

A man in a dark suit and blue tie stands with his arms crossed, wearing a red cape. The background is a city skyline at sunset, with a bright sun on the left side. The text is overlaid on the image.

PROTECTING FICTIONAL CHARACTERS

***JOSHUA GILLILAND, ESQ.
@BOWTIELAW***

AGENDA

WHAT IS A PROTECTED WORK OF ART?

SUPERMAN V. CAPTAIN MARVEL

VAMPIRA V ELVIRA

STAR WARS V BATTLESTAR GALACTICA

STAR TREK AXANAR

GUIDELINES FOR FAN FILMS



COPYRIGHT

(A) COPYRIGHT PROTECTION SUBSISTS, IN ACCORDANCE WITH THIS TITLE, IN ORIGINAL WORKS OF AUTHORSHIP FIXED IN ANY TANGIBLE MEDIUM OF EXPRESSION, NOW KNOWN OR LATER DEVELOPED, FROM WHICH THEY CAN BE PERCEIVED, REPRODUCED, OR OTHERWISE COMMUNICATED, EITHER DIRECTLY OR WITH THE AID OF A MACHINE OR DEVICE. WORKS OF AUTHORSHIP INCLUDE THE FOLLOWING CATEGORIES:

(1) LITERARY WORKS;

(2) MUSICAL WORKS, INCLUDING ANY ACCOMPANYING WORDS;

(3) DRAMATIC WORKS, INCLUDING ANY ACCOMPANYING MUSIC;

(4) PANTOMIMES AND CHOREOGRAPHIC WORKS;

(5) PICTORIAL, GRAPHIC, AND SCULPTURAL WORKS;

(6) MOTION PICTURES AND OTHER AUDIOVISUAL WORKS;

(7) SOUND RECORDINGS; AND

(8) ARCHITECTURAL WORKS.

17 U.S.C. SEC. 102 SUBJECT MATTER OF COPYRIGHT: IN GENERAL (UNITED STATES CODE (2017 EDITION))

CAN'T COPYRIGHT AN IDEA

(B) IN NO CASE DOES COPYRIGHT PROTECTION FOR AN ORIGINAL WORK OF AUTHORSHIP EXTEND TO ANY IDEA, PROCEDURE, PROCESS, SYSTEM, METHOD OF OPERATION, CONCEPT, PRINCIPLE, OR DISCOVERY, REGARDLESS OF THE FORM IN WHICH IT IS DESCRIBED, EXPLAINED, ILLUSTRATED, OR EMBODIED IN SUCH WORK.

LOOK, UP IN THE SKY!



MEANWHILE, AT THE NEWSSTAND

JUNE 1938: FIRST SUPERMAN COMIC PUBLISHED IN "ACTION COMICS." CHARACTER HAD SUPER-HUMAN POWERS AND AN ALTER-EGO NEWSPAPER REPORTER NAMED "CLARK KENT."

FEBRUARY 1940: FAWCETT INTRODUCED "CAPTAIN MARVEL IN WHIZ COMICS. CAPTAIN MARVEL WAS AN "AVENGER OF EVIL" AND THE DUAL PERSONALITY OF BILLY BATSON, A RADIO REPORTER.

WHIZ COMICS AND ACTION COMICS SOLD FOR THE SAME AMOUNT.

"CAPTAIN MARVEL" CLOSELY RESEMBLED "SUPERMAN" IN HIS ATHLETIC FIGURE AND IN HIS COSTUME, AS WELL AS IN THE SUPERHUMAN FEATS PERFORMED.

NATIONAL COMICS PUBLICATIONS V. FAWCETT PUBLICATIONS, 93 F.SUPP. 349 (S.D.N.Y., 1950)



ANALYSIS

SUPERMAN WAS ORIGINAL:

"SO FAR AS THE PICTORIAL REPRESENTATIONS AND VERBAL DESCRIPTIONS OF 'SUPERMAN' ARE NOT A MERE DELINEATION OF A BENEVOLENT HERCULES, BUT EMBODY AN ARRANGEMENT OF INCIDENTS AND LITERARY EXPRESSIONS ORIGINAL WITH THE AUTHOR, THEY ARE PROPER SUBJECTS OF COPYRIGHT AND SUSCEPTIBLE OF INFRINGEMENT BECAUSE OF THE MONOPOLY AFFORDED BY THE ACT. * * * THE COMPLAINANT IS NOT ENTITLED TO A MONOPOLY OF THE MERE CHARACTER OF A 'SUPERMAN' WHO IS A BLESSING TO MANKIND".

