

UCLA

UCLA Entertainment Law Review

Title

The Indian Copyright (Amendment) Act of 2012 and American Digital Music Exports: Why the United States Should Make Stricter Anti-Circumvention Laws in India an American Diplomatic Priority

Permalink

<https://escholarship.org/uc/item/63p215c8>

Journal

UCLA Entertainment Law Review, 20(2)

ISSN

1073-2896

Author

Chaudry, Sahil

Publication Date

2013

DOI

10.5070/LR8202027167

Copyright Information

Copyright 2013 by the author(s). All rights reserved unless otherwise indicated. Contact the author(s) for any necessary permissions. Learn more at <https://escholarship.org/terms>

Peer reviewed

UCLA ENTERTAINMENT LAW REVIEW

VOLUME 20

ISSUE 2

FALL 2013

The Indian Copyright (Amendment) Act of 2012 and American Digital Music Exports: Why the United States Should Make Stricter Anti- Circumvention Laws in India an American Diplomatic Priority

Sahil Chaudry.....175

India presents the American music industry with a new frontier. Thanks to the wide distribution of cell phones, an expanding digital infrastructure, and a growing appetite for music entertainment, India has become an important digital music export market for the United States. However, widespread digital piracy has hampered India's potential as a digital music market. In the United States, anti-circumvention laws have established a legal infrastructure that defends a digital access right independent of copyright. As a result, the United States has witnessed the emergence of services that offer low priced digital music that has managed to curb piracy. This article argues that the Indian Copyright (Amendment) Act of 2012 fails to provide for the independent access right that serves as the legal backbone of America's digital music marketplace. In order to unlock the gateway to India's expanding digital music consumer base, this article advocates that the United States make the adoption of stricter anti-circumvention laws in India an American diplomatic priority.

Multiple Identities: Why the Right of Publicity Should Be a Federal Law

Brittany Lee-Richardson..... 189

Given the increased use of the Internet and social media in this fast-moving age of information and technology, the right of publicity is becoming more problematic at the state level. Thus, this article attempts to persuade lawmakers and the public that the right of publicity must be modified to keep up with the fast-progressing times. What follows is a detailed analysis of the right of publicity and an argument for why the right should be a federal right. Drawing heavily on intellectual property scholarship and case law, this article examines the issues and benefits surrounding the right of publicity, and uses these to advocate for a federal right. Various case examples are provided to assist in exploiting the problems with the right of publicity remaining a state-based right. Additionally, the article provides a detailed look at how the right of publicity, as a state-based right, is conflicting with federal laws. Finally, the article concludes with suggestions on how to craft a solid federal right of publicity statute.

First World Problems: A Fair Use Analysis of Internet Memes

Ronak Patel..... 235

The phenomenon of Internet memes—pictures with juxtaposed text that are replicated by derivative authors to the point where the pictures transcend the importance of the original posting and its underlying work—has become a pervasive component of mass Internet culture. Yet, there is little legal scholarship on the subject. This Article seeks to fill that void—or at least, a small part of it—by exploring whether or not an Internet meme could survive an action for copyright infringement by asserting a fair use defense. To that end, this Article considers what Internet memes are and compares them to “actual” memes, as the term was originally conceived in Richard Dawkins’s *The Selfish Gene*. Positing that Internet memes share many characteristics with actual

memes as described by Dawkins, the Article goes on to show how those memes serve the functions of the theoretical concepts that ground the fair use defense (namely, cultural interchange, market failure, and productive consumption). The Article ultimately argues that a meme user will likely prevail if he asserts the fair use defense.

15 Minutes of Shame? Copyright Issues in Celebrity Sex Videos

Shelly Rosenfeld.....257

It's the tape that launched a thousand clips—Paris Hilton's Celebrity Sex Video became a form of "Must See TV". Celebrities are used to performing for the camera. But when Hilton was caught on video, she reacted as many participants do when their celebrity sex tapes are revealed—they file a lawsuit. This article explores the various legal tools that one can consider in response to their involvement in a dispute over a celebrity sex tape. Copyright law presents an important framework to consider. The torts of public disclosure of private facts, intrusion upon seclusion, and the right of publicity may also help protect one who wishes to nail his or her opponent.

Out at Home: Why the Major League Baseball Advanced Media Agreement May Violate Antitrust Law

Sally E. Schoenvogel.....275

Major League Baseball Advanced Media (MLBAM or BAM) has created one of the most successful technology platforms for broadcasting professional baseball games online. BAM is extremely profitable, but its exclusive online broadcast of professional baseball games through MLB.tv may violate antitrust law. Conventional wisdom may suggest MLBAM would be exempt from antitrust law under the judicially created baseball exemption, but the online broadcast of professional base-

ball games likely does not fall under the baseball exemption. Therefore, an antitrust suit could be brought against BAM for its online broadcasts. In an antitrust suit, BAM would not be considered a single entity because of its similarities to NFL Properties in American Needle. BAM’s MLB.tv product significantly restrains trade in a relevant market. BAM, however, will likely prevail in arguing that maintaining competitive balance amongst its teams is a procompetitive justification. Less restrictive alternatives exist, however, that may yet put BAM in violation of antitrust law.

Discovering the Full Potential of the 360 Deal: An Analysis of the Korean Pop Industry, Seven-Year Statute, and Talent Agencies Act of California

Patricia Tsai.....323

The 360 deal has been an attractive option for music labels in the United States to gain traction in the faltering music industry, but potential legal obstacles may hinder the incentive to enter into the deals—both for the label and for the artist. Labels entering into 360 deals may find themselves liable for violating the Seven-Year Statute or the Talent Agencies Act (TAA). With 360 agreements becoming more popular, labels should turn to an existing music industry that has dealt with the potential legal problems of 360 deals for years.

The Korean pop industry, commonly called “K-pop,” has taken advantage of a 360-deal-like model for many years, and as a consequence, many Korean labels have experienced the potential legal problems that American labels may face. Particularly, the legal problems faced by S.M. Entertainment, a talent agency and music label giant in South Korea, as a result of their contract with TVXQ, a popular and hugely successful boy band, reveal exactly the type of potential liability faced by American music labels. By analyzing and reviewing the current legal landscape facing Korean labels that almost exclusively negotiate 360 agreements with their artists, music labels in the United States can become more successful.
