatic book ever, didn't I? Things Artsie creates can be owned by Artsie. Or, Artsie might decide to create things for somebody else to own, somebody like Zeckie or Techie. Or Artsie might sell things to Lovie. The creativity, and the ownership, and the contracts, and the decisions, and the money, all so Artsie can pay the rent and Artsie can eat.

This book (*holds up the copyright book*) shows Artsie how it all works. Creation, then ownership, then the possibility of making a living! What an epic struggle! Like a salmon swimming upstream to get past all the obstacles to the promised land of copyright ownership. Or at least the promised land of being paid for your artistic creations. Go Artsie! I salute you! (*SHE drinks some wine by way of a toast to Artsie.*)

(*SHE gets up from the chair, and begins to do some stretching exercises and yoga-like poses, as if beginning a daily workout. As SHE begins to exercise, rhythmic music, perhaps disco, begins to play. In the following section SHE never stops moving in time to the music, and shouts as necessary to be heard, like an exercise instructor encouraging her students.*)

Copyright law is so physical. I love it! It feels so good! (*Stretching and exercising.*) It's all about what you and you alone can exclusively *do* with copyrights you own. You have *six* cool things you can do that are your exclusive rights!³¹

³⁰ See 17 U.S.C. § 204 (2009) ("Execution of transfers of copyright.").

³¹ See *id.* § 106 ("Exclusive rights in copyrighted works.").

One! You can reproduce your work. You know, make copies of the work you own.³² (SHE does a pantomime of a repetitive manufacturing or hammering action, like a printing press, by repeatedly smacking her right fist into her open left palm, over and over. AS SHE does this, SHE sways rhythmically from side to side with the music, really into it, swaying and exercising in a dance-like way.)

Two! You can make new works based on your original work. You know, like turning your novel into a screenplay, or turning your screenplay into a movie, or making a recording based on someone else's song. It's called a "derivative work" where one work arises out of and is based on a previous work.³³ (SHE switches to a new physical movement to demonstrate. As SHE says "novel" both hands point to her left. As SHE says "screenplay" both hands point to her right, as if something on her left is being transformed into something new on her right. SHE repeats the "transformation" move for the second and third examples, e.g., the screenplay on the left becomes a movie on the right, and the song on the left becomes a sound recording on the right. SHE continues the overall rhythmic swaying with the music.)

Three! You can distribute the copies you made, far and wide! You are a publisher! You are publishing your work!³⁴ (SHE switches to a new movement, a pantomime of quickly dealing cards around a poker table, as if dealing cards to the entire audience. All the while bobbing her head and generally moving in time with the music.)

Four! You can publicly perform your work!³⁵ (SHE switches to a new movement, reminiscent of a rock singer stepping forward and throwing their arms wide with head held high, as if singing. SHE picks up the candle and holds it like an imaginary microphone, miming a rock n'roll singer, still swaying in time to the music.)

Five! If your work is visual in some way, you have the exclusive right to publicly display it!³⁶ (SHE puts down the candle, and with both hands outstretched, makes a motion as if SHE is putting a painting up on a wall, all the while swaying to the music.)

Six! If you own a sound recording, you know like a song on a record, you have exclusive rights for digital performances, like on the internet!³⁷ (SHE does a movement where her hands move together up and down with her fingers wildly moving, looking like a fast-moving digital display on a computer screen.)

(SHE breaks out of the above motion and jogs in place, so SHE can prepare for a speeded recap of all six exclusive rights/exercise motions.) (Shouting.) OK COPYRIGHT OWNERS, HERE WE GO!

³² See *id.* § 106(1) (providing right of reproduction).

³³ See *id.* § 106(2) (providing right to produce derivative works).

³⁴ See *id.* § 106(3) (providing right of distribution).

³⁵ See *id.* § 106(4) (providing right of performance).

³⁶ See *id.* § 106(5) (providing right of display).

³⁷ See *id.* § 106(6) (providing right of digital performance).

One! Reproduce! (*Corresponding motion “one” as described above, performed to four beats of the music before quickly moving on to the next.*)

Two! Derivative works! (*Ditto, in four beats.*)

Three! Distribute! (*Ditto.*)

Four! Publicly perform! (*Ditto.*)

Five! Display! (*Ditto.*)

Six! Digital rights! (*Ditto.*)

(The music climaxes, then stops. Exhausted, SHE happily collapses onto the couch. SHE takes a sip of water and fans herself with the Copyright Act book to cool down.)

(SHE takes the guitar, holds it vertically, and hugs it happily and energetically, as if hugging a person.)