NATIONAL COMICS PUBLICATIONS, AT *355, CITING DETECTIVE COMICS V. BRUNS PUBLICATIONS, 2 CIR., 111 F.2D 432, 433.

ANALYSIS

***FAWCETT CONCEDED THE
CREATORS OF CAPTAIN
MARVEL HAD ACCESS TO
ACTION COMICS.***

NATIONAL COMICS PUBLICATIONS, AT *355.

COPYING

CONFLICTING TESTIMONY OVER COPYING.

BOTH "CAPTAIN MARVEL" AND "SUPERMAN" HAVE THE SAME ATHLETIC PHYSIQUE. BOTH HAVE SUBSTANTIALLY THE SAME CLEAN-CUT FACES. BOTH WEAR THE CONVENTIONAL REGALIA OF THE GYMNAST OR CIRCUS ACROBAT - SKIN-TIGHT UNIFORMS, BOOTS, AND A CAPE WHICH IS USED IN FLYING.

THE ONLY REAL DIFFERENCE IS IN THE COLOR OF THEIR COSTUMES, "SUPERMAN'S" BEING BLUE AND "CAPTAIN MARVEL'S" RED.

THE INCREDIBLE FEATS, PERFORMED BY BOTH, SUCH AS LEAPING GREAT DISTANCES, FLYING THROUGH THE AIR, EXHIBITIONS OF MARVELOUS STRENGTH AND SPEED, AND IMPERVIOUSNESS TO BULLETS, SHELLS, EXPLOSIONS, KNIVES AND POISONS, ARE IDENTICAL, AND THE SETTINGS IN WHICH THE FEATS ARE PERFORMED ARE OFTEN CLOSELY SIMILAR.

SUBSTANTIALLY ALL OF THE FEATS PERFORMED BY "SUPERMAN" ARE LATER DUPLICATED BY "CAPTAIN MARVEL."

IDENTICAL PHRASES, EXPRESSIONS AND DIALOGUES ARE FREQUENTLY FOUND IN THE PANELS.

COPYING : SUPERMAN

"SUPERMAN" IS REPRESENTED AS A NORMAL HUMAN BEING, A MEEK NEWSPAPER REPORTER WEARING EYE GLASSES (CLARK KENT), WHO, BY THROWING OFF HIS REGULAR CLOTHES, APPEARS IN HIS ATHLETIC COSTUME AND BECOMES A SUPERHUMAN BEING AND PERFORMS SUPERHUMAN FEATS IN THE INTERESTS OF JUSTICE AND TO OVERTHROW EVIL. "

NATIONAL COMICS PUBLICATIONS, AT '355-356.



COPYING ANALYSIS - CAPTAIN MARVEL

CAPTAIN MARVEL" IS LIKEWISE REPRESENTED AS A NORMAL HUMAN BEING, A RADIO REPORTER (BILLY BATSON), WHO, BY UTTERING THE MAGIC WORD "SHAZAM", IS TRANSFORMED INTO A SUPERHUMAN BEING, AND, IN THAT CAPACITY, ALSO PERFORMS SUPERHUMAN FEATS IN THE INTERESTS OF JUSTICE AND TO OVERTHROW EVIL.

NATIONAL COMICS PUBLICATIONS, AT '355-356.



COPYING - ANALYSIS

THERE ARE VILLAINS IN BOTH STORIES, MAD SCIENTISTS WHO RESEMBLE EACH OTHER IN APPEARANCE, AND WHO, BY SIMILAR DEVICES AND METHODS, ATTEMPT TO DISPOSE OF THE HERO ("SUPERMAN" OR "CAPTAIN MARVEL"), SO THAT THEY CAN EXECUTE THEIR PLANS OF DESTRUCTION WITHOUT MOLESTATION.

NATIONAL COMICS PUBLICATIONS, AT *355-356.

ABANDONMENT?

