

Copyright Literary/Artistic
Professor Lape

Tuesday, May 12, 1992
9:00 a.m.
Three (3) hours

SPECIAL INSTRUCTIONS

Answer all questions. Explain your conclusions and discuss fully the arguments on each side of every issue.

You may bring to this examination your casebook, statutory supplement, handouts, class notes, outline, and any other written or printed material.

Suggested time allocation for each of the questions are as follows:

Question 1:	50 minutes
Question 2:	50 minutes
Question 3:	40 minutes
Question 4:	40 minutes
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	180 minutes

EXAMINATION CONTINUES

Canon Pub. Co. (hereafter "Canon") owns the copyright in the popular illustrated children's book, Lizzie Lizzard, which deals with the adventures of a lizzard named Lizzie. Canon transferred to Parker a non-exclusive license to make cloth dolls of Lizzie, which license provided that Parker could not grant any licenses to use Lizzie Lizzard. The cloth dolls were to be sold by a retailer packaged with a copy of Lizzie Lizzard. Parker arranged for his acquaintance, Atwood, to make the prototype for the Lizzie dolls for a payment of \$1,000. Parker and Atwood signed a writing which stated that the prototype doll was a "work made for hire." Atwood made the prototype Lizzie, which was a faithful representation of the illustration of Lizzie in Lizzie Lizzard except that it was executed in three dimensions out of cloth. Parker, after registering a claim of copyright in the dolls, marketed them as planned and with appropriate copyright notice.

Dorman bought a Lizzie doll, copied it, and is now preparing to market her exact replicas of the Lizzie doll.

Who, if anyone, can obtain an injunction on the grounds of copyright infringement, and of which work(s)?

II

Modren Design, Inc. (hereafter Modren) designed the eyeglass frame depicted in illustration #1 below, which became popular and was widely marketed beginning in January of 1990. Modren registered a claim of copyright in the eyeglass frame in February of 1990. In 1991 Deft Design Corp. (hereafter Deft) designed and began marketing the eyeglass frame depicted in illustration #2 below.

A) Modren has brought suit against Deft for copyright infringement seeking an injunction and damages. What are Modren's chances of success?

B) You represent Modren, which has not yet brought suit against Deft. You have a choice between filing the complaint in a district court within the Second Circuit or in a district court within the Ninth Circuit. Where will you file suit and why?

Illus. 1

Illus. 2

III

In 1991 Opera Ltd. (hereafter Opera) contracted with Architects, Inc. (hereafter Architects) to design a new opera house. The written contract between Opera and Architects did not mention copyright ownership. Opera arranged orally with Artist to create a mosaic on the interior wall of the main entrance hall of the new opera house. The opera house, located on a plaza downtown, and the mosaic were completed in 1991. Artist transferred the mosaic and the copyright in the mosaic to opera house in a signed writing in May of 1991.

In 1992 Opera determined that the mosaic could be removed from the opera house without damage to the mosaic, but decided to paint over the mosaic instead. When Artist heard of Opera's plans, she entered the opera house and photographed the mosaic and portions of the interior of the opera house. Artist has printed and marketed this photograph through art galleries. Opera then painted over the mosaic.

What are the rights of Artist, Architects, and Opera under Title 17 with respect to the opera house and the mosaic?

IV

Pegram, a candidate for governor in 1990, wrote his own speeches on yellow legal pads, which speeches he delivered at campaign appearances in person and on television. In October of 1990, Pegram's opponent, Davis, wrote down the text of one of Pegram's speeches and, at her public appearances, read Pegram's entire speech, interspersed with her jokes, take-offs and arguments. Davis' appearances were enormously successful and Davis won the election in November.

A week later Pegram registered a claim of copyright in his speech and filed an action against Davis for copyright infringement, seeking statutory damages, actual damages and attorney's fees. What are Pegram's chances for success?

EXAMINATION ENDS