

RECENT CASES

Publication of nude photos of tennis star Anastasia Myskina in Russian magazine Medved did not violate her publicity rights under New York law

Anastasia Myskina's publicity rights were not violated by the publication of nude photos of her in the Russian magazine *Medved*. Federal District Judge Michael Mukasey has so ruled, in an opinion granting summary judgment to Conde Naste Publications and its co-defendants.

Myskina had agreed to pose nude for the "Sports" issue of *Gentleman's Quarterly*, a Conde Naste magazine. She even signed a standard Conde Naste release form at the time of the photo shoot. She claimed, however, that the release was intended to cover the publication of the photos in *Gentleman's Quarterly* only. And therefore, publication of the photos in *Medved* violated her rights under New York's right of publicity statute.

Judge Mukasey held that the release allowed her photos to be used by Conde Naste "and others," and thus the release barred her claim.

Moreover, the judge said, the New York statute does not apply to the use of photos in a newsworthy manner. Myskina is a Russian citizen, and *Medved* published the photos to illustrate an article prompted by her then-recent victory in the French Open. The article included her impressions of women's professional tennis and accounts of her romantic life. As a result, the judge concluded, the article was newsworthy as were the photos themselves.

Myskina v. Conde Naste Publications, 386 F.Supp.2d 409, 2005 U.S. Dist. LEXIS 14277 (S.D.N.Y. 2005)

Google's thumbnail images, but not its framed full-size images, likely infringe Perfect 10's copyrights to photos of nudes

Perfect 10 has won a partial victory in its copyright infringement suit against Google. In response to Perfect 10's motion for a preliminary injunction, federal District Judge Howard Matz has ruled that it is likely that Google infringed Perfect 10's copyrights to nude photos by posting thumbnail images of those photos on Google's website. Judge Matz rejected Google's fair

use defense, because Perfect 10 has licensed the use of thumbnail copies of its photos for use on cell phones. Google's thumbnails supercede these licensed uses of Perfect 10's photos, because Google users can download its thumbnails to their phones rather than buy licensed versions.

On the other hand, Judge Matz also ruled that it is unlikely that Google infringes Perfect 10's copyrights by framing full-size infringing photos that are hosted by other websites. The judge held that as a matter of Internet technology, the full-size photos are displayed and distributed by the websites that host them – not by Google, even though they appear in the bottom portion of the split screen that Google users see when they do a search.

The judge also ruled that it is unlikely that Google is secondarily liable for infringements committed by Google users or the other websites that host infringing photos. There was no evidence that users infringed Perfect 10's copyrights at all, in part because their uses may have been fair uses. And Judge Matz held that Google was not contributorily or vicariously liable for infringements committed by the websites that host infringing photos, because Google didn't materially contribute to or have the ability to control those infringements.

Perfect 10 v. Google, Inc., 2006 U.S. Dist. LEXIS 6664, 2006 WL 454354 (C.D. Cal. 2006), available at [http://www.cacd.uscourts.gov/CACD/RecentPubOp.nsf/bb61c530eab0911c882567cf005ac6f9/3fdcaed8913a22018825711c005055a5/\\$FILE/CV04-9484AHM.pdf](http://www.cacd.uscourts.gov/CACD/RecentPubOp.nsf/bb61c530eab0911c882567cf005ac6f9/3fdcaed8913a22018825711c005055a5/$FILE/CV04-9484AHM.pdf)

Google did not infringe copyrights by caching literary works posted on free website

Google did not infringe the copyrights to literary materials posted on a free website, by caching those materials or making them accessible to Google users. Federal District Judge Robert Jones has so ruled, in an opinion granting Google's motion for summary judgment.

Nevada lawyer Blake A. Field authored and registered for copyright several works that he posted to his personal website, www.blakeswritings.com, knowing and intending that his works would be indexed and cached by Google's automated Googlebot program.

Field also knew that he could prevent Google's program from caching his site, simply by including a "no-index" meta-tag on his webpages; but Field chose not to do that. Field also knew that Google has a process that allows website owners to have their pages removed from Google's cache; but Field didn't do that either. Instead, Field included code on his website that allowed Google to index and cache it; and then he sued Google for infringement.

In response to Google's motion for summary judgment, Judge Jones has ruled that Google had an implied license to cache Field's website, that Field was estopped from claiming his copyrights were infringed, that Google's cache was a fair use, and that Google was protected from liability by the "safe harbor" provision of the Digital Millennium Copyright Act.