***"SUPERMAN" PUBLISHED AS
NEWSPAPER COMIC STRIP
WITHOUT PROPER COPYRIGHT.***

NATIONAL COMICS PUBLICATIONS, AT *358-359

VAMPIRA V. ELVIRA



Nurmi v. Peterson, 10 U.S.P.Q.2d 1775 (C.D. Cal. March 31, 1989)

CREATURES OF THE NIGHT

MAILA NURMI PERFORMED AS HORROR MOVIE HOSTESS VAMPIRA IN THE 1950S.

CASSANDRA PETERSON PERFORMED AS HORROR MOVIE HOSTESS ELVIRA IN THE 1980S.

PETERSON CONTACTED NURMI IN 1981 FOR PERMISSION TO RE-CREATE VAMPIRA. NEGOTIATIONS FAILED AND PETERSON CREATED ELVIRA.

NURMI SUED PETERSON FOR VIOLATING THE LANHAM ACT AND CALIFORNIA STATE CLAIMS FOR UNFAIR COMPETITION, VIOLATION OF THE RIGHT TO PRIVACY, AND PUBLICITY.

"LIKENESS" AND UNFAIR COMPETITION

***"LIKENESS" MEANS AN ACTUAL
REPRESENTATION OF A
PERSON, RATHER THAN A
CLOSE RESEMBLANCE UNDER
CAL.CIV. CODE §3344 (UNFAIR
COMPETITION)***

NOT ACTUAL LIKENESS

COURT DISMISSED THE "LIKENESS" CLAIMS, BECAUSE DEFENDANT USED SOME OF VAMPIRA'S PROPS, CLOTHES, AND MANNERISMS.

DEFENDANT DID NOT APPROPRIATE THE PLAINTIFF'S NAME, VOICE, SIGNATURE, PHOTOGRAPH, OR LIKENESS.

COURT'S REASONING

THE DEFENDANTS' INTERPRETATION OF THE MEANING OF "LIKENESS" AS IT APPEARS IN §3344 TO MEAN AN ACTUAL COPY OF ANOTHER'S FEATURES IS ALSO MORE NATURAL IN LIGHT OF CONTEMPORARY ENTERTAINMENT INDUSTRY PRACTICES.

UNDER THE PLAINTIFF'S DEFINITION, IF A PERSON MERELY WERE TO WEAR ANOTHER'S CLOTHES OR EMULATE ANOTHER'S MANNERISMS, AN ACTION WOULD LIE UNDER §3344 BECAUSE A "LIKENESS" WAS BEING APPROPRIATED. HOWEVER, SUCH A DEFINITION WOULD EXPAND §3344 TO FREEZE ALL RIGHTS TO CERTAIN PROPS, CLOTHING, OR OTHER QUALITIES SURROUNDING A CHARACTER WITH THE FIRST PERSON TO PORTRAY A GIVEN PART.

IN EFFECT, ALL SUBSEQUENT ACTORS WOULD BE SUBJECT TO LEGAL CHALLENGE ON THE GROUNDS THAT THEY HAD COPIED ELEMENTS OF CHARACTERS PORTRAYED BY EARLIER GENERATIONS OF ACTORS. THIS RESULT WOULD GREATLY INHIBIT THE DEVELOPMENT OF THE ENTERTAINMENT ARTS AND THE FREEDOM OF EXPRESSION, A RESULT THE COURT FINDS CANNOT HAVE BEEN INTENDED BY THE CALIFORNIA LEGISLATURE IN DRAFTING §3344.

