



Survey of Art and Entertainment Law News Items

Raymond Schmitz

Follow this and additional works at: <https://via.library.depaul.edu/jatip>

Recommended Citation

Raymond Schmitz, *Survey of Art and Entertainment Law News Items*, 2 DePaul J. Art, Tech. & Intell. Prop. L. 65 (1992)

Available at: <https://via.library.depaul.edu/jatip/vol2/iss2/13>

This Epilogue is brought to you for free and open access by the College of Law at Digital Commons@DePaul. It has been accepted for inclusion in DePaul Journal of Art, Technology & Intellectual Property Law by an authorized editor of Digital Commons@DePaul. For more information, please contact digitalservices@depaul.edu.

EPILOGUE

The *Epilogue* section provides readers with an overview of art and entertainment news items that have interesting and relevant legal implications.

* * * * *

Goya's 191-year-old "Naked Maja," a painting of a nude woman lying on a couch, was recently removed from a lecture hall at Pennsylvania State University following allegations by an English professor that the painting was a source of embarrassment for her and disruption for her students. The administration yielded to the teacher's threats of resigning and relocated the work from its 10-year classroom home to the student union's television reading room, now temporarily designated as a "gallery." Nat Hentoff, *Sexually Harassed by a Painting*, L.A. DAILY JOURNAL, February 13, 1992, at 6.

A ventriloquist has recently sued Pepsico, Inc. in federal district court for over \$130 million claiming that the makers of Diet Pepsi have stolen this nightclub entertainer's signature phrase "You've got the right one, uh-huh" for its string of advertisements sung by Ray Charles. Plaintiff Arthur Takeall says Pepsico, Inc. liberated the phrase used for many years by the ventriloquist and his dummy, Scooter, after the duo had approached Pepsico, Inc. seeking sponsorship for an educational program. Associated Press, *Ventriloquist says Pepsi ad took words from his own mouth*,

CHICAGO DAILY LAW BULLETIN, March 19, 1992, at 1.

The shoe is now on the other foot for "Doonesbury" creator Gary Trudeau, whose comic strip often satirizes public figures. It seems that the *Wall Street Journal* ran an editorial called "Gary Vanilli" which poked fun at the fact that Trudeau, like many comic writers, uses an assistant to produce the final draft of his strip. Despite a demand for retraction and the threat of suit by Trudeau's lawyers, *Journal* forces stood their ground and hinted that, in terms of first amendment analysis, Trudeau might be as public a figure as those he routinely lampoons. Staff, *Cartoonist Can't Take a Joke*, L.A. DAILY JOURNAL, January 9, 1992, at 6.

A U.S. District Court has permanently enjoined future performance of *Dusky Sally*, a play about one of Thomas Jefferson's slaves with whom Jefferson allegedly had sexual relations and even may have had children. But the injunction was not based on the fact that such allegations are speculative, widely criticized by historians, and perhaps false; it resulted from a claim by the author of *SALLY HEMINGS: A NOVEL* who successfully argued that many episodes of the play were impermissibly similar to depictions in this book, thus violating copyright laws. Apparently, fascination with the private lives of public figures is a much older phenomenon than we thought. Michael I. Rudell, *On the Similarity of a Book and Play*, NEW YORK LAW JOURNAL, October 25, 1991, at 3.

The choreography of the national tour of *Bye Bye Birdie* is currently the subject of a federal copyright suit. Champion-Five, the copyright holders, allege that defendants, including National Artists Management Co., have used the Tony Award-winning choreography without first seeking proper permission to do so. Staff, *Update*, NEW YORK LAW JOURNAL, December 31, 1991, at 1.

A Manhattan State Supreme Court justice has recently ended the litigation over the status of a set of Art Deco gates that have been adorning the executive suite of a New York office building. In part because the gates have been displayed in museums on several previous occasions, and in part because they could be removed without causing any damage, the Court found that the gates were not intended to be permanent fixtures of the building; instead, they were works of art that remained the personal property of the developer and could be rightfully donated to the Cooper-Hewitt Museum in accordance with the developer's wishes. Edward A. Adams, *Judge Permits Gift Of Art Deco Gates To Cooper-Hewitt*, NEW YORK LAW JOURNAL, December 4, 1991, at 1.

