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ARTICLES

Who Owns the Movies? Joint Authorship under the Copyright Act of 1976 after *Childress v. Taylor* and *Thomson v. Larson*

Seth F. Gorman..... 1

A substantial split among the federal courts has arisen with respect to the appropriate test for determining who are the "authors" for purposes of copyright in joint collaborative endeavors with numerous contributors such as film productions and plays. With "authorship" comes the full rights to exploit the work independently of the other contributors, subject to an accounting, and the rights to an accounting of profits from the other author(s). The conflict between the courts crystallizes when lesser contributors, without work for hire agreements in large productions, claim co-authorship rights under copyright law. Courts are hesitant to afford the broad rights that come from deeming the work a "joint work" and the contributors "co-authors". Accordingly, the law of joint authorship has evolved without much reason in a form equivalent to "I know it when I see it." This article discusses the split among the courts and their analyses. It then analyzes the 1976 Copyright Act against the backdrop of the changes made to the 1909 Copyright Act to conclude that Congress did not intend the test for joint-authorship to differ from the strict statutory language.

A Triple Homicide, A Book Publisher, and the First Amendment: How will *Rice v. Paladin Enterprises, Inc.* Impact the Entertainment and Media Industries?

Keith C. Hauprich ••••• 33

In light of the recent eruptions of violence throughout this nation's school systems, the Entertainment Industry is being subjected to adverse criticism as well as ever-increasing public and congressional scrutiny. However, seeking to impose liability upon the Entertainment Industry is not a novel concept. In this article the author examines the existing caselaw regarding this controversial issue. The author also discusses the potential impact of *Rice v. Paladin Enterprises Inc.*, in which the court held that the First Amendment did not bar a wrongful death action brought against the publisher of an instructional book entitled *Hit Man: A Technical Guide For Independent Contractors*.

Facing the Music on the Internet: Identifying Divergent Strategies for Different Segments of the Music Industry in Approaching Digital Distribution

Ryan S. Henriquez ••••• 57

This article explores the legal and business ramifications of the newest medium of music transfer, the digital download. The article begins by describing the technology of online music, with the MP3 music file format as the keystone to Internet music distribution. The article goes on to frame the new form of music delivery in the context of U.S. Copyright law, and emphasizes the numerous licenses that need be obtained before transferring music over the Internet is rendered legal. While Congress has been attempting to tailor new laws to address some of the complexities that digital downloads facilitate, they have fallen short in ensuring that the copyrights inherent in online music are all fully protected. The article next explores the manner in which the major institutions of the music industry have taken it upon themselves to develop a system, both legal and infrastructural, to ensure that copyrights are protected and profit margins are maintained. While the music industry giants' noble efforts might lead to a reality of protected and profit-generating online music, divergent interests among the music giants, consumers' desire for free music, and renegade software and technology companies willing to fulfill this desire, may impede their efforts. Finally, the article analyzes the situation of various segments of the music industry in the wake of the digital delivery phenomenon, and recommends how each should approach the new frontier of online music.

The Conflicts Between Intellectual Property Protections when a Character Enters the Public Domain

Christine Nickles 133

Whether your child is waking up to a Mickey Mouse alarm clock or nagging you for the latest Pokémon trading card as you escape to a James Bond movie, characters affect our lives. From their origin, these characters have stimulated the entertainment industry, as well as the consumer goods market. Due to the tremendous effect that characters have on the economy, the courts have safeguarded them through intellectual property laws. This article analyzes the copyright and federal trademark protections for characters. It also explores the possible conflicts between intellectual property rights occasioned by their varied durations. One such conflict could arise between a copyright on a character that is derivative of a public domain character and the public domain character. The courts have held that only substantial original aspects of a derivative character are copyrightable, so the public domain is unaffected. No cases have been decided regarding the conflict between copyrights and trademarks when copyright law places the character in the public domain. In the author's view, the character should be available for all to use, as long as the works are labeled as not created or approved by the trademark holder.

COMMENT

The Mass Appeal of *The Practice* and *Ally McBeal*: An In-Depth Analysis of the Impact of these Television Shows on the Public's Perception of Attorneys

Brett Kitei 169

The author examines the impact that television has had on the public perception of attorneys and of the legal profession over the past decades and today, with a special emphasis on two shows "The Practice" and "Ally McBeal". This comment argues that today's legal dramas, by portraying lawyers forced to grapple with ethical concerns and personal problems, have had a positive impact on societal attitudes towards attorneys and have helped to foster more sympathy and respect for the profession as a whole. These new, more realistic portrayals have created a viewing audience that looks more favorably on the real-life counterparts of small-screen lawyers.

