
Digital Media Law

CML 1105K

www.jeremydebeer.ca/teaching/digital-media

Overview

De Beer's Digital Media course is a unique, inter-disciplinary and international survey of the global digital media scene, covering the latest legal developments regarding digital music, online movies, e-books and more. Together we canvas legal, cultural, commercial and technological aspects of the media industries in countries around the world.

Course topics include classic questions as well as cutting-edge topics. For example, we cover:

- **The business.** Find out who's got what rights, and how key players in cultural industries can turn those into hard cash.
- **Sampling & mash-ups.** The art of making music is changing. How much sampling is legit, and how can you help shape the rules of remixing?
- **File sharing.** With the genie out of the bottle, what can be done to build new business models from old plastic discs?
- **Rights management.** Despite naïve believes, digital locks will not stop downloading of any e-media. Learn about better strategies to cope with new trends.
- **Intermediaries' liability.** What's the role of online intermediaries: Dumb pipes or copyright cops?
- And much more. Read on to see exactly what we tackle in this course.

Winter 2013

Mondays 15h00 – 16h50 FTX 102

Wednesdays 08h30 – 10:20 FTX 102

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Office Hours: FTX 354, by appointment

Schedule

Download and subscribe to the class calendar at <http://tinyurl.com/btqemod> or read below for details about course topics and dates.

Monday, February 4

Welcome to the Machine: Introduces course themes, objectives and logistics.

Wednesday, February 6

Money Money Money: Covers the basic structure of music and related digital media industries in Canada, the United States and other key jurisdictions.

Monday, February 11

Spin Me Right Round: Elaborates on new models, including "360 deals", and their impacts on licensing structures and power dynamics in the business.

Wednesday, February 13

In Court 'Cause I Stole A Beat: Starts off our discussion of samples, remixes and mash-ups with the seminal legal cases and recent highlights.

Goals

The course objective is to think broadly about the policies that affect the future of digital media, and ultimately, the creation and consumption of our own culture. Through our classes and your major assignment, I also want to provide a solid grounding in the legal issues and professional practice of digital media and entertainment law in Canada and elsewhere.

Methods

Everyone learns differently. Some people are visual, or hands-on; others like lectures. Discussion works in certain cases, but sometimes reading is preferred. So we use various teaching methods to suit different students' styles. But this course is a seminar, so most days will involve interactive discussion and require extensive student participation.

Because this is a course about digital media, we will almost always be immersed in music, video and other audiovisual content throughout our class meetings. Some days, visual presentation aids will guide students' paths through each topic; other days our meetings will flow more freely.

[Website updates](#), emails to the class, [an iCal subscription](#), and the Twitter hashtag [#DigitalMediaLaw](#) from [@jdebeer](#) convey important logistics updates, and connect students with real-time developments and news reports related to course topics.

Because digital media issues evolve so quickly, no printed casebook or edited materials exist in this field, so I've created lessons that link you directly to the key cases, scholarly literature, news reports, blog postings and other resources you'll need to learn about our subject. I've written up web posts that synthesize and link to these various materials.

When prepping for class, your best bet is to start by reading my synthesis of the issues and perspectives. Then I'd like you to start sifting through the links to gather more information, and start to develop your own opinions. How deep should you go? Well, it depends on how much time you have. Just like in the real world, you'll need to prioritize based on your assessment of importance, and figure out when you know enough to get by.

Monday, February 18

No class on Family Day. We meet this week Thursday instead.

Wednesday, February 20

Examples of Samples: Today the onus is on you in groups to identify a current sampling or plagiarism case and present your legal analysis to the class.

Thursday, February 21

"Copyright Criminals": Following the Monday schedule, today is a movie day. Be sure to print the handouts for the film in advance of class.

Friday, February 22

Paper proposals are due today.

Monday, February 25

I Think I'm a Clone Now: The legal principles for making parodies of music or movies, and then putting them online. Is that legal? Where? Why?

Wednesday, February 27

Legal Problems with Parody: Once again it is your turn to find and talk about particular parodies, applying Canada's new copyright law to them.

