Literature Update: Selected Art and Entertainment Law Review Article Summaries

Lorraine Rowbo

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This compilation includes brief overviews of particular articles appearing in other art and entertainment law journals within the past year which may be of use or interest to the DePaul-LCA Journal of Art and Entertainment Law's readership. Please note that this list does not contain all of the articles appearing in the particular volumes of the journals mentioned.

**Cardozo Arts And Entertainment Law Journal**

1989 Vol. 8, No. 1


This article presents a history of the tension between the judicially recognized privacy interest in concealing embarrassing, private facts and the media's constitutionally guaranteed freedom of speech right to disclose intimate details. Kramer examines the controversy as it has developed from the media's coverage of court proceedings and the lack of protection the present Court gives to privacy interests. The author believes that the Court has wrongly ignored the privacy interest of those involved in a trial in favor of the first amendment rights of the press.

**Columbia-VLA Journal of Law and The Arts**

1990 Vol. 14, No. 1

**Kastenmeier, The 1989 Horace S. Manges Lecture - Copyright in an Era of Technological Change: A Political Perspective.** [pp. 1-24].

The author is the Chairman of the House Subcommittee on Courts, Intellectual Property and the Administration of Justice. The article is the transcript of a lecture the author presented on the impact of technology on copyright law as it stands today, the role Congress will have in reforming copyright law to reflect those changes, and a prediction of those reforms yet to come.


This analysis is an interesting examination of the screen writer's role in the film and television industries and the Writers Guild of America strike in 1988. The author believes that the strike was the result of a combination of several factors, including the contractually inferior status of the artist under present copyright laws and the then current pay scale. However, according to Larner, the strike dealt with more than salary disputes. A major impetus of the strike was the industries' perception of the writers' creativity. Thus, although there was little monetary gain in the settlement, respect for the Guild's work was reestablished.


This article examines the inadequacies of applying the present copyright laws to new forms of "authorship." The writer believes that the legal fictions, developed by courts enabling new technologies to fit into traditional copyright protection, are confusing and lead to cases of non-infringement and non-protection. Accordingly, Raskind believes the solution is not to rely on 'ancillary' fictions but to categorize the works in terms of conduct and content to assure greater protection.

**Egan, Counseling Artists in the Acquisition and Use of New York City Cooperative Housing.** [pp. 165-188].

The author contrasts the specialized needs of economically constrained artists, forced to work and live in the same space, with the desire of co-operative boards to place specific controls on joint living not found in the typical rental markets. The article examines the various legal and public policy issues which are likely to be encountered in counseling artists on the purchase of cooperative housing. Such issues include the tax benefits of co-op ownership, disclosure requirements, and co-op board approval.

**The Journal of Arts Management and Law**

1990 Vol. 20, No. 1


In this article, the author traces the career development of several black musicians, currently playing with symphony orchestras, in order to understand the underlying reasons for the lack
of cultural diversity in that field of music. The article examines the stages of the musician's career, the factors that determine his or her success and the possible solutions to redress the problems.


Due to the rise of art theft incidents, museums are expected to raise their standard of diligence to avoid inadvertent purchases of stolen art. The author uses early case law as a framework to inform museums of the recent developments in the law. The article also provides practical guidelines for museum curators to avoid purchasing purloined art or being the victim of museum theft. To meet the higher standard of diligence, Hoover suggests museums avail themselves of services that list stolen art and perform periodic inventories to avoid being victimized by art thieves.

**The Journal of Arts Management and Law**
1990 Vol. 20, No. 2

**Wry, The Trustee: The Ultimate Volunteer.** [pp. 11-23].

The article discusses the distinctive characteristics the typical not-for-profit board trustee usually possesses. The author discusses the trustee's relationship to the organization's mission, the difficulty in selecting the appropriate person for the position, and the training necessary to fulfill the many roles the trustee assumes. The article notes that a trustee is a true volunteer because there is little recognition for the time and energy put into the organization.

**Loyola Entertainment Law Journal**
1990 Vol. 10, No. 1

**Davenport, Screen Credit in the Entertainment Industry.** [pp. 129 - 161].

This commentary provides an interesting overview of the American judiciary's treatment of artist credit protection. The discussion opens with the signing of the international Berne Convention agreement in 1886, which provides legal protection of the artist screen credit rights. According to the author, the United States has always recognized an economic right to paternity for artist credits, but was reluctant to equally recognize a moral right to paternity. The decision in *Vargas v. Esquire, Inc.*, 164 F.2d 522 (9th Cir. 1947), represents early court treatment of artistic screen credit. The *Vargas* court refused to provide the artist with moral rights protection. Since *Vargas*, courts have used legislation such as the 1976 Copyright Act and the Lanham Act to extend protection to screen credits. Furthermore, courts have also applied other legal theories, such as unfair competition, to protect artists' rights. The article also examines legal theories for removal of credit, including libel, invasion of privacy, and misrepresentation.

**University of Miami Entertainment and Sports Law Review**
1989-1990 Vol. 7, No. 1

**Stim, E.T. Phone Home: The Protection of Literary Phrases.** [pp. 65-90].

The focus of the article attempts to answer the question, when is a literary phrase entitled to copyright protection? The author uses the well known literary phrase, "E.T. Phone Home," in various hypothetical situations to illustrate the difficulties the courts face in providing copyright protection for short literary phrases. The article concludes that courts are willing to protect such literary phrases — it is just a matter of determining whether the phrase is sufficiently unique to be entitled to the protection. Ω

*Lorraine Rowbo*