Field v. Google, Inc., 2006 WL 242465 (D.Nev. 2006)

Jazz musician Cecil McBee loses lawsuit filed in U.S. against Japanese clothing company that uses "Cecil McBee" name in Japan, even though federal Court of Appeals adopted new and easier test for extraterritorial application of Lanham Act

American jazz musician Cecil McBee has lost the lawsuit he filed in the United States against a Japanese company that uses the "Cecil McBee" name, without his consent, for a girls' clothing line in Japan. Despite losing, McBee did persuade the Court of Appeals for the First Circuit to adopt a new test for the circumstances under which the U.S. Lanham Act applies to activities that take place entirely abroad – a new test that is easier to satisfy than the test long used in other Circuits.

In an opinion by Judge Sandra Lynch, the First Circuit held that the Lanham Act may be applied to conduct that occurs outside of the United States, if that conduct has a "substantial" effect on U.S. commerce, even if the defendant is not a U.S. citizen, and even if applying the Lanham Act would conflict with rights a defendant has under the trademark law of the country where the conduct occurred.

In so ruling, Judge Lynch acknowledged that her court had chosen "not to adopt" the rule "used by various other circuits." In other circuits, the rule is that the Lanham Act may be applied to conduct that occurs outside the United States, only if that conduct has a "substantial" (or in some circuits, "significant" or "some") effect on U.S. commerce, and the defendant is a U.S. citizen, and applying the Lanham Act would not conflict with the trademark law of the other country.

McBee lost even under the First Circuit's more easily satisfied test, because there was no evidence that

any American – other than McBee himself – had purchased "Cecil McBee" clothes from Japan, and thus there was no evidence that the sale of that clothing in Japan had a "substantial" effect on U.S. commerce.

McBee v. Delica Co. Ltd., 417 F.3d 107, 2005 U.S.App.LEXIS 15826 (1st Cir. 2005)

Federal Court of Appeals orders dismissal of Yahoo's U.S. lawsuit against French organizations that won judgment in France requiring Yahoo to block access by French users to websites that auction Nazi merchandise

Yahoo has lost a case it filed in federal court in the United States against two French organizations that had sued it in France for allowing French users access to websites that auction Nazi merchandise. After a rehearing *en banc*, a federal Court of Appeals has ordered the dismissal of Yahoo's lawsuit, though the 11 judges could not agree – indeed, were badly split – about their reasons for this result.

Originally, Yahoo was sued in France by two French organizations known (in English) as the League Against Racism & Anti-Semitism, and the French Union of Jewish Students. French law makes the mere display of Nazi merchandise a crime in that country, so Yahoo's site in France displays no Nazi materials. But, because the Internet makes websites accessible worldwide, regardless of where those websites are hosted, French residents were easily able to access the Nazi auction websites through Yahoo's American website. The French court ordered Yahoo to block access by French users to any websites that auction Nazi merchandise, apologize for Nazism, or contest the reality of Nazi crimes. Moreover, the French court decreed that if Yahoo failed to do so by February 2002, it would be subject to fines of 100,000 Francs (about \$14,000) a day (*ELR* 22:8:5).

The French court prohibited the collection of the fines from Yahoo's French subsidiary, and Yahoo has no other assets in that country. But Yahoo was concerned that the organizations would allow the fines to pile up, and then seek to collect them in a legal proceeding in the United States. Hoping to head that off, Yahoo filed suit against the two French organizations in federal court in California, arguing that any attempt to collect the French judgment in the U.S. would violate Yahoo's First Amendment free speech rights. The District Court agreed, and ruled that the order of French court could not be enforced in a U.S. court (*ELR* 23:7:6).

The French organizations appealed, and a three-judge panel ruled in their favor, on the grounds that the

District Court did not have personal jurisdiction over them (*ELR* 26:7:17). Yahoo then petitioned the full Court of Appeals for a rehearing. Though its petition for rehearing was granted (*ELR* 26:9:17), Yahoo ultimately did no better.

In a 99-page opinion, eight of the 11 judges concluded that the District Court *did* have personal jurisdiction over the French organizations, just as Yahoo had claimed. But three of those eight judges also concluded that Yahoo's claim was not "ripe for adjudication," because the French organizations had not asked the French court to impose a fine, the French court may not impose a fine even if they do ask for one, and it is unlikely a U.S. court would enforce such a fine even if a French court imposed one.