Ideally, I'd like you to go even further by broadening the class horizons with links to cutting edge cases, news reports, academic or policy papers, audio-video content or anything else you think would enrich our discussion. Please share these resources for the benefit of the entire class. You can use the Twitter hashtag [#DigitalMediaLaw](#), or email me. Most importantly, bring your news and ideas to class and put them on the table for discussion. The more YOU engage, the better the class will be for everyone.

Evaluation

Your ongoing *virtual and/or classroom* engagement counts for 5% of your grade, according to these guidelines:

- 5. Exceptional Contributor: Contributions reflect exceptional preparation. Ideas offered are always substantive, provide one or more major insights as well as direction for the class. Challenges are well substantiated and persuasively presented. If this person were not a member of the class, the quality of discussion would be diminished markedly.
- 4. Very Good Contributor: Contributions reflect thorough preparation. Ideas offered are usually substantive, provide good insights and sometimes direction for the class. Challenges are well substantiated and often persuasive. If this person were not a member of the class, the quality of discussion would be diminished.
- 3. Good Contributor: Contributions reflect satisfactory preparation. Ideas offered are sometimes substantive, provide generally useful insights but seldom offer a new direction for the discussion. Challenges are sometimes presented, fairly well substantiated, and are sometimes persuasive. If this person were not a member of the class, the quality of discussion would be diminished somewhat.
- 2. Non-Participant: This person contributes little or nothing. Hence, there is not an adequate basis for evaluation. If this person were not a member of the class, the quality of discussion would not be changed.
- 1. Unsatisfactory Contributor: Contributions reflect inadequate preparation. Ideas offered are seldom substantive, provide few if any insights and never a constructive direction for the class. Integrative comments and effective challenges are absent. If this person were not a member of the class, valuable air-time would be saved.

Students in the course will complete a research project to deepen their understanding of an area of particular interest to them, and to articulate their own views on the issues. Extensive student-professor interaction and feedback on interim deliverables, at students' initiative, can ensure high calibre outputs, some of which could be of publishable quality.

Monday, March 4

Levitate Me: The history and future of levies to compensate for private copying on media and devices in Europe, Canada and elsewhere.

Wednesday, March 6

Career day. Skip class; get a job.

Monday, March 11

The Times Are a Changin': Copyright law on time shifting explains why the U.S. treats home recording differently than other countries – until recently.

Wednesday, March 13

Stuck in the Middle: Lawsuits against Napster, Grokster, Limewire and more shows how middlemen have often been on the losing side of copyright cases.

Monday, March 18

Another One Bites the Dust: The origin and evolution of mass-scale lawsuits against individual p2p users, including the latest Canadian case.

Wednesday, March 20

Jailhouse Rock: Can criminal prosecutions that threaten to put infringers in prison protect online copyright better than civil litigation?

Your grade will be determined by several deliverables over the course of the term, culminating in your paper:

- Virtual and classroom engagement (5%), ongoing;
- Topic and abstract (10%), due **Friday, February 22, 2013**;
- Annotated references (15%), due **Friday, March 22, 2013**;
- In-class presentation (20%), during **March 27 – April 8**;
- Final paper (50%), due **Wednesday, April 24, 2013**.

Written assignments must be uploaded to our uOttawa Virtual Campus class page before 11h59 EST on the date they are due.

An effective research paper requires a timely start, so the first part of your assignment (worth 10% of your grade) requires you to submit to a 500-word abstract describing the topic you have chosen to write about, the research methods and analytical framework you plan to use, an explanation of how your perspective fits into the existing research, and a preliminary discussion of conclusions you hope or expect to reach. You will be evaluated on the degree to which you demonstrate effort, originality and clarity of vision.

Your second deliverable (15%) is an annotated reference list of the sources you will rely upon for your paper. Your references should balance primary sources (statutes and cases) and secondary sources (books, articles and commentary), depending upon your proposed methods and perspectives. You will be evaluated on the range and depth of sources of you identify, the appropriateness of those sources to your chosen topic, and your ability to concisely (in one or two sentences per source) summarize their relevance to and likely use in your paper.

The third component (20%) of the research project is an in-class presentation. You have 5-7 minutes to convey to classmates your insights on the topic you have chosen. Slides, maps and other audio-visual presentation aids are optional; you'll be evaluated on the appropriate and effective use of such tools (sometimes, presenting without tech aids is most appropriate for your topic or style). You will also be evaluated on timing, clarity and the overall impression you make. Peer evaluation and feedback will be integrated as a minor percentage of the grades I award.

