

Class 15: Moral Rights

Administrative

Next Time

426-41, Supp. 413-19; §§ 101
("display", "perform", "publicly"),
109(c), skim 110

Class 15: Moral Rights

Last Time

Right to Prepare Derivative Works

Policy

Must D contribute original changes to qualify as DW?

Dam Things from Denmark

Business model: Legitimately buy prints of famous art. Mount on tiles with Epoxy. Resell



Mirage Editions v. A.R.T.

Facts



District Court

Held

Reasoning

Lee v. A.R.T. Company

Facts

Held

Reasoning

Other examples

Garfield without thoughts 📄

Notes in the margins of your casebook

Sky Mall Collage 🖼️

Class 15: Moral Rights

Last Time

Right to Prepare Derivative Works

Must D's work be fixed in a tangible medium?

Textually?

Galoob

Facts

Game Genie 

Sat between game cartridges and Nintendo system

Increased lives, speed, behavior in games

Did so by injecting small parts of the data streaming from cartridge to console

Nintendo claimed D made an unlawful derivative work

Held

Reasoning

Micro Star

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Right to Prepare Derivative Works

Test for proving preparation of DW?

Market considerations?

Substantial Similarity?

Castle Rock

Dam Things

Micro Star

Facts

Held

Reasoning

Answers?

The "Seinfeld Aptitude Test"

Response from those with show


What not to put on your cover:

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Moral Rights

Visual Artists Rights Act

Basics
17 USC 106A
Enacted in 1990
Legislative History excerpted in Martin, page 418-19
Term

Which works?
Work of visual art [IU](#)
NOT Works for Hire
Test: CCNV Factors
Page 123-24
Carter v. Helmsley-Spear 

Three rights bestowed
(a)(1): Attribution
(a)(2): Prevent use of name for distortion, mutilation, or other modification . . . which would be prejudicial to his or her reputation
"Right of Integrity"
(a)(3): prevent destruction of work of recognized stature

Martin v. City of Indianapolis
Facts
Sculpture on page 421 installed on private land
City acquired the land
During negotiations, city hinted it wanted to remove sculpture
But promised it would warn plaintiffs/sculptors before
Demolished sculpture.
Held
Reasoning
How do prove a work is of "recognized stature"?

Transfer
Waiver

Other Moral Rights Protection in US Law