Visual Arts and the Law: A Bibliography, Part I

Gail I. Winson

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Visual Arts and the Law: A Bibliography, Part I

by Gail I. Winson*

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* B.A., Moravian College, 1966; M.S., Drexel University, 1971; J.D., University of Florida, 1979; Member of the Florida Bar and the State Bar of California; Adjunct Assistant Professor of Law and Associate Law Librarian, Hastings College of the Law.
† Denotes student note.
I. ARTICLES

A. Aid to the Arts


Berkowitz, Rhoda L. The One Percent Solution: A Legislative Response to Public Support for the Arts. 10 University of Toledo Law Review 124-58 (1978).


Mulcahy, Kevin V. The Arts and Their Economic Impact: The Value of Utility. 16 The Journal of Arts Management and Law 33-48 (Fall 1986).


Art and State
See: Aid to the Arts
   Cultural Policy

B. Art as an Investment

Baumol, William J. Unnatural Value: Or Art Investment as Floating Crap Game. 15 The Journal of Arts Management and Law 47-59 (Fall 1985) (paper presented at a conference entitled, “What Price Art:
Economic Imperfection in Art Market Information," held by the Graduate School of Business of New York University in the spring of 1985).


C. **Artists’ Contracts**


D. **Artists’ Rights**

See also: **Moral Rights**

Resale Proceeds Right


Koegel, John B. *Memorandum of Support for S. 2796:*


E. Auctions


F. Bibliographies


Checklist of Legal and Other Aspects of Art Forgery or "The Gentle Art of Faking." 29 Record of the Associ-
ation of the Bar of the City of New York 512-17 (1974).


G. Consignment


H. Copyright


Copyright in Sculpture. 101 The Law Times 175-76 (1896).

Copyright of Mural Painting. 44 Law Notes 27 (1940).


Foreign and Native Artists. 28 The Law Journal 290-91 (1893).


†Patton, Susan Hedges. *Courting the Artist with Copyright: The 1976 Copyright Act.* 24 Wayne Law Review 1685-1704 (1978) (this Note received the first prize in the 1978 Nathan Burkan Memorial Competition at Wayne State University).


Sheehan, Timothy M. *Why Don't Fine Artists Use Statutory Copyright? An Empirical and Legal Sur-


1. Copyright — Advertising


Freeland, Joseph S. Copyright Protection of Advertising. 27 Kentucky Law Journal 391-409 (1939).


2. Copyright — Architecture

Architect’s Copyright. 202 Law Times 328-29 (1946).


3. Copyright — Commercial Prints and Labels


Howell, Herbert A. The Print and Label Law. 70 University of Pennsylvania Law Review 95-100 (1922).

Kupferman, Theodore R. Copyright Protection for Commercial Prints and Labels. 7 Bulletin of the Copyright Society of the U.S.A. 16-24 (1959) (paper delivered at the Ninth Annual Symposium on Copyright of the Patent, Trademark and
Copyright Section of the American Bar Association, held at the Annual Meeting of the Section in Miami, Aug. 22-28, 1959. Also published in 33 Southern California Law Review 163-70 (1960)).

Lusser, René E. Commercial Labels: Copyright vs. Trademark Protection. 7 St. Louis University Law Journal 276-91 (1963) (prize winning paper in the 1962 Nathan Burkan Memorial Competition at St. Louis University School of Law).


4. Copyright — Display Right


5. Copyright — Fashion


†Copyright in Dress Designs. 81 The Law Journal 126-27 (1936).


†Copyrights — In General — Broad Copyright Protection Available for Textile Designs Despite Ab-


†Kavadas, Thomas, Jr. Copyright — Dress Designs — Design Printed on Dress Fabric Is Proper Subject of Copyright. 34 Notre Dame Lawyer 457-60 (1959).


6. Copyright — Museums


Weber-Karlitz, Dorothy. *Museums, Artists and Copyright.* 2 Cardozo Arts and Entertainment Law Journal 121-44 (1983) ("This survey was presented in October of 1982 at a conference of the Confederation Internationale Des Sociétés D'Auteurs Et Compositeurs held in Madrid, Spain.").

7. Copyright — Photography


†Copyright — Infringement — Aerial Trespass as Defense. 7 Air Law Review 319-20 (1936).