STAR WARS V.
BATTLESTAR GALACTICA



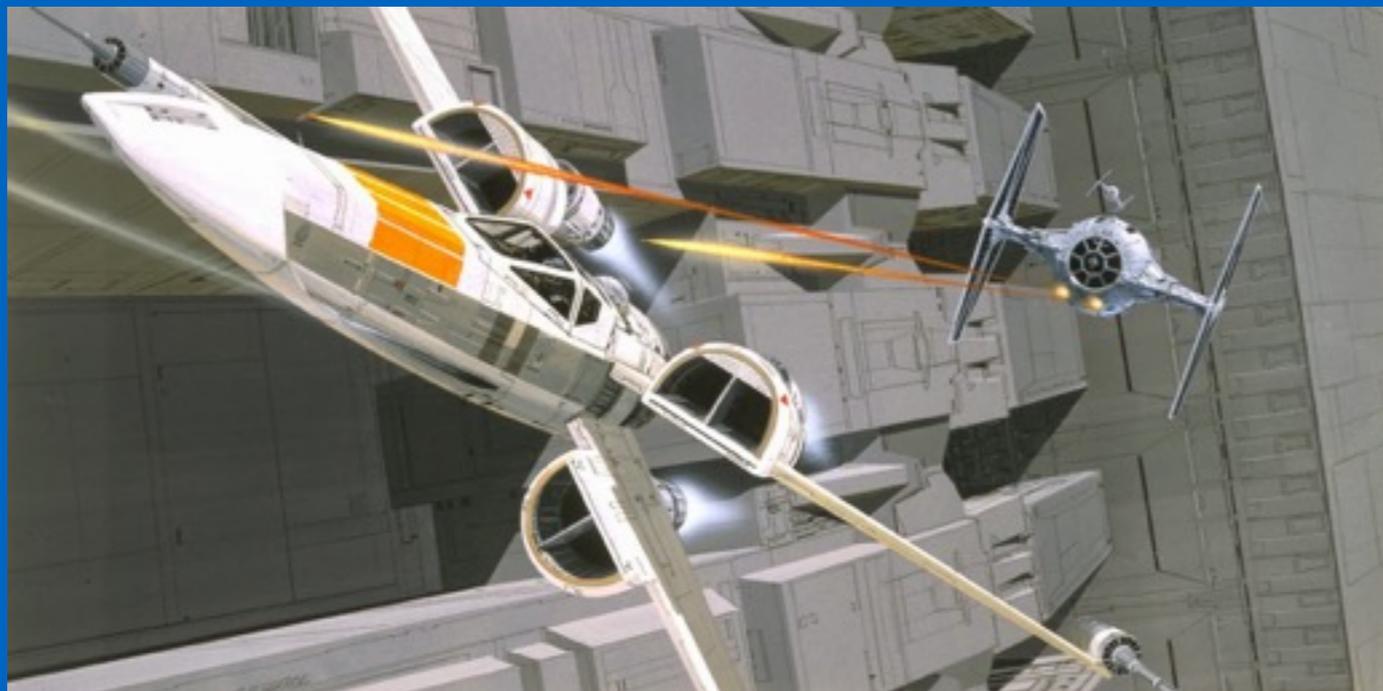
***STAR WARS V.
BATTLESTAR GALACTICA***

DID BSG INFRINGE ON STAR WARS?

***PLAINTIFFS ARGUMENTS FOCUSED ON BAR
SCENE WITH ALIENS, DAGITT REFERRED TO
AS A DROID, LOOK OF DARTH VADER AND
CYLONS, AND X-WINGS AND VIPER SPACE
FIGHTS.***

TWENTIETH CENTURY-FOX FILM CORPORATION ET AL. V. MCA, INC. ET AL. 1980 U.S. DIST. LEXIS 16637; 209 U.S.P.Q. (BNA) 200 (C.D. CAL. AUGUST 22, 1980)

***LET'S IGNORE FX PEOPLE WORKED
ON BOTH SERIES***



THE GREAT RALPH MACQUARIE

TEST

WAS THERE SUBSTANTIAL SIMILARITY IN IDEA BETWEEN THE TWO WORKS?

IF YES, WAS THERE IS SUBSTANTIAL SIMILARITY IN THE EXPRESSION OF THE IDEA?

AN IDEA IS NOT PROTECTABLE

KROFFT V. MACDONALD'S, 562 FED. 2D. 1157.

KROFFT TEST EXPLAINED

TO VISUALIZE WHAT AN IDEA IS, OUR CIRCUIT SAID IN KROFFT THAT A STATUTE OF A NUDE HUMAN FIGURE IS AN IDEA, AND A STATUTE OF A HORSE OR A PAINTING OF A NUDE HUMAN FIGURE IS A DIFFERENT IDEA; AND, THUS, THE LATTER TWO COULD NOT INFRINGE THE COPYRIGHT ON THE STATUE OF THE HUMAN FIGURE.

