

1-1-1984

Survey Outline

Recommended Citation

, *Survey Outline*, 4 Loy. L.A. Ent. L. Rev. 1 (1984).

Available at: <http://digitalcommons.lmu.edu/elr/vol4/iss1/3>

This Article is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Entertainment Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

SURVEY OUTLINE

I. MOVIES AND TELEVISION	7
A. Copyright.....	7
1. Substantial Similarity	7
a. “Greatest American Hero” Not Substantially Similar to “Superman”: <i>Warner Brothers v. American Broadcasting Co.</i>	7
b. “Star Wars” v. “Battlestar Gallactica” May Proceed to Trial: <i>Twentieth Century-Fox Film Corp. v. MCA, Inc.</i>	11
c. “Jaws” Promoters Enjoin Distributors of “Great White”: <i>Universal City Studios v. Film Ventures</i>	16
d. “Blue Lagoon’s” Move to Enjoin “Paradise” Fails: <i>Columbia Pictures Industries v. Em- bassy Pictures</i>	20
e. “Coming Home” Successful Against Copy- right Infringement Challenge: <i>Davis v. United Artists, Inc.; Jason v. Fonda</i>	22
f. Relief For Innocent Creators: <i>Giangrasso v. Columbia Broadcasting System</i>	27
2. Fair Use	30
a. Work Not Protected as Parody: <i>Metro-Gold- wyn-Mayer, Inc. v. Showcase Atlanta Coopera- tive Production</i>	30
b. Television News’ Use of Chaplin Film: <i>Roy Export Co. v. Columbia Broadcasting System</i>	37
c. Nonprofit Organization’s Use of Videotapes: <i>Encyclopaedia Britannica Educational Corp. v. Crooks</i>	41
3. Derivative Works	49
a. Hopalong Cassidy Movies—Exclusive Owner- ship in TV Rights Awarded: <i>William Boyd Enterprises v. TV National Releasing Corp.</i> ...	49
4. Copyrightability	54
a. Person Has No Copyright in a Real Life Social Service Program: <i>Rowe v. Golden West TV Productions</i>	54

b.	“Exclusive Story” Must Be Original And Substantiated: <i>Sellers v. American Broadcasting Cos.</i>	59
c.	Notice of Termination Strictly Construed: <i>Burroughs v. Metro-Goldwyn-Mayer, Inc.</i>	63
5.	Satellite Retransmission	75
a.	Program Retransmission Via Satellite: <i>Eastern Microwave, Inc. v. Doubleday Sports, Inc.</i>	75
b.	Vertical Blanking Interval on Retransmission: <i>WGN Continental Broadcasting Co. v. United Video, Inc.</i>	79
B.	Antitrust	83
1.	“All Rights” Acting Contracts Preclude Future Royalties: <i>Rooney v. Columbia Pictures Industries</i>	83
2.	Participation in Split Agreements Constitutes Unlawful Price-Fixing: <i>General Cinema Corp. v. Buena Vista Distribution Co.</i>	86
C.	Breach of Contract	91
1.	Director’s Right to Receive Sole Film Credit: <i>Nuchtern v. Vanderbes</i>	91
2.	Restrictive Covenant Protects a Television Station’s Image: <i>Beckman v. Cox Broadcasting Corp.</i>	94
3.	Actor’s Right to Receive Credit: <i>Smithers v. Metro-Goldwyn-Mayer, Inc.</i>	97
4.	First Right of Refusal Provision: <i>Columbia Broadcasting System v. French Tennis Federation</i>	103
D.	Constitutional Law	108
1.	Adult Entertainment Zoning Ordinances: <i>Castner v. City of Oakland</i>	108
2.	Viewers’ Right to Compel TV Broadcast: <i>Muir v. Alabama Educational TV Commission</i>	112
E.	Blind Bidding	117
1.	Ohio Film Trade Regulation Challenge: <i>Allied Artists v. Rhodes</i>	117
2.	Pennsylvania Film Trade Regulation Challenge: <i>Associated Film v. Thornburgh</i>	123

F.	Television Regulation	125
1.	Repeal of Three-Year Trafficking Rule: <i>Federal Communication Commission's Amendment of Rules</i>	125
2.	Super Stations—Local or National Broadcasters?: <i>ABC Sports, Inc. v. Atlanta National League Baseball Club, Inc.</i> ; <i>Cox Broadcasting v. NCAA</i> .	129
G.	Personal Injury	139
1.	Producer Not Liable For Injuries Inflicted on Movie Goer: <i>Bill v. Superior Court</i>	139
II.	MUSIC	155
A.	Copyright	155
1.	Jukebox Copyright Royalty Fee Held Lawful and Reasonable: <i>Amusement and Music Operators Association v. Copyright Royalty Tribunal</i> ...	155
B.	Breach of Contract	160
1.	Personal Service Contracts: <i>In re Noonan</i>	160
2.	Explicit Drafting in Royalty Contracts: <i>In re Miller</i>	162
C.	Nuisance	168
1.	Rock Concert Injunction Unconstitutional: <i>State ex rel Pizza v. Tom</i>	168
D.	Antitrust	175
1.	Price Discrimination—Records: <i>Zoslaw v. MCA Distributing Corp.</i>	175
III.	BOOKS AND MAGAZINES	183
A.	Copyright	183
1.	Agreements With Authors Regarding Idea Submissions Should Be Specific: <i>Werlin v. Reader's Digest Association, Inc.</i>	183
B.	Constitutional Law	192
1.	Child Pornography Not Protected Speech in New York: <i>New York v. Ferber</i>	192
IV.	SPORTS	197
A.	Antitrust	197
1.	Baseball Remains Exempt From Antitrust Laws: <i>Henderson Broadcasting Corp. v. Houston Sports Association</i>	197
2.	Cross-Ownership Ban: <i>North American Soccer League v. National Football League</i>	203