†Copyright in Photographs. 167 The Law Times 258 (1929).

Copyright in Photographs. 167 The Law Times 302-03 (1929).

Copyright in Photographs. 33 Law Notes 48-50 (1929).


Copyright in Photographs. 14 The Law Journal 649-51 (1879).

The Copyright in Presentation Copies of Photographs. 60 The Law Journal 677-78 (1925).
Forbes, J. Wright. *Copyright in Photographs.* 8 Scots Law Times 94-95 (1900).


*Photographic Copyright.* 23 Irish Law Times 3-4 (1889).


8. Copyright — Useful Articles


*Copyright in Designs.* 22 The Law Journal 544-45 (1887).


Fox, Harold G. Copyright and Industrial Designs in Canada. 5 Bulletin of the Copyright Society of the U.S.A. 117-38 (1958).

†Gastel, Joseph P. Copyrights — A Statuette Can Be Protected by Copyright in the United States When the Copyright Applicant Intended Primarily to Use the Statuettes in the Form of Lamp Bases to Be Made and Sold in Quantity and Carried These Intentions into Effect. 42 Georgetown Law Journal 548-52 (1954).


Moellenberg, John M. The Question of Choice between Copyrighting or Patenting a Design. 13


Reichman, J. H. *Design Protection in Domestic and Foreign Copyright Law: From the Berne Revision*

Ringer, Barbara A. The Case for Design Protection and the O'Mahoney Bill. 7 Bulletin of the Copyright Society of the U.S.A. 25-32 (1959) (paper delivered at the Ninth Annual Symposium on Copyright of the Patent, Trademark and Copyright Section of the American Bar Association, held at the Annual Meeting of the Section in Miami, Florida, Aug. 22-28, 1959)).


The Vestal Bill for the Copyright Registration of Designs. 31 Columbia Law Review 477-94 (1931).

9. Copyright — Works for Hire

Fitzgibbon, James T. and C. Michael Kendall. The Unicorn in the Courtroom: The Concept of "Supervising and Directing" an Artistic Creation Is a Mythical Beast in the Copyright Law. 15 Jour-
nal of Arts Management and Law 23-43 (Fall 1985).


I. Cultural Policy

See also: Aid to the Arts


Keller, Anthony. The Artist and Public Policy I: An In-


Moore, Kate L. Seeking Clarity at the National Endowment for the Arts. 13 Journal of Arts Management and Law 93-99 (Spring 1983).


†Protecting the Public Interest in Art. 91 Yale Law Journal 121-43 (1981) (discusses question of whether owner of art work has duty to protect it from destruction, defacement, or mutilation).


States and West Germany. 6 Hastings International and Comparative Law Review 803-27 (1983).


Design Protection
See: Copyright—Fashion
Copyright—Useful Articles

Droit de Suite
See: Resale Proceeds Right

J. Estate Planning


Lerner, Ralph E. Valuation Issues Predominate When


K. Forgeries, Fakes, and Frauds


Karlen, Peter H. Fakes, Forgeries, and Expert Opin-
ions. 16 Journal of Arts Management and Law 5-32 (Fall 1986).

Lane, Alvin S. How the Bar Can Assist the Art Community. 20 Record of the Association of the Bar of the City of New York 615-28 (1965).


L. Free Speech Issues


M. General


N. **International Movement of Art**


†Jore, Karen S. *The Illicit Movement of Art and Arti-


Merryman, John Henry. Trading in Art: Cultural Na-


Nass, Herbert E. Jeanneret v. Vichey: Evaporating the


Nott, Susan M. Title to Illegally Exported Items of Historic or Artistic Worth. 33 International and Comparative Law Quarterly 203-07 (1984) (how competing claims to illegally exported items are handled in English courts).


Proceedings of the Panel on the U.S. Enabling Legislation of the UNESCO Convention on the Means of


Schneider, Eric C. Plunder or Excavation?: Observations and Suggestions on the Regulation of Ownership and Trade in the Evidence of Cultural
Patrimony. 9 Syracuse Journal of International Law and Commerce 1-19 (1982).


†Yapko, Brian A. The Evolution of American Attitudes and Laws Regarding Ethnic Art and Artifacts: From Cultural Imperialism to Cultural Pluralism. 9


O. Legislation


Goetzl, Thomas M. California Art Law Goes Federal. 6 San Francisco Barrister 8-10 (May 1987).