(Talking to the guitar.) Oh Artsie, isn’t copyright great?! All the things we can do! *(SHE kisses the guitar noisily and puts it back on the couch. SHE walks over to the chair and picks up the Copyright Act book. SHE retains her happy, broad smile as SHE begins to read silently, then, as SHE turns the page, her demeanor becomes perplexed, as SHE again sips some water.)*

Darlings, I must admit I don’t entirely understand this next part. What on earth is “fair use?”³⁸ I thought Artsie had all those glorious, fun, splendid exclusive rights. Now, I turn the page and encounter what Leggie is calling “limitations?” “Limitations?” Huh? How dare anyone put “limitations” on Artsie’s exclusive rights. Since when is that “fair?” What’s going on here, pumpkins? I know this book *(SHE holds up the Copyright Act book.)* is dramatic, but even I can only take so much “drama.”

Now don’t worry about a thing, my rose petals, I spoke to Judgie and Leggie about this, and here’s what they claim. Apparently, in that Constitution I mentioned a while ago, there is something called the First Amendment.³⁹ It involves freedom of speech. But copyright law is all about the ability of the owner of a creative work to exclusively control how that work is used.⁴⁰ So, sweet ones, if, for example, Artsie wrote a play and you wanted to perform that play and charge money for it, under copyright law, you would be infringing Artsie’s rights. But under the First Amendment, you have freedom of speech.⁴¹

³⁸ See *id.* § 107 (“Limitations on exclusive rights: Fair use.”); see also *Campbell v. Acuff-Rose Music, Inc.*, 510 U.S. 569 (1994) (analyzing fair use); *Harper & Row, Publishers, Inc. v. Nation Enters.*, 471 U.S. 539 (1985).

³⁹ See U.S. CONST. amend. I (stating “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”).

⁴⁰ See 17 U.S.C. § 106 (2009) (“Exclusive rights in copyrighted works.”).

⁴¹ U.S. CONST. amend. I.

I don't get it. Either a copyright owner has exclusive rights and complete control, or they don't. Either there is complete freedom of speech, meaning I can use anyone's copyright any way I want to, or I can't. Goodness, my puppies! Copyright and the First Amendment seem to be completely opposed to each other. What will Artsie do? What can Leggie and Judgie do to help Artsie in the face of something as powerful and important as freedom of speech?

Fear not, my lovely little legal philosophers. Unfurrow your sweet puppy brows. Be happy. Smile! Fair use is the safety valve between a copyright owner's exclusive rights, and the rights of all of us to free speech.⁴² Sometimes I think Leggie and Judgie are just, how shall I say, inspired? And wise! They know that when it comes to important freedom of speech things like news reporting, commentary, scholarship, and research, we have got to be able to discuss creative works, even use a portion of them to illustrate our point. It's OK for people to talk about creative works, and to study them, and to make our lives richer that way, so long as such uses don't take anything from Artsie that is rightly hers.

But sometimes, people who should really be paying Artsie for Artsie's work go ahead and use it without permission, sometimes in ways that involve lots of income that poor darling Artsie should share in. Just because Techie may make it easy to use Artsie's works without permission, doesn't mean that it's automatically a "fair use," does it? If the use deprives Artsie of income she is normally entitled to, is that fair?⁴³

On the other hand, Artsie herself could be creating a work that needs bits of other people's works. Even my precious, genius, unique, and perfect Artsie needs fair use once in a while, without being afraid of the "copyright police."

But I'm not afraid! I'm a fair use crusader! (*SHE postures like Joan of Arc on a quest.*) Here, on my table, is a copy of one of the best selling novels of all time: *The Da Vinci Code* by Dan Brown.⁴⁴ (*SHE picks up the book.*) It's one of my favorite books! I love it! I would love to "share" it with all of you! Do I have the right to read this book aloud to all of you, my sweeties? It sold eighty million copies. It's a valuable financial juggernaut. A person could make money by selling tickets for a public reading. But the copyright owner has all those exclusive rights, including the right to publicly perform his book for profit. (*SHE makes the arms spread "public performance" gesture from the previous exercise routine.*)

⁴² See *Eldred v. Ashcroft*, 537 U.S. 186, 219–22 (2003) (analyzing the "built-in First Amendment accommodations" of copyright law).

⁴³ See *Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417 (1984) (addressing balance between new technology and fair use under the Copyright Act).

⁴⁴ See DAN BROWN, *THE DA VINCI CODE* (2003). No endorsement, sponsorship, or affiliation with the author or the publisher of *The Da Vinci Code* exists or is implied.

