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ARTICLES

High Profile Trials: Can Government Sell the "Right" to Broadcast the Proceedings?

David W. Burcham 169

The media made a fortune covering the O.J. Simpson murder trial. Why shouldn't the government have gotten a cut of the action? With the increasing amount of broadcast media in the courtroom, legislatures have considered the possibility of setting up a "fees-for-feed" regime. Under such a system, the government would share with the broadcaster in the revenues generated by such broadcasts. While the government is free to enact a flat ban on electronic access to the courtroom, this Article explains why such a revenue-generating policy cannot withstand a First Amendment inquiry.

Reconciling *Qualitex* with *Two Pesos*: Ambiguity and Inconsistency From the Supreme Court

Michael B. Landau 219

In 1995, the Supreme Court overruled the Ninth Circuit's *per se* rule against trademark protection for color in *Qualitex Co. v. Jacobson Products Co.* However, the decision left much to be desired. Depending on how one reads the opinion, it either provides little guidance, or it imposes a standard of secondary meaning that is justified neither by precedent nor by the language of the Lanham Act. This Article discusses the different interpretations of the *Qualitex* decision. The author identifies the decision's inherent ambiguities and presents the reasons that the Court should not make a legal distinction between color and all other types of trademarks in the absence of Congressional direction.

Audio Pastiche: Digital Sampling, Intermediate Copying, Fair Use

Robert M. Szymanski 271

Have you ever heard the late Miles Davis playing trumpet over a hip-hop beat in one of today's singles? Digital sampling technology enables artists to record, store, and manipulate any sound, either live or from a previous recording. However, the sampling process presents serious copyright questions for the music industry. Treating sampling as a postmodern art form, the author discusses sampling technology and industry practices. The Article concludes by examining how sampling should be treated under copyright law's fair use doctrine.

COMMENTS

Commercial Speech and the University Internet Account: Are Universities Selling Out the Spirit of the First Amendment?

Samantha Hardaway 333

Universities often provide many benefits to entering freshmen, among them access to such facilities as the campus fitness center, the student health center—and nowadays, a university Internet account. Electronic mail and Internet access have expanded the way in which college students communicate with others on campus and beyond. However, most college students are prohibited from using their student account to buy or sell goods and services. This Comment examines why universities impose restrictions on student commercial speech over the Internet. The author employs a First Amendment framework to discuss the competing interests of universities and students, and provides solutions to commercial speech problems that will arise as colleges connect to each other—and the world—through the Net.

The Demise of the Long-Term Personal Services Contract in the Music Industry: Artistic Freedom Against Company Profit

Theresa E. Van Beveren 377

Music industry executives on both sides of the Atlantic closely watched George Michael's suit against Sony unfold in British courts. Although Michael lost his suit to be free of his multi-album/multi-year contract, his case awakened a desire among many recording artists to escape their lengthy and burdensome contracts. This Comment examines artist and record company relationships, drawing analogies between today's music business and the movie industry of the 1930s. After examining the judicial remedies for broken contracts, the author offers several solutions to the problems that tomorrow's George Michaels must face.

Cyberia: The Chilling of Online Free Speech by the Communications Decency Act

Michael S. Wichman 427

Though it may not withstand constitutional scrutiny, many consider the Communications Decency Act to threaten the continued existence of free speech in cyberspace. Like the Congressional effort to regulate dial-a-porn in the 1980s, the attempt to regulate indecent material online has already run into problems in federal courts. The author discusses the fragile balance between the desire to protect our children from harmful content transmitted over computers and the competing interest in protecting freedom of speech. This Comment argues that courts must determine whether the Act is narrowly tailored to serve the government interest or whether the use of new technologies can serve as a less restrictive alternative means.