- 3. NFL’s Home Game Black-Out Exemption: *WTWV, Inc. v. National Football League* 209
- 4. NFL’s Membership Admissions Procedure: *Mid-South Grizzlies v. National Football League* 213
- B. Constitutional Law 216
 - 1. Boxer’s Right to Fight for Championship Title: *Duva v. World Boxing Association* 216
- V. RIGHT OF PUBLICITY 229
 - A. Descendability and Sufficiency of Exploitation During Life: 229
 - 1. *Martin Luther King, Jr. v. American Heritage Products, Inc.* 229
 - 2. *Commerce Union Bank v. Coors; Factors Etc., Inc. v. Pro Arts, Inc.* 234
 - 3. *Groucho Marx v. Day & Night Co.* 242
 - B. “Forum” Violates Cher’s Right of Publicity: *Cher v. Forum International, Ltd.* 246
- VI. LIBEL AND PRIVACY 251
 - A. Fictional Work Not Defamatory: *Springer v. Viking Press* 251
 - B. Lyrics of Song Not Defamatory: *Valentine v. Columbia Broadcasting System* 255
 - C. Topless Pro Boxer—“Public Figure” Standard: *Davis v. High Society* 259
 - D. Ms. Wyoming Not Defamed By “Penthouse”: *Pring v. Penthouse International, Ltd.* 266
 - E. Falsely Portraying Person As a Prostitute is Defamatory: *Clark v. American Broadcasting Cos.* 271
- VII. TRADEMARKS AND UNFAIR COMPETITION..... 281
 - A. Books and Magazines 281
 - 1. Magazine Enjoined From Use of “Playmen” Title: *Playboy Enterprises, Inc. v. Chuckleberry Publishing, Inc.* 281
 - 2. Jeans Counterfeiter Liable for Accounting and Attorney’s Fees: *Playboy Enterprises, Inc. v. Baccarat Clothing Co., Inc.* 289
 - B. Television and Radio 296
 - 1. “107” Not Valid Service Mark for Radio Station: *Walt-West Enterprises, Inc. v. Gannett Co.* 296
 - 2. Television Slogan Not Valid Service Mark of

	Slogan-Creator: <i>Invisible Ink v. National Broadcasting Co.</i>	303
C.	Music	306
	1. Pied Piper's Service Mark Abandoned: <i>Yocum v. Covington</i>	306
	2. Former Platter Enjoined From Using Service Mark: <i>Five Platters, Inc. v. Williams</i>	310
D.	Character Merchandise	313
	1. Drawings of Cartoon Characters Found Valid Trademarks For Toy Dolls: <i>In re DC Comics, Inc.</i>	313
	2. MORK & MINDY Valid Trademark for Decals: <i>In re Paramount Pictures</i>	317
E.	Toys and Games	320
	1. Rubik's Cube Puzzle Protected From Counterfeiters: <i>Ideal Toy Corp. v. Plawner Toy Manufacturing Corp.</i>	320
	2. SIMON Trademark Found Valid: <i>Entex Industries, Inc. v. Milton Bradley Co.</i>	324
F.	Sports Merchandise	328
	1. Showing of Consumer Association Between a Mark and its Source Sufficient to Establish Secondary Meaning and Likelihood of Confusion: <i>National Football League Properties, Inc. v. Wichita Falls Sportswear, Inc.; University of Pittsburgh v. Champion Products, Inc.</i>	328
VIII.	CABLE AND SUBSCRIPTION TELEVISION	341
A.	Sellers of Decoder Boxes Enjoined: <i>Home Box Office, Inc. v. Advanced Consumer Technology; American T.V. & Communications Corp. v. Western Electronics, Inc.</i>	341
B.	Effect of FCC's Deregulation of Subscription T.V.: <i>Federal Communication Commission's Deregulation of Subscription Television</i>	350
C.	Cable T.V. Installation Constitutes a Taking Requiring Just Compensation: <i>Loretto v. Teleprompter Manhattan CATV Corp.</i>	355
D.	Cable T.V. Industry Challenges Royalty Rate Structure: <i>National Cable T.V. Association v. Copyright Royalty Tribunal; Adjustment of the Royalty Rate for Cable Systems</i>	360

IX. ADVERTISING	375
A. Television Programming and Advertising Standards: <i>United States v. National Association of Broadcasting</i>	375
B. Consumer Reaction Testing and Comparative Ad- vertising: <i>Coca Cola Co. v. Tropicana Prod.</i> ; <i>Vidal</i> <i>Sassoon, Inc. v. Bristol-Meyers, Inc.</i>	378
X. TAX	389
A. Unincorporated Foreign Organizations Taxed as Partnerships: <i>MCA, Inc. v. United States</i>	389
B. Nonprofit Corporation Granted Tax Exempt Status Despite Partnership With Profit Corporation: <i>Plum-</i> <i>stead Theatre Society, Inc. v. Commissioner of Inter-</i> <i>nal Revenue</i>	392
C. Nonresident Alien Personal Service Income: <i>Stemkowski v. Commissioner of Internal Revenue</i> ...	401
D. Assignment of Income: <i>Johnson v. Commissioner</i> ...	410
XI. LABOR	415
A. Producers and Associates Are Not Employees Under NLRA: <i>Alliance of Motion Pictures and TV Produ-</i> <i>cers v. Producer's Guild</i>	415
B. Standup Comedians Are Independent Contractors: <i>The Comedy Store</i>	418
C. Hotel Musicians Are Not Employees Under the NLRA: <i>Hilton v. NLRB</i>	423