

Copyright Literary/Artistic
Professor Lape

Thursday, May 5, 1994
1:30 p.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.

WRITE ONLY ON THE RIGHT HAND SIDE OF THE BLUEBOOKS. WRITE ONLY ON EVERY OTHER LINE.

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

Question I:	60 minutes
Question II:	60 minutes
Question III:	20 minutes
Question IV:	25 minutes
Question V:	15 minutes
	<u>180</u> minutes

EXAMINATION CONTINUES

Network A hired the producer, director, and actor who created the Freddie Friend show, a weekly children's television program, in which the actor introduces cartoons, sings songs and tells stories. As Freddie, the actor wears a plaid shirt, is soft-spoken, uses simple language and is wholesome and optimistic. As Freddie, the actor closes every show by asking, "Isn't the world a wonderful place?" No tapes or other copies of the Freddie Friend show have been distributed. The producer, director, actor and a representative of Network A signed an agreement that the Freddie Friend show would be a "work made for hire." Network A registered claims of copyright in the Freddie Friend shows.

Network B sought a license from Network A for the use of Freddie Friend in a comedy skit concerning Christian fundamentalists, but was denied permission. Network B produced and broadcast a comedy skit concerning Christian fundamentalists featuring the actor who plays Freddie. In the skit the actor, dressed as in the Freddie Friend show, speaking even more softly and optimistically than in the Freddie Friend show, asked a series of questions, such as "Isn't a world where books are banned from libraries a wonderful place?"

Network A has brought suit within the Ninth Circuit against Network B for copyright infringement seeking damages and an injunction. What are Network A's chances of success?

II

Alpha Inc. (hereafter Alpha) designed the candlestick, made of frosted white glass, depicted in illustration #1 below. Alpha marketed the candlestick widely beginning in January of 1993, bearing appropriate copyright notice. In February of 1993 Alpha registered a claim of copyright in the candlestick.

In 1994 Beta Corp. (hereafter Beta) designed and marketed the candlestick, made of frosted white glass, depicted in illustration #2 below.

Alpha plans to bring suit against Beta for copyright infringement seeking an injunction and damages. What are Alpha's chances of success? Will Alpha's chances of success be influenced by its decision to file the complaint in a district court within the Second Circuit or in a district court within the Ninth Circuit?

Illustration #1

Illustration #1

III

Author wrote a book which was first published on July 1, 1960 ("the book"); the book bore appropriate copyright notice. Author died on August 1, 1988, leaving a will in which Author gave all her copyrights to her grandchildren. Author was survived by her son and her four grandchildren. Today Author's son and her four grandchildren all claim the copyright in the book. Who owns the copyright in the book?

EXAMINATION CONTINUES

IV

Artist and Church agreed orally in 1970 that Artist would paint a mural of Christ on the wall of the church behind the altar. Artist, who is world-famous, painted the mural in 1970. Artist and Church now concede that removal of the mural would destroy the mural. Church does not plan to remove the mural, but plans to have another artist paint a shirt on Christ because the parishioners are offended by the depiction of Christ with a bare chest in the mural. Artist wants to prevent Church from having a shirt painted on Christ in the mural. Can Artist prevent Church from so doing under ' 113 of the Copyright Act? Can Artist prevent Church from so doing under another section of the Copyright Act? Explain the correction needed in order to conform ' 113 to Congress' intent. The effective date of the Visual Artists Rights Act of 1990 is June 1, 1991.

EXAMINATION CONTINUES

Comment on one (1) of the following cases:

1. Feist v. Rural Telephone.
2. Basic Books v. Kinko's.
3. Stewart v. Abend.

EXAMINATION ENDS