Though five of those eight judges did think Yahoo's case was "ripe," three of the court's 11 judges concluded that the District Court did *not* have personal jurisdiction over the French organizations.

Thus, six of the 11 judges thought Yahoo's case should be dismissed for one reason or another. And thus it was.

Yahoo! Inc. v. La Ligue Contre Le Racisme et L'Antisemitisme, 433 F.3d 1199, 2006 U.S.App.LEXIS 668 (9th Cir. 2006)

Widow and children of Puerto Rican composer Guillermo Venegas-Lloveras own renewal copyrights 50/50 rather than per capita

Puerto Rican composer Guillermo Venegas-Lloveras died in 1993, survived by a widow and four children. The copyrights to many his compositions were renewed after he died. But the widow and children did not agree who among them owned those renewal copyrights, or in what percentages.

The children claimed 100% of the renewal terms under their father's will. The widow claimed 50% under the Copyright Act. The District Court gave the widow 20% and the four children 80%, ruling that the Copyright Act requires a per capita division.

The Copyright Act makes it clear that the renewal terms belong to the composer's "widow . . . or children. . . ," regardless of what his will may have said. What the Copyright Act does not make clear is what portion of the renewal terms are owned by the widow and what portion are owned by the four children.

In an opinion by Judge Michael Boudin, the Court of Appeals held that the widow owns 50% of the renewal terms, and the four children own equal shares of the other 50%. In so ruling, the court agreed with *BMI v. Roger Miller Music* which also concluded – over the dissent of one judge – that renewal terms are

owned 50/50 by surviving spouses and children (*ELR* 27:3:14).

Venegas-Hernandez v. ACEMLA, 424 F.3d 50, 2005 U.S.App.LEXIS 19908 (1st Cir. 2005)

Ludacris denied summary judgment in case alleging his song "Stand Up" infringes copyright to song "Straight Like That" by rap group It's Only Family

Rap compositions "Stand Up" by Ludacris and "Straight Like That" by It's Only Family are similar to one another in a few ways. Both are done in the "call-and-response" format. The response part of both songs consists of three words, ending with the two-word phrase "like that." And both songs use "a three-note rhythmic pattern comprised of an eighth note, quarter note, and eighth note accompanying the respective lyrics 'straight like that' and 'just like that.'"

In a copyright infringement suit, It's Only Family alleges that the two songs are substantially similar because Ludacris copied It's Only Family's "Straight Like That" after he was given a copy of a CD that contained that song.

Ludacris responded with a motion for summary judgment in which he contended that portions of "Straight Like That" are not original, and that when those portions are removed from consideration, the two songs are not substantially similar.

Federal District Judge Kevin Castle was not persuaded. The judge noted that even if individual elements of "Straight Like That" are not original, the combination of them may be. What's more, although that same combination appears to have been used in an earlier composition also titled "Straight Like That" recorded by the rap group Capone-N-Noreaga, there was no showing that It's Only Family had copied that earlier composition. Since originality does not require novelty, the judge said, "Straight Like That" could be original to It's Only Family, even if it is the same as the composition by Capone-N-Noreaga.

Judge Castle also ruled that he could not say "Straight Like That" was not substantially similar to "Stand Up." So the judge denied Ludacris' motion for summary judgment, as well as the artist's later motion for reconsideration.

BMS Entertainment/Heat Music LLC v. Bridges, 2005 U.S.Dist.LEXIS 13491, 2005 WL 1593013 (S.D.N.Y. 2005), reconsideration denied, 2005 U.S.Dist.LEXIS 24449, 2005 WL 2675088 (S.D.N.Y. 2005)

Previously Reported:

Capitol Records and Naxos settle copyright case. Capitol Records and Naxos have settled the copyright infringement lawsuit filed by Capitol, complaining of Naxos' release of recordings made in the 1930s in London. Because pre-1972 recordings aren't protected by federal copyright law in the U.S., Capitol relied on New York state common law copyright. There was a question, however, about whether New York law would protect those recordings, because they are now in the public domain in the UK. The settlement was reached after the New York Court of Appeals held that New York law does protect the recordings (*ELR* 27:5:8), which meant that Naxos' sale of them was infringing.

