UCLA ENTERTAINMENT LAW REVIEW

Volume 4 Issue 1 Fall 1996

ARTICLES

Oh Deere, What's to Become of Dilution? (A Commentary on the New Federal Trademark Dilution Act)

David S. Welkowitz 1

The new Federal Trademark Dilution Act changes the standard for trademark infringement. Formerly, "likelihood of confusion" was required for an infringement action to succeed. Now, so-called "famous" trademarks will receive broader protection if the infringing use merely *dilutes* the protected mark's selling power, regardless of whether consumers actually are confused about which product the trademark represents. The new law may safeguard *control* of a mark more than it defends against infringement. The recent case of *Deere & Co. v. MTD Products, Inc.* is examined in detail, as illustrative of the problems with new federal standard. State law distinctions for trademark infringement are also discussed, particularly as they may influence the interpretation of federal law.

"Bad Artists Copy. Good Artists Steal.": The Ugly Conflict Between Copyright Law and Appropriationism

Debra L. Quentel 39

By definition, appropriationist artists will not only be possibly denied protection under the current copyright law, but they will also technically infringe on the protected works of others. In her article, Professor Quentel analyzes the conflict between present American copyright law and appropriationists—one segment of the modern art world. The author proposes amendments to the copyright Act of 1976 in order to broaden the scope of protection and eliminate some infringing uses under the current law. In so doing, the author strongly advocates for protection of various types of art without resorting to a judgment of artistic merit, a forbidden practice under the founding ideas of copyright law.

Drawing the Line Between Personal Managers and Talent Agents: *Waisbren v. Peppercorn*

Erik B. Atzbach 81

In California, talent agents are regulated by the Talent Agency Act. Under this act, talent agents are defined as those who engage in the "occupation of procuring employment" for artists. However, until recently, there was doctrinal uncertainty as to the extent personal managers could also seek employment opportunities for their clients without falling under the ambit of the act.

This Article analyzes the recent case of *Waisbren v. Peppercorn* and its implications to the entertainment field. Under *Waisbren*, personal managers may not engage in even limited efforts to procure employment for a client-artist without subjecting themselves to the regulatory and licensing requirements of the Talent Agency Act. However, the *Waisbren* decision excludes the California Labor Commission from regulating personal managers who avoid employment procurement activities.

COMMENT

Rebirth and Rejuvenation in a Digital Hollywood: The Challenge Computer-Simulated Celebrities Present for California's Antiquated Right of Publicity

Thomas Glenn Martin Jr. 99

Celebrities have always been concerned with controlling unauthorized uses of their images. In California, celebrities have traditionally enjoyed certain protections under both state common law and state statutory "right to publicity" doctrines. However, as increasing advances in technology have made computer-simulations of a celebrity's image more realistic, more affordable and more prevalent than ever before, this doctrine no longer provides adequate protection against the exploitation of the images. This Comment traces the right of publicity doctrine from its origins in common law to privacy actions. It then applies the present incarnation of the doctrine, as embodied in both California statute and common law, to two hypothetical scenarios involving the use of computer-generated celebrity images in modern movies. It concludes by advocating the expansion of the right of publicity, to give celebrities maximum control over both the *inter vivos* and *post-mortem* uses of their images.