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Volume 60, Issue 2, of the *Journal of the Copyright Society of the USA* contains a collection of essays written in honor of the fiftieth anniversary of Melville B. Nimmer’s and David Nimmer’s classic treatise, *Nimmer on Copyright*. The issue opens with *Stewarding the Common Law of Copyright* by Shyamkrishna Balganesh, which delves into the judicial development of copyright law, discusses how it has survived over the past several decades, and notes the role *Nimmer on Copyright* “has had on its evolution, legitimacy, transparency, and robustness.” The author concludes that: “It is hard to think of another area that has seen a treatise play as pervasive and influential a role in the development of the law, along the lines that the Nimmer treatise has played in copyright.”

The next essay, *Factorless Fair Use? Was Melville Nimmer Right?*, by former Society president Richard Dannay recalls that when the 1976 Copyright Act was being drafted Melville B. Nimmer wanted the fair use provision to be “a spare, unadorned statement that ‘fair use of a copyrighted work . . . is not an infringement of copyright . . . .’” He concludes by noting that: “Professor Melville Nimmer may have hit the fair-use sweet spot when he proposed a factorless fair use and that David Nimmer may have recognized its wisdom by concluding that the four factors are, really, only a ‘fairy tale.’”

In *A Story of Two Anniversaries: Nimmer and the Bulletin/Journal of the Copyright Society*, current *Journal* co-editor-in-chief, F. Jay Dougherty notes that this is also the sixtieth anniversary of the Bulletin/Journal and discusses Melville Nimmer’s service as a member of the *Bulletin/Journal*’s editorial board, discusses references to his writings, including the then-new treatise, in the *Journal* and *Bulletin*, and citations to *Bulletin/Journal*’s articles in the Nimmer treatise. He also notes that the *Journal* has also been fortunate to publish fine articles by the current author of the treatise, David Nimmer.

Next, former Society president Corey Field discusses the origins of the Nimmer treatise in *Melville Nimmer the Writer: A Review of the 1963 First Edition of Nimmer on Copyright on the Occasion of the Fiftieth Anniversary of its Publication*. He also analyzes the contents of the first edition, noting that “everything is questioned, everything is examined, and nothing is taken at face value without thorough research, analysis, and context.”

In *How to Practice Copyright Law Internationally in Perplexing Times?*, author Paul Edward Geller recalls the advice and encouragement
that he received from Melville B. Nimmer when he was preparing his treatise on international copyright. He then discusses the problems faced by courts and lawyers in cross-border cases and provides guidelines for handling them. Regarding the role of the Nimmer treatise in international copyright law, he notes that it: “introduced U.S. counsel and courts to the Berne regime . . . .”

Register of Copyrights Maria A. Pallante’s essay, Saluting Nimmer on Copyright, mentions her ongoing reliance on the treatise and asks how Melville B. Nimmer might deal with twenty-first century copyright issues. She notes that: “The more one learns about copyright law the more there is to learn,” and asks: “What better symbol is there of this fact than the enduring legacy of Nimmer on Copyright?”

I Licensed Nimmer by Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit relates the Judge’s experiences while taking Melville B. Nimmer’s contracts class in law school. He tells of how he decided to take photos of all his professors and subsequently gave Nimmer the photo of himself. Later, Nimmer confessed to having committed copyright infringement by using the photo in a lecture announcement, a problem that was instantly solved when the future judge author granted Nimmer a license. This same photo accompanies the essay.

The final essay in this special issue is Performance Anxiety: Copyright Embodied and Disembodied, by Rebecca Tushnet, in which the author maintains that: “copyright has never fully conceptualized performance, and this has led to persistent confusion about what copyright protects.” Her article deals with such issues as identifying creative elements and how can performers’ creative contributions be recognized. She concludes that: “Although formalistic solutions have obvious costs and inherent arbitrariness at the edges, it is worth considering default categories of protected authors and presumptions against cross-genre infringement,” and adds: “Manageability, at this point in our copyright history, may be more beneficial than a regime that claims to protect every instance of creativity in any form — especially when that promise is so often unrealized.”

The issue concludes with Part III, Administrative Developments, and Part IV, the Bibliography.

As always, your comments and suggestions are welcome.

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PART I

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