Dismissal of "Perfect Storm" case is affirmed. In a brief Per Curiam order, a federal Court of Appeals has affirmed the dismissal of "The Perfect Storm" case (*ELR* 24:5:8). The federal appellate court did so after the Florida Supreme Court ruled – in response to a request by the federal court – that the Florida right of publicity statute does not apply to the movie, because the statute applies only to movies and other publications that directly promote a product, which the Warner Bros. movie did not. *Tyne v. Time Warner Entertainment Co.*, 425 F.3d 1363, 2005 U.S.App.LEXIS 20869 (11th Cir. 2005)

National Amusements and Hoyts settle Americans with Disabilities Act case. National Amusements and Hoyts have settled a lawsuit filed against them by the United States government, alleging that seating for wheelchair-bound patrons in their movie theaters does not satisfy the requirements of the Americans with Disabilities Act. The movie theater chains have reportedly agreed to make design changes that will provide improved lines of sight for wheelchair patrons in current and future stadium style theaters. The settlement followed a partial victory won by National Amusements and Hoyt in the Court of Appeals which vacated a lower court order that had required the two companies to provide wheelchair seating in tiered sections of new stadium-style movie theaters; the appellate court ruled that wheelchair seating in the flat portions of some stadium-style theaters may be OK, though the appellate court also ruled that reconstruction of some existing theaters may be necessary (*ELR* 26:8:21).

Opinion published. The decision of federal District Judge Robert Sweet that Stan Lee's contract with Marvel entitles him to 10% of Marvel's profits from movie and TV productions using Marvel characters, including movie and TV merchandising profits, regardless of whether Marvel's profits were received pursuant to "net profits" or "gross profit participation" deals (*ELR* 26:12:8), has been published. *Lee v. Marvel Enterprises, Inc.*, 386 F.Supp.2d 235, 2005 U.S.Dist.LEXIS 587 (S.D.N.Y. 2005)

INTERNATIONAL DEVELOPMENTS

Daily Mirror invaded J.K. Rowling's privacy by publishing photo of author's London home and name of road on which it is located, UK Press Complaints Commission decides

The Daily Mirror violated the privacy of J.K. Rowling by publishing a photo of her London home and the name of the road on which it is located, the UK Press Complaints Commission has decided.

Rowling complained that by publishing a photo of her home and the name of the road on which it is located the London newspaper violated the Commission's Code of Practice. The Code is the "cornerstone" of a voluntary system of press self-regulation in the UK. Though the Commission does not award damages for violations of the Code, "Any publication judged to have breached the Code must print the adjudication in full and with due

prominence, including headline reference to the P[ress] C[omplaints] C[ommission]."

Rowling is the author of the "Harry Potter" book series, and the Daily Mirror "itself noted that [she] had 'gained her fair share of stalkers and obsessive fans'."

The author also had complained about the Daily Mirror's publication of information about another home she owns in Edinburgh and a third in the Scottish countryside. But the Commission determined that the information published about those homes was not specific enough to allow readers to identify their locations. As a result, the Daily Mirror did not violate the Code by publishing that information, the Commission concluded.

Rowling and Daily Mirror, UK Press Complaints Commission (2005), available at <http://www.pcc.org.uk/reports/latestdetails.asp?id=430&?oxid=0169fb5ffa3c532750bcf7d4f9cfa8c1>

WASHINGTON MONITOR

Copyright Office issues report on Orphan Works recommending amendments to infringement remedies

"Orphan works" are those still protected by copyright, but whose owners are impossible to identify or locate.

The number of orphan works has increased in number, because the duration of copyright has become longer and because the need to renew copyrights was eliminated. Many – perhaps most – orphan works simply go unused, because those who would otherwise be interested in doing so are understandably reluctant to run the risk of being sued for infringement, should owners actually exist even though they couldn't be found in advance.

Early in 2005, Senators Orrin Hatch and Patrick Leahy asked the Copyright Office to study the problem and to make recommendations for its solution. The Copyright Office has done so. Its Report is the result of research by Copyright Office lawyers, hundreds of

written comments and replies, public roundtables, and informal meetings with interested parties. The Report is thorough (running to 130 pages of text and another 70 pages of appendices).

Though a variety of solutions were suggested, the most promising involved softening the remedies available for infringement of the copyrights to orphan works. And that is what the Copyright Office has recommended, both in principle and with specific statutory language. In a nutshell, it recommends that if a user makes a diligent search for the owner of the copyright to a work but could not locate the owner, and if the user gives credit to the work's author and copyright owner, the user shall have to pay only "reasonable compensation" for the use of the work, if the copyright owner should file an infringement suit.

The Report, as well as the written comments and recordings of the roundtables, are available online at the Copyright Office website.