P. Moral Rights


†Chan, Debora Ann. The California Art Preservation Act: A Safe Hamlet for “Moral Rights” in the U.S. 14
University of California, Davis Law Review 975-1000 (1981) (an earlier version of this article was awarded first place in the 1980 Nathan Burkan Memorial Competition at U.C. Davis).


Francione, G. L. *The California Art Preservation Act and Federal Preemption by the 1976 Copyright Act — Equivalence and Actual Conflict*. 18 California Western Law Review 189-217 (1982) (this article was awarded first prize at the University of Virginia School of Law in the 1981 Nathan Burkan Memorial Competition; it was awarded fourth place in the 1981 National Nathan Burkan Competition and was published in 31 Copyright Law Symposium 105-43 (1984)).

Francon, André and Jane C. Ginsburg. *Authors' Rights in France: The Moral Right of the Creator of a Commissioned Work to Compel the Commissioning


†Jacobson, Richard. The Question of Berne Entry for the United States. 11 Case Western Reserve Journal of International Law 421-44 (1979) (this paper won first place in the Case Western Reserve University School of Law 1978 Nathan Burkan Memorial Competition. Deals in part with the moral right).

Kelley, Charles E. Rights of Authors and Artists Outside the Copyright Law. 5 Cornell Law Quarterly 48-57 (1919).


Merryman, John Henry. *The Refrigerator of Bernard


†*Right to Alter Drawings by Owner of Copyright.* 70 Solicitors’ Journal and Weekly Reporter 555 (1926).


†Smith, Sarah Ann. *The New York Artists’ Authorship Rights Act: Increased Protection and Enhanced Sta-


Tondro, Terry J. The Copyright Act as Governmental Policy. 13 Journal of Arts Management and Law 149-57 (Spring 1983).


Q. Museums


**R. Practice of Law**


Robinson, Alma. *Dispute Resolution for the Arts Community.* 11 Columbia — VLA Journal of Law & the Arts 333-45 (1987) (this article describes a dispute resolution service offered to artists by the Bay Area Lawyers for the Arts (BALA)).


**S. Prints**


Hobart, Susan. *A Giant Step Forward: New York Leg-


T. Resale Proceeds Right


Camp, Tom R. Art Resale Rights and the Art Resale Market: An Empirical Study. 28 Bulletin of the Copyright Society of the U.S.A 146-83 (1980) (this article was awarded first prize in the 1979 Nathan Burkan Memorial Competition at Stanford University Law School).


†Emley, Sharon J. Resale Royalties Act: Paintings, Pre-

†Glucksman, Carol P. Art Resale Royalties: Symbolic or Economic Relief for the Fine Artist. 1 Cardozo Arts and Entertainment Law Journal 115-36 (1982).


Plaisant, Robert. Droit de Suite and Droit Moral under


U. Taxation

Ackerman, Martin S. The Economics of Tax Policies Affecting Visual Art. 15 Journal of Arts Management and Law 61-71 (Fall 1985) (paper presented at a conference entitled “What Price Art: Economic Imperfection in Art Market Information,” held by the
Graduate School of Business of New York University in the spring of 1985).


Field, Stephen R. Collectibles as Investments: Artworks and Stamps; Cable Television and Equipment Leasing Tax Shelters. 39 Institute on Federal Taxation §§ 35.01-35.06 at 35-1-108 (1981) (In Proceedings of the New York University Thirty-Ninth Annual Institute on Federal Taxation. Includes: Art Works and Stamps as Investment Vehicles; Selected Tax Problems Relating to the Ownership of Artwork and Stamps (Qualification as Capital Assets; Deductibility of Losses upon Sale; Deductibility of Expenses; Charitable Gifts; Valuation Problems; Criminal Liability for Inflated Appraisals); Tax Shelters in the Art Field).


Harris, Richard E. Ways and Means Subcommittee Appraises IRS’s Challenges to Overvalued Art Deductions. 31 Tax Notes 966-67 (1986).


Skindrud, Michael E. *Recognition under Section 501(c)(3) of the Internal Revenue Code as a Prerequisite to Arts Grants: A Special Problem for Literary


V. Theft


Ward, Nicholas D. The Georgia Grind — Can the Com-


W. Valuation

See also: Taxation