But surely, there can't be any harm in reading just a bit of it to you now? Just a little? Just to engage in commentary about the nature of copyright and fair use? Even if you paid to come here tonight? Did anyone actually pay to come here tonight? Does that matter? How much do you think I can read to you, my loves, relying on "fair use?" Some of it? Most of it? All of it? Who decides? Do I get to decide? How do I know if the author will object? Should I ask his permission? What if he says no, but I think it's a "fair use" anyway? Can I go ahead? Will the author ever even know I publicly performed his book here tonight for all of you? What if the author is planning his own public readings in a theatre? What about his rights? His years of struggle as a writer before he was successful? He is my Artsie too! Does it matter if now he has plenty to eat, even if he starved in the past? Didn't he earn his success, and the right to control what happens to his own copyright? What about my rights? What about your rights, my Lovies? What would be "fair?"

(Clearly nervous, SHE picks up The Da Vinci Code book. The book has been on the table without the dust jacket and with the spine facing away from the audience, who now, for the first time, can see the title on the spine. SHE opens it as if performing a furtive and highly illegal act. SHE looks from side to side as if expecting the police to barge in and arrest her. SHE gets her courage up, positions her head high to speak, holds the open book in front of her at arm's length, outstretches her other hand, and opens her mouth and inhales as if about to begin reading the book aloud. Suddenly, before a word passes from her lips, a loud police siren is heard off stage, and a flashing red light bathes the stage. SHE immediately looks about in terror, slams the book shut loudly, runs over to the couch, and buries the book deep under the cushion, then jumps on the cushion with all her weight. SHE then suddenly becomes self-consciously nonchalant, looking upward as if totally innocent, playing nervously with her hands. The siren and the red light stops.)

Poor Artsie, poor Techie, poor Zeckie, poor Lovie, sometimes it's hard to know what fair use is, and hard to be fair to everyone, all at the same time. Copyright law doesn't give us exact guidelines, I'm afraid.⁴⁵ The ultimate decision about what's a fair use, or what's a copyright infringement, can really only be made in court by Judge. *(SHE strokes the robe.)*

Fair use may be a safety valve between copyright law and freedom of speech, but aren't safety valves only necessary in situations where there is a lot of pressure building up? *(Wistfully.)* I think there is a lot of pressure building up. *(SHE sighs.)*

(SHE picks up the Copyright Act book and sits in the armchair. The stage lights dim slightly as SHE lights one of the candles and gazes upon its flame.)

Nothing lasts forever, my darlings. Nothing is immortal. Not even art. Not even love. But art, like love, is something that can be passed on from generation

⁴⁵ See 17 U.S.C. § 107 (2009) ("Limitations on exclusive rights: Fair use.").

to generation to generation, something that glows and is warm, that lights our way. (SHE takes the second candle, and lights it from the first. There are now two lit candles on the table. SHE is now more otherworldly, as at the beginning of the play. The stage lights are dimmer now.)

Look, my lovelies, the heat of creativity, the spark, can be passed along, and grow, without diminishing itself.⁴⁶ It's magic. It's life itself. I bring you the fire, my loves.

(SHE resumes looking at the Copyright Act book, but less intently. More relaxed. SHE smiles to herself, then puts the book down.)

This book says that copyright protection begins with the creation of a work, and then lasts for the duration of the author's life, plus seventy years.⁴⁷ Just seventy years past Forever. What is "Forever," My Loves? A mere moment? A year and a day? I wonder how long my precious Artsie will live? (HER thoughts drift off.)

(SHE stares at the two flames for an extended moment, and wipes a tear from her eye. SHE takes a handkerchief out of her pocket, and wipes another tear from her eyes, and wipes her nose, crying silently.)

No matter. Copyright law is just a way to measure an economic life, the period of time during which one can turn the heat of creativity into money. Copyright doesn't really tell us what creativity truly means to us all, or how many centuries its beauty may last, or what eternity is.

(As SHE speaks the above lines, SHE picks up the stack of gold coins and regards them as if from afar, as if they have no allure. Ultimately SHE gently places the coins back upon the table, flat instead of stacked, as if taking her leave of them.)

Gold is fleeting, my puppies. Let copyright law set out its rules and laws. We need them. But after 32,000 years here, you will forgive me for being amused at the presumption that any part of beautiful works of art starts or stops according to any clock. My clock is the universe, and it will ring the changes until even this cave is no more. (The sound of wind returns to the cave.)

⁴⁶ See Letter from Thomas Jefferson to Isaac McPherson (Aug. 13, 1813), in 6 THE WRITINGS OF THOMAS JEFFERSON, 1790–1826, at 180–81 (H.A. Washington ed., 1854), quoted in Graham v. John Deere Co. of Kansas, 383 U.S. 1, 8–9 n.2 (1966). The letter states:

He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me. That ideas should freely spread from one to another over the globe, for the moral and mutual instruction of man, and improvement of his condition, seems to have been peculiarly and benevolently designed by nature, when she made them, like fire, expansible over all space, without lessening their density at any point, and like the air in which we breathe, move, and have our physical being, incapable of confinement or exclusive appropriation.