Report on Orphan Works, Register of Copyrights (Jan. 2006), available at <http://www.copyright.gov/orphan>

DEPARTMENTS

Entertainment Lawyer News:

Abdo Abdo Broady & Satorius merges with Lommen Nelson Cole & Stageberg. The Minneapolis entertainment law firm of Abdo Abdo Broady & Satorius has merged with Lommen Nelson Cole & Stageberg. The firm is now known as Lommen Abdo Cole King & Stageberg with offices in Minneapolis and Hudson (Wisconsin). The merged firm is a full-service law firm, providing services to clients ranging (alphabetically) from antitrust to wrongful death litigation. The entertainment law department is headed by Ken Abdo, who is the past Chair of the ABA Entertainment & Sports Industries Forum Committee, and by Dan Satorius.

Victoria Cook named partner at Frankfurt Kurnit Klein & Selz. Victoria S. Cook has become a partner in Frankfurt Kurnit Klein & Selz in New York City where she works in the firm's Entertainment and Sports Group. Cook focuses on motion picture and television work, representing filmmakers, writers, directors, actors, television producers, film financiers, and television networks. Her clients include filmmakers Jim Jarmusch (*Broken Flowers*, *Coffee and Cigarettes*, *Ghost Dog*); Todd Solondz (*Palindromes*); Nicole Kassell (*The Woodsman*); Rory Kennedy and Liz Garbus (*The Farm*, *Girlhood A Boy's Life*, *Pandemic*); and other Academy Award-nominated filmmakers. She also represents independent film producer Lydia Dean Pilcher (*The Namesake*) and reality television producers True Entertainment (*Gastineau Girls*), Fractured Hip (*Boiling Points*, *Smoking Gun TV*) and Marobru Productions (*The Chappelle Show*). Cook has lectured on the law of filmmaking and distribution at Columbia University, the University of Pennsylvania Law School, Fordham Law School, the Independent Feature Project, the New York State Bar Association, and the Entertainment Technology Alliance. Most recently, she presented "New Tax Benefits for Filmmaking" at the Cannes Producers' Breakfast at the Cannes Film Festival, and to members of the Producers Guild of America East. She was legal counsel for the first two feature films to benefit from the New York State Film Production Tax Credit program. Cook is co-founder of the New York Underground Film Festival and currently serves on the Young Leadership Council for Gilda's Club. Before joining Frankfurt Kurnit in 1999, Cook was an associate at Paul Weiss Rifkind Wharton &

Garrison in New York. Previously, she worked at CourtTV and also co-produced the feature-length documentary titled "Screwed" about New York personality and pornographer Al Goldstein. She was admitted to the bar in 1999 in New York and New Jersey. Cook is a graduate of Columbia University (BA, 1991), Tisch School of the Arts (MA Cinema Studies, 1995) and University of Pennsylvania (JD, cum laude, 1998).

Marc Mayer becomes partner at Mitchell Silberberg & Knupp. Marc E. Mayer has been named a partner in the Intellectual Property & Technology/Litigation groups at Mitchell Silberberg & Knupp in Los Angeles. Mayer's practice focuses on intellectual property and entertainment litigation, including copyright, trademark, unfair competition and contract disputes. He serves on the executive committee of the Intellectual Property and Entertainment Section of the Los Angeles County Bar Association, and is a member of the International Game Developers Association Intellectual Property Working Group. Mayer has worked on a number of high-profile cases including the successful litigation against Napster and 321 Studios.

Stanley Pierre-Louis joins Kaye Scholer. Stanley Pierre-Louis, the former Senior Vice President of Legal Affairs for the Recording Industry Association of America (RIAA), has joined Kaye Scholer's New York office as co-chair of its Entertainment and Media Law Practice. At the RIAA, Pierre-Louis developed enforcement strategies and coordinated the recording industry's litigation in several landmark copyright cases, including Napster, MP3.com, Aimster and Grokster. Billboard Magazine named Pierre-Louis as one of its "Power Players" in the music industry. An American Lawyer publication has cited his work as "some of the most celebrated litigation in music history." He is a frequent speaker on copyright and music law and has served on several non-profit boards. Prior to joining the RIAA, he clerked for Judge David A. Nelson of the United States Court of the Appeals for the Sixth Circuit; he then joined a major Washington, DC law firm, where he focused on the areas of copyright and constitutional law. Pierre-Louis is a graduate of Clark University, where he was elected Phi Beta Kappa, and of the University of Chicago Law School, where he served as an editor of the Law Review.