The Civic Orchestra of Chicago, sometimes known as the training orchestra of the Chicago Symphony Orchestra, recently paid tribute to African American composers and their music. The Orchestra sponsored a seminar on the topic and held a concert premiering several new works. The Civic Orchestra of Chicago has been

a leader among the arts institutions now adopting voluntary affirmative action initiatives. Jennifer Burklow, *Civic honors African American composers*, CHICAGO SUN-TIMES, April 3, 1992, at 13.

The Federal Communications Commission recently approved new regulations to attempt to make AM radio more competitive with popular FM broadcasting. Under this plan, the frequency band of AM radio is broadened to make room for new frequencies and to diminish existing signal congestion and interference. The FCC is still continuing to iron out the technical details as members of the industry contemplate the opportunities available with more powerful AM broadcasting. Mark Conrad, *Will FCC Regulations Restore Power to AM?*, NEW YORK LAW JOURNAL, December 20, 1991, at 5.

Dr. Albert Barnes, a prolific turn-of-the-century art collector, may soon find his post-mortem wishes for the disposition of his art collection disturbed. The provisions of Barnes' trust directed that no picture from his expansive Impressionist and post-impressionist collection be loaned, sold, reproduced, or even moved from its position on the wall of the Lincoln University gallery where they are housed. However, current members of the Barnes Foundation are challenging this restrictive interpretation in a Pennsylvania court. Regardless of their mo-

tives, Foundation members now seek to alter the trust to allow for, among other things, gallery renovation, a published version of the Barnes Collection, and a travelling exhibition of its works. As the litigation continues, both collectors and museums alike are eager to discover how the courts will treat arts bequests. Daniel S. Levy, *Want to See Some Secret Pictures?*, TIME, April 20, 1992, at 87.

After a year of negotiations, Time Warner Inc. recently announced the signing of a multimedia contract with Madonna. The deal, which will run up to 11 years, provides for a joint venture with Time Warner to form an entertainment firm that will parent a record label, a music publishing company, and film, television, book-publishing, and merchandising divisions. Worth in excess of \$60 million, this contract is reportedly the largest ever negotiated by any entertainer, surpassing even last year's headline arrangement between Michael Jackson and Sony Corp. Gary Graff, *Megadeal for Madonna at Time Warner*, CHICAGO TRIBUNE, April 21, 1992, (Business), at 1.

The national art fraud division of the U.S. Postal Inspection Service has recently infiltrated the Midwestern link in a multimillion dollar conspiracy selling counterfeit limited-edition prints of four famous abstract artists. An 8-year mail fraud investigation re-

vealed that a Chicago art wholesaler, among others, sold poster-quality prints worth \$25 to unsuspecting buyers for \$10,000 to \$20,000 each. Conceived almost 20 years ago by a New York art-book publisher who exploited his access to original lithographs and etchings, this national enterprise involved forgeries of the works of Picasso, Chagall, Dali, and Miro. Unsuspecting buyers notified the authorities after learning from appraisers and insurers that the works were fakes; not the signed artist-approved prints they were represented to be. Matt O'Connor, *Dealer charged in fake-art ring*, CHICAGO TRIBUNE, April 21, 1992, (Chicago-land), at 3.

California-based Atari Corp. continues to pursue federal antitrust litigation against Japan-based Nintendo Corp. stemming from Nintendo's allegedly anti-competitive contract provisions. Apparently, Nintendo previously required that private video game developers agree not to make their games available to other computer console systems for two years in exchange for a license to use Nintendo's market-dominating system. Atari claims it lost \$160 million over five years as a result of Nintendo's exclusive-rights deals which effectively denied Atari access to valuable new games. Associated Press, *Atari, Nintendo face off in court*, CHICAGO DAILY LAW BULLETIN, February 12, 1992, at 1.

Raymond Schmitz