Your final deliverable (50%) is the paper itself, due the last day of the exam period, Wednesday, April 24, 2012 before 23h59

Friday, March 22

Annotated reference lists are due today.

Monday, March 25

Takedown, slowdown, shutdown:

The down low on evolving efforts to enlist online service providers in the fight to enforce 3rd-party copyrights.

Wednesday, March 27

Lockdown: When legal remedies won't work, some companies to turn to technological protection measures to lock down their electronic content.

Monday, April 1

Religious holiday; no class.

Wednesday, April 3

In-class Presentations: Students present on the topic of their term research project. Presentation ordering will be re-arranged to cluster similar topics together.

Monday, April 8

In-class Presentations: Terms wraps up with the last batch of presentations.

EST. Papers must be between 5,000 to 7,500 words, but beyond that, I have no rigid requirements as to form, particularly if you're working within the conventions of a discipline other than law.

I do not expect this assignment to be a purely academic exercise. Many people in Canada's community of leading digital music/media/entertainment law practitioners regularly contribute written papers for law journals, industry conferences or professional symposia. The Law Society of Upper Canada's recent [Annual Intellectual Property Year in Review](#) and the upcoming [2013 Entertainment and Media Law Symposium](#), or other industry events like [this recent copyright conference](#), are good examples of places that practitioners write and present about their areas of expertise. In fact, you can see on those agendas the names of several alumni of this very uOttawa course.

You might also gain insights about possible directions for your papers from my own work at the intersection of digital media policy and practice, although I am not suggesting that you must mimic my scholarship. Many of the following papers, however, provide context for this class, and are recommended readings on some of our topics. In fact, some of these papers were written with assistance from—or in collaboration with—students like you. Check out, for example, a [paper about the role of the Copyright Board of Canada](#) (where I practiced as legal counsel before becoming an academic); my work on [legal strategies to profit from peer production](#); a paper co-authored with a former digital media law student about [online copyright enforcement through service providers](#); and this one about [the role of levies in Canadian digital music market](#). Those are just a few examples you'll see throughout the course.

Your paper must either present an original thesis, reform proposal, or critique. Evaluation criteria are:

- Clarity of expression: How cogent and clear is the writing? Are there any evident grammatical errors? Does the writing communicate ideas effectively?
- Logical structure: How well is the paper pieced together? Are headings and sub-headings used effectively? How well does the paper "flow"?
- Quality of research: How many sources does the author rely upon? Is there original/primary research? How novel and difficult to find are the sources?
- Development of thesis: Does the paper propose a proposition to be proved or disproved? Does the paper present an argument to be defended or countered? Does the paper avoid straying into the overly descriptive? Does the paper provide an effective critique/analysis of a particular area of the law? How well is the thesis/topic/theme developed in the paper? Is there a solid conclusion highlighting the important findings of the paper? How persuasive was the paper to the reader?

Wednesday, April 10

Copyright Quintet Conference: After presenting your research for the past few days, come to see Canada's leading copyright pros present theirs.

Wednesday, April 24

Final papers are due.

Academic fraud: All instances of fraud will be reported for investigation and sanction. Familiarize yourself with the University Academic Fraud Regulations, the University Policy on Plagiarism, and academic integrity:

<http://www.uottawa.ca/governance/regulations.html#r72>.

<http://www.uottawa.ca/plagiarism.pdf>

<http://web5.uottawa.ca/mcs-smc/academicintegrity/home.php>

The University disciplinary process for academic fraud can result in penalties ranging from loss of credits for the course to expulsion. Academic fraud must also be reported to the Law Society of Upper Canada, which in turn may refuse you admission to practice law in the province.

Accommodation and Support

Late submission of assignments cannot be accepted unless prior express approval has been obtained from either the Manager of Academic Affairs or the Manager of Equity and Academic Success. All Common Law Professors lack discretionary authority to make special accommodations in individual circumstances. Arrangements must be made directly with the relevant manager.

Students who require accommodations or academic support because of a physical or learning disability, or any condition that affects their ability to learn, are invited to contact the University's Access Services, or our own Faculty's Student Services. All information provided to Access Services and all accommodations received remain strictly confidential.

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