In the Law Reviews:

THE COLUMBIA JOURNAL OF LAW & THE ARTS, Volume 29, Number 1 has been published with the following articles:

Copyright's Commons by Paul Goldstein, 29 The Columbia Journal of Law & the Arts 1 (2005)

Legal Protection of Technological Measures Protecting Works of Authorship: International Obligations and the US Experience by Jane C. Ginsburg, 29 The Columbia Journal of Law & the Arts 11 (2005)

Fundamental Rights: Author's Right and Copyright-Commonalities or Divergences? by Dana Beldiman, 29 The Columbia Journal of Law & the Arts 39 (2005)

Settlor's Intent vs. Trustee's Will: The Barnes Foundation Case by Heinrich Schweizer, 29 The Columbia Journal of Law & the Arts 63 (2005)

The Potential Decline of Artistic Creativity in the Wake of the Patriot Act: The Case Surrounding Steven Kurtz and the Critical Art Ensemble by Joyce Lok See Fu, 29 The Columbia Journal of Law & the Arts 83 (2005)

FORDHAM INTELLECTUAL PROPERTY, MEDIA & ENTERTAINMENT LAW JOURNAL has published Volume 15, Number 4 with the following articles:

Licensing in the Digital Age: The Future of Digital Rights Management by Hugh C. Hansen, Marybeth Peters, Joseph Salvo and Fred Von Lohmann, 15 Fordham Intellectual Property, Media & Entertainment Law Journal (2005)

Indecent Exposure? The FCC's Recent Enforcement of Obscenity Laws by Abner Greene, William Davenport, Jeffrey Hoeh, C. Edwin Baker, Paul J. McGeady and John Fiorini, III, 15 Fordham Intellectual Property, Media & Entertainment Law Journal (2005)

Martignon and KISS Catalog: Can Live Performances be Protected? by Brian Danitz, 15 Fordham Intellectual Property, Media & Entertainment Law Journal (2005)

The Penguin Paradox: How the Scope of Derivative Works in Copyright Affects the Effectiveness of the GNU GPL, 85 Boston University Law Review 1439 (2005)

Fanfic and Fan Fact: How Current Copyright Law Ignores the Reality of Copyright Owner and Consumer Interests in Fan Fiction by Leanne Stendell, 58 SMU Law Review 1551 (2005)

ENTERTAINMENT LAW REVIEW, published by Sweet and Maxwell, www.sweetandmaxwell.co.uk, has issued Volume 17, Issue 1 and 2 with the following articles:

The Problems with DRM by Catherine Stromdale, 17/1 Entertainment Law Review 1 (2006) (for website, see above)

File-Sharing and Individual Civil Liability in the United Kingdom: A Question of Substantial Abuse? by Martina Gillen, 17/1 Entertainment Law Review 7 (2006) (for website, see above)

Copyright in Character, Intellectual Property Rights and the Internet: Part II by Professor A. McGee and Gary Scanlan, 17/1 Entertainment Law Review 15 (2006) (for website, see above)

Copyright Owners v The Google Print Library Project by Jonathan Band, 17/1 Entertainment Law Review 21 (2006) (for website, see above)

Peer-to-Peer Case Developments by Nigel Davies, Gregor Pryor and Aoife Keanwe, 17/1 Entertainment Law Review 25 (2006) (for website, see above)

Payola in the United States Radio Industry: An Examination of the Sony BMG Settlement by Mark Fox and Tony Ciro, 17/1 Entertainment Law Review 29 (2006) (for website, see above)

Free Speech Fundamentalism by Anthony Martino, 17/2 Entertainment Law Review 49 (2006) (for website, see above)

The 21st-Century Journalist by Scott Singer and Emma Turrell, 17/2 Entertainment Law Review 55 (2006) (for website, see above)

Moral Rights in the 21st Century: A Case for Bankruptcy? by Rupert Sprawson, 17/2 Entertainment Law Review 58 (2006) (for website, see above)

Online Music Licensing: The Calm after the Storm by Maria Mercedes Frabboni, 17/2 Entertainment Law Review 65 (2006) (for website, see above)

The "Right to Information: and Digital Broadcasting: About Monsters, Invisible Men and the Future of European Broadcasting Regulation by Natali Helberger, 17/2 Entertainment Law Review 70 (2006) (for website, see above)

BitTorrent Copyright Infringement by Margaret Tofalides and Gary Fearn, 17/2 Entertainment Law Review 81 (2006) (for website, see above)