⁴⁷ See 17 U.S.C. § 302 (2009) ("Duration of copyright: Works created on or after January 1, 1978.").

There is so much more to tell you, my darlings, so much more. (*SHE slowly stands.*) But I need to leave you now, my bright-eyed beauties. Wait for me in your dreams. When you dream, I shall bring you the fire, and the way to the stars, my loves.

(As the sound of the wind slowly fades out, the third movement from Beethoven's Piano Sonata No. 21, Op. 53, the Waldstein begins to play, fading in. As the music plays, SHE becomes increasingly transfixed. SHE looks toward the sky, and slowly raises both arms upward with open palms as if praying to a deity. Stars appear in profusion in the night sky forming a glorious nighttime heavenly canopy. When her arms are fully extended, her right hand gently closes as if SHE is plucking a star from the heavens, like a piece of fruit. SHE slowly brings both hands to her mouth, which SHE opens. SHE puts the imaginary star into her mouth, swallowing it slowly as if a communion offering. SHE holds both hands over her closed mouth, then slowly lets them caress downward, as if following the path of the star down into her body, from her face, to her throat, past her breasts, to her midsection where her hands pause as if feeling a growing baby inside. Her hands then stretch wide outward at shoulder length, her eyes closed, her head back, at one with the universe, and offering herself to it.)

SHE returns to consciousness and takes up one of the candles, slowly walking off stage and protecting the flame with her hand as SHE goes. The music continues as the stars slowly fade to black. Only the second lit candle on the table can be seen in the darkness as the music continues. Gradually, the music fades out, as the sound of wind fades in. What remains in the darkness is only the light from the candle, and the sound of the wind.

After a suitable pause, the sound of the wind fades out. If possible, the candle should be blown out as if by the wind, leaving the stage momentarily in darkness before the stage and house lights come up for the curtain call and applause. Alternatively, after the house lights come up, the candle can be blown out by the WOMAN as she returns for her curtain call.)

THE END⁴⁸

⁴⁸ ©2009 by Corey Field. For information on obtaining a license to perform *Copyright—My Story*, please contact the author.

PROPERTY AND EFFECTS LIST

COSTUME:

Flowing toga-like costume with hidden pockets, with cloth belt and sandals—a timeless “goddess” look

FURNITURE:

Padded armchair

Small side table

Padded couch

Armoire or cabinet with doors

ACCESSORIES:

A clear glass pitcher of water

A clear water glass

A wine glass

A green bottle of red wine (cork removable by hand)

An amber plastic prescription bottle containing pills

Cowboy hat

Shawl, or large scarf, or small blanket with U.S. flag design

Sun glasses (Hollywood mogul style)

Large cigar

Laptop computer (non-working)

Baby blanket

A red shawl, the center of which has a large heart design

Judge’s gavel

Judge’s black robe

Classical acoustic guitar

iPod or similar music device with white earbuds

PDA/cell phone with mini “thumbs” keyboard (Blackberry, etc.)

Two plain white candles in plain, unadorned candle holders

Lighter for candles (if stage prop candles are not used)

One copy of the Copyright Law of the United States (the Copyright Act book)

One copy of *The Da Vinci Code* by Dan Brown, hardcover edition, without dust jacket, and placed spine-away from audience so that while the book is on the table, the audience does not see the title of the book

Large stack of approximately fifty large oversized gold coins

A scrolled copy of the United States Constitution

An ancient-appearing large wooden fragment upon which is painted the copyright symbol “©” in charcoal, in a beautiful but prehistoric manner similar to the cave art

A large unsliced loaf of golden, crusty bread

A handkerchief

EFFECTS AND MEDIA:

Slides for back projection: 5 or 6 best examples of cave art from the Chauvet Cave if permission is obtained, or similar original cave-like art, providing the art is not primitive in appearance but is as nuanced and beautiful as the wall paintings found in the Chauvet cave

Recording: Wind heard in a cave, rising and falling

Recording: Soundtrack for an imaginary film – dialogue with background music and effects

Recording: Cell phone ring

Recording: For the exercise scene, disco inspired or other beat-driven music suitable for an exercise class

Recording: For the multi-media scene on the couch, any contemporary and current pop-like music

Recording: Third movement (finale) of Piano Sonata No. 21 in C by Beethoven, the “Waldstein,” Opus 53

Recording: Police siren

Effect: Flashing red police car light

Effect: Starry night sky