DIFFERENT IDEAS

IF YOU GO BEYOND JUST A STRUGGLE BETWEEN GOOD AND EVIL IN SPACE, IN DESCRIBING THE IDEA OF MOTION PICTURES LIKE THESE-- AND IF YOU INCLUDE SOMETHING ABOUT THE CENTRAL CHARACTER AND THE STORY LINE -- THAT NEXT SMALL STEP LEADS YOU TO THE CONCLUSION WHICH I HAVE MADE, **THAT THESE TWO PICTURES HAVE DIFFERENT IDEAS.**

*Twentieth Century-Fox Film Corporation et al. v. MCA, Inc. et al.
1980 U.S. Dist. LEXIS 16637 at *9; 209 U.S.P.Q. (BNA) 200 (C.D. Cal. August 22, 1980)*

THE "IDEA" OF STAR WARS

STAR WARS IS PURE FANTASY. IT IS A MORALITY PLAY.



IN STAR WARS THE CENTRAL CHARACTER IS LUKE SKYWALKER, AND THE MOVIE IS A STORY OF HIS MATURATION AND COMING OF AGE. IN THE BEGINNING HE IS A RURAL BOY FOLLOWING PEACEFUL PURSUITS, BUT INVOLVED IN A SEARCH FOR SELF-IDENTITY.

THE "IDEA" OF STAR WARS

OBI-WAN KENOBI, ALSO AN IMPORTANT CHARACTER, IS ESSENTIALLY GOD, THE TOUCHSTONE OF MORALITY AND THE GIVER OF THE ESSENTIAL PHILOSOPHY OF LIFE. HE, TOO, IS UNREAL AND SYMBOLIC.

DARTH VADER, ANOTHER VERY IMPORTANT CHARACTER, IS LIKEWISE UNREAL, AND SYMBOLIC. HE IS MEPHISTOPHELES, THE INCARNATION OF EVIL.

THE ONLY CHARACTER IN STAR WARS WITH HUMAN, MUNDANE TRAITS AND FEELINGS IS HAN SOLO, WHO IS LESS IMPORTANT AND LESS CENTRAL THAN THE OTHER FOUR. HAN SOLO IS MERELY A STEREOTYPICAL SIDEKICK.



THE "IDEA" OF BATTLESTAR GALACTICA

BATTLESTAR GALACTICA COULD JUST AS WELL BE THE COWBOYS VERSUS THE INDIANS EXCEPT THAT IT IS IN SPACE GARB. ALL OF THE CHARACTERS, INCLUDING ALL OF THE IMPORTANT AND CENTRAL CHARACTERS, ARE QUITE HUMAN WITH WEAKNESSES AND FEELINGS TO WHICH WE ARE ACCUSTOMED.

BATTLESTAR GALACTICA IS ESSENTIALLY A STORY OF SOME NICE PEOPLE ATTEMPTING TO LEAD A BEWILDERED, HOMELESS BAND OUT OF THE WILDERNESS, SO TO SPEAK, AND BACK TO THE LAND OF THEIR FATHERS.

COMPARING THE CANTINA AND CASINO SCENES



IN STAR WARS, THE CANTINA IS THE DINGY HANGOUT FOR GALAXY OUTLAWS OF THE WORST TYPE, AND IS USED AS A SETTING FOR A SEARCH BY THE HERO FOR A MERCENARY PILOT TO MAKE AN INTERPLANETARY JOURNEY.

COMPARING THE CANTINA AND CASINO SCENES

IN GALACTICA, THE ATMOSPHERE IS TOTALLY DIFFERENT. THE SETTING IS A WELL-LIT, WELL-LIQUORED AREA OF THE LAS VEGAS CASINO-TYPE, WITH REVELRY AND GAMBLING IN PROGRESS.

THERE IS NO MENACE IN THE STAR WARS CASINO OTHER THAN THE POTENTIAL FOR VIOLENCE; BUT IN GALACTICA, IF ONE OF THE REVELERS FINDS HIMSELF ON THE LOWEST FLOOR, THE JIG IS UP, AND HE WILL SOON BE MUMMIFIED.

SCENE A FAIRE

A CERTAIN TYPE OF SCENE, OR A CERTAIN SITUATION OF STANDARD CHARACTERS VIS-A-VIS EACH OTHER BECOMES SO COMMONPLACE, SO CUSTOMARY, THAT IT IS ALMOST ALWAYS FOUND -- AND THE VIEWER OR LISTENER ALMOST ALWAYS MAY