A Closer Look at Conditional Fee Agreements Following Campbell v MGM by Lorna Caddy and Niri Shan, 17/2 Entertainment Law Review 84 (2006) (for website, see above)

More Style than Substance: GMG Radio Holdings Ltd v Tokyo Project Ltd by Simon Burlinson, 17/2 Entertainment Law Review 86 (2006) (for website, see above)

Book Review: New Directions in Copyright Law, Volume One by Fiona Macmillan, 17/2 Entertainment Law Review 89 (2006) (for website, see above)

The Economics of Digital Content and Illegal Online File-Sharing: Some Legal Issues by Michael Nwogugu, 12/1 Computer and Telecommunications Law Review 5 (2006) (www.sweetandmaxwell.co.uk)

Surviving Grokster: Innovation and the Future of Peer-to-Peer by Paul Ganley, 28/1 European Intellectual Property Review 15 (2006) (www.sweetandmaxwell.co.uk)

HOUSTON LAW REVIEW has published Volume 42, Number 4 entitled Transactions, Information and Emerging Law: Institute for Intellectual Property & Information Law Symposium with the following articles:

Introduction by Raymond T. Nimmer, 42 Houston Law Review (2005)

Contract and Copyright by Frank H. Easterbrook, 42 Houston Law Review (2005)

Reconsidering the DMCA by R. Polk Wagner, 42 Houston Law Review (2005)

A Postmortem of the Digital Television Broadcast Flag by Cuong Lam Nguyen, 42 Houston Law Review (2005)

The TiVo Question: Does Skipping Commercials Violate Copyright Law? by Ned Snow, 56 Syracuse Law Review 27 (2005)

Sailing Toward Safe Harbor Hours: The Constitutionality of Regulating Television Violence by Eric C. Chaffee, 39 University of Michigan Journal of Law Reform 1 (2005)

Take Us Back to the Ball Game: The Laws and Policy of Professional Sports Ticket Prices by Nathan R. Scott, 39 University of Michigan Journal of Law Reform 37 (2005)

Video Games as a Protected Form of Expression by Paul E. Salamanca, 40 Georgia Law Review (2005)

Playing Games with the First Amendment: Are Video Games Speech and May Minors' Access to Graphically Violent Video Games Be Restricted? by Gregory K. Laughlin, 40 University of Richmond Law Review (2006)

Music at the Edge of Chaos: A Complex Systems Perspective on File Sharing by Deborah Tussey, 37 Loyola University Chicago Law Journal 147 (2005)

Not All Edits Are Created Equal: the Edited Movie Industry's Impact on Moral Rights and Derivative Works Doctrine by Aaron Clark, Santa Clara Computer & High Technology Law Journal 51 (2005)

Metro-Goldwyn-Mayer Studios v. Grokster: The Supreme Court's Balancing Act Between the Risks of Third-Party Liability for Copyright Infringement and Rewards of Innovation by Karen M. Kramer, Santa Clara Computer & High Technology Law Journal 169 (2005)

Forget NAFTA: How the U.S. Can Obtain Improved Protection of Copyrighted Goods in Mexico Through the Creation of an Open United States-Mexico Border by Dara Cox Bachman, 24 Penn State International Law Review 427 (2005)

Olympic Judging and Scoring is Far from a Perfect Ten: Why the International Olympic Committee Must Set Standards for Judging and Scoring to Save the Olympic Games by Jenny A. Urquhart, 24 Penn State International Law Review 475 (2005)

Intellectualizing Property: The Tenuous Connections Between Land and Copyright by Stewart E. Sterk, 83 Washington University Law Quarterly 417 (2005)

A Theory of Copyright's Derivative Right and Related Doctrines by Michael Abramowicz, 90 Minnesota Law Review (2005)

Running Out of Bounds: Over-Extending the Labor Antitrust Exemption in Claret v. National Football League, 79 St. John's Law Review 733 (2005)

Policing the Border Between Trademarks and Free Speech: Protecting Unauthorized Trademark Use in Expressive Works by Pratheepan Gulasekaram, 80 Washington Law Review (2005)

Once and Future Copyright by James Gibson, 81 Notre Dame Law Review (2005)

The Dream that Never Dies: Eldred v. Ashcroft, the Author and the Search for Perpetual Copyright by Christopher Ledford, 84 Oregon Law Review 655 (2005)

A Pas de Deux for Choreography and Copyright by Joe Michelle Lakes, 80 New York University Law Review 1829 (2005)

