

GAME SHOW

March 11, 2026

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Note: Whenever I ask about a case and want to hear a response at least in part in terms of “plaintiff” or “defendant,” you can be sure it’s not a case for declaratory judgment – so “plaintiff” means the party with the alleged claim and “defendant” means the party accused of infringing the plaintiff’s copyright.

QUESTIONS

What case that we read contains this passage?

“{W}e reject the view that a useful article must remain after the artistic feature has been imaginatively separated from the article~.”

Star Athletica v. Varsity Brands (U.S. 2017)

(That was Justice Thomas in the court’s opinion.)

Here’s another quotation question. What case that we read contains this passage?

“From the perspective of a guest, the sheltered front door is a welcome area, not just with the covered stoop, but also composed with walls to either side of the entry, which shelter against wind and driving rain. This consideration for waiting guests reinforces the entertainment value of this design decision.”

Design Basics v. Signature Construction (7th Cir. 2021)

What case that we read contains these passages? (And note that real names have been replaced with “A” and “B.”)

QUOTE

The defendants also assert that the differences between *A* and *B* are so profound that no reasonable juror could find that the total concept and feel of the works are substantially similar. The defendants argue that the differences overwhelm the similarities between the two characters. The defendants argue that *A* and *B* are wholly dissimilar characters with different backgrounds, personalities, temperaments, attitudes, life experiences, family situations, living situations, and alliances; that their partners have completely different personalities and roles; that their relationships with their partners are different; that they dress differently and drive different off-road vehicles; that the works have a different tone and mood; and that the works seek to teach different messages regarding social consciousness, tolerance for differences, and the legal system.

A review of the works establishes that the alleged differences are in fact exaggerated. Whether, for example, *A* typically wears dirty jeans and *B* generally wears clean jeans (except when he goes out into the field and battles in the dirt), and whether *A* drives a mud splattered white Dodge Ram while *B* drives a clean blue or gray pick up truck, are unlikely to detract from the substantial similarity of the characters.

END QUOTE

Lone Wolf McQuade v. CBS (S.D.N.Y. 1997)

The following question, asks for the name of a case. You don't have to get it exactly right. I'd consider recalling an important part of one party's name sufficient. (For instance, recalling "Inc." would not, for instance, be an important part of a party name, okay?) And wait until I say "END QUOTE" before you buzz in. Here's the question: What case that we did **not** read include the following?

QUOTE

[W]e examine the caselaw concerning the distinction between idea and expression, and derive from it a rule for distinguishing idea from expression in the context of computer programs. ...

[T]he line between idea and expression may be drawn with reference to the end sought to be achieved by the work in question. In other words, the purpose or function of a utilitarian work would be the work's idea, and everything that is not necessary to that purpose or function would be part of the expression of the idea. ...

Where there are various means of achieving the desired purpose, then the particular means chosen is not necessary to the purpose; hence, there is expression, not idea. ...

We are not convinced that progress in computer technology or technique is qualitatively different from progress in other areas of science or the arts. ... Thus, copyright principles derived from other areas are applicable in the field of computer programs.

END QUOTE

**Whelan Associates v. Jaslow Dental Laboratory
(3d Cir. 1986)**

What case that we read contains these passages?

In any event, as the Court of Appeals has instructed,

Dissimilarity between some aspects of the works will not automatically relieve the infringer of liability, for “no copier may defend the act of plagiarism by pointing out how much of the copy he has not pirated.” It is only when the similarities between the protected elements of plaintiff’s work and the allegedly infringing work are of “small import quantitatively or qualitatively” that the defendant will be found innocent of infringement.

Lone Wolf McQuade v. CBS (S.D.N.Y. 1997)

What was my alliterative, two-word label for that teaching of the court of appeal?

Picky Pirate

Let’s suppose there’s a television drama about a New York police precinct. What 11 or 12-letter phrase describes the following: a cop of Irish decent, officers lamenting having to do paperwork, a veteran detective who doesn’t always plays by the rules?

scène à faire

Note: This and the following questions do not involve an action for declaratory judgment. And when I talk about a party “being victorious,” I don’t necessarily mean in the litigation as a whole, I mean in what we read – so the issue appealed, or if in district court, on the motion before the court.

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *MGM v. American Honda Motor* (C.D. Cal. 1995)?

Plaintiff MGM

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *Silvertop (dba “Rasta Imports”) v. Kangaroo* (3d Cir. 2019)?

Plaintiff Silvertop

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *Lone Wolf McQuade v. CBS*?

Plaintiff Lone Wolf McQuade

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *Nichols v. Universal Pictures*?

Defendant Universal

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *Design Basics v. Signature Homes*?

Defendant Signature Homes

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *Computer Associates v. Altai* (2d Cir. 1992)?

Defendant Altai

Provide both the side in the litigation – plaintiff or defendant – and the name of the party in the caption who was victorious in the case we read *Lotus v. Borland* (1st Cir. 1995)?

Defendant Borland

The ringing of the liberty bell was broadcast over radio stations coast-to-coast and Congress did a wholesale revision of copyright law. What year was it?

1976

What was the effective date of the Copyright Act of 1976?

January 1, 1978

Pursuant to legislation for the entry of the United States into the Berne Convention, on what date did copyright notice on published copies become optional for copyright holders?

March 1, 1989

What case that we read contains these passages?

“That the ~ menu command hierarchy is a “method of operation” becomes clearer when one considers program compatibility. ... ”

***Lotus v. Borland* (1st Cir. 1995)**

BY THE WAY – and I meant to point this out for those of you who were in my – involved one of the lawyers involved in *Lotus v. Borland* was, William J. Cheeseman, who was depicted in the movie *A Civil Action*.

What form should I use? I want to register the copyright in a play about poets in Pittsburgh, Pennsylvania.

Form PA

What form should I use? I want to register the copyright in a painting on canvas of a vibrant violet and veridian depicting a vista in Virginia.

Form VA

What form should I use? I want to register the copyright in a treaties on taxes in Texas.

Form TX

What form should I use? I want to register the copyright in a month's worth of magazines made in Minnesota.

Form SE

What is this? Generally speaking, as a symbol for copyright, it's a C in a circle. But if I'm doing a copyright notice on a copies of sound recordings, I'll use this instead.

P in a circle

According to the Copyright Office, there are how many essential components in an application for copyright registration?

Three

What am I? I'm an essential component of a copyright registration that rhymes with glee.

Fee

What am I? I'm an essential component of a copyright registration that rhymes with dorm.

Form

What am I? I'm an essential component of a copyright registration that consists of one or more copies of the work being registered – and I rhyme with composite.

Deposit

On February 1, I sent to the Copyright Office a filled out application form, the required fee, and the required deposit. On March 1, the Copyright Office received that. On April 1, they issued a certificate of registration. On May 1, I filed that certificate of registration with a district court where I'm suing you for copyright infringement. What is the effective date of my registration?

March 1

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