Educational Programs Calendar:

Counseling Clients in the Entertainment Industry 2006, March 29-30, Practising Law Institute New York Center and Live Webcast. The first day examines Television with such topics as Acquisition of Underlying Rights; Co-productions and Joint Ventures; Music Rights and Legislative, Regulatory and Technology Issues; The Impact of the Internet and Digital Media on the Entertainment Industry; Hot Topics in Entertainment Law: Recent Court Decisions; and Ethics. The second day will feature Film: Key Legal Issues in the Development, Financing, Production and Distribution of Theatrical Motion Pictures; and Theater including Acquisition of Rights, Financing and The Production. The third day the course turns its attention to Music Publishing and Sound Recordings. For further information, go to the web at www.pli.edu; call (800) 260-4PLI or mail to the Practising Law Institute, 810 Seventh Avenue, New York, NY 10019.

The Trademark Office Comes to California, April 3, Westin St. Francis Hotel and April 5, Ritz-Carlton, Marina Del Rey. Sponsored by the Intellectual Property Section of the State Bar of California, the program presents The U.S. Trademark Office Today; Getting the Black Market to Knock It Off: Strategies to Enforce Trademark Rights in Asia; "Where is the Cutting Edge in Trademark Law?", the keynote speech by J. Thomas McCarthy of the University of San Francisco; TTAB Practice Update and Recent Significant Cases; Trademark Prosecution Pointers-A Practitioner's Workshop; and When Ethics Cross the Line into Illegality: Trademark Infringement and Search Engine Ranking. For additional information, go to www.calbar.ca.gov/ipsection or call (415) 538-2508.

Sports and Entertainment Labor Law Committee Midyear Meeting, April 20-22, W Hotel, Los Angeles. The meeting will open with Building a Labor Law Entertainment and/or Sports Practice followed by Ethics of Lawyers, Agents and Managers. Other sessions will include NBA and NHL Labor Negotiations; Entertainment Industry Labor Negotiations; Agency Relations in Sports and Entertainment; and Technology and its Implications for Labor Relations in the Entertainment Industry. For

registration materials, go to <http://www.abanet.org/labor/programs/Sports2006.html>

Counsel's Guide to Worldwide Piracy Prevention, April 24-25, Renaissance Montura Hotel, Los Angeles. Presented by the American Conference Institute and sponsored by Loeb and Loeb, the program takes a look at China, Russia, and the World Piracy Market: Getting the Full Picture on International Enforcement and Developing Strategies to Protect Content; Update on the WTO's Efforts to Enforce the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement; Enforcing Copyrights in Orphan Works; Domestic Film Piracy; Breaking the Piracy Food Chain; Protecting Business and Entertainment Software; Protecting Music-Internet Piracy and the Recording Industry Response; Measuring the Impact of Authors Guild v. Google Print Library; What's Next for the Copyright Act on Capitol Hill?; Replacing Encryption: Is an Unhackable Technology Worth Government Involvement?; Negotiating the Post-Grokster World; and Controlling Counterfeit Trade in Tangible Products Over the Internet. A Master Class on Damages in Piracy Cases will be taught by Barry Slotnick of Loeb and Loeb in New York on April 26. For additional information, contact American Conference Institute, 41 West 25th Street, New York, NY 10010, call 888-224-2480 or visit www.AmericanConference.com/piracyprev.

Trademarks, Copyrights, and Unfair Competition for the General Practitioner and the Corporate Counsel, April 27-28, Hotel Contessa, San Antonio. This 15th Annual ALI-ABA Course of Study for Inside and Outside Counsel will examine Trademark Fundamentals; Protecting Trademarks: Common Law, Statutes, and Treaties; Trademark Searching: Selecting Available, Strong, and Enforceable Trademarks; Trademark Preparation and Prosecution: The Trademark Registration Process; Copyright Fundamentals; Trademark Enforcement Theories: Likelihood of Confusion and Dilution; Challenges to Trademark Registration: Oppositions and Cancellations; Trademarks and Copyrights in Cyberspace: How to Address Cyberpiracy (Including a discussion and analysis of MGM Studios, Inc. v. Grokster, Ltd.); Licensing: Monetizing Trademarks and Copyrights; Ethics in Trademark and Copyright Practice; and Presentation and Roundtable Discussion-The Outer Limits of Trademark and Copyright Protection: Fair Use. For additional information, see www.ali-aba.org, or call 800-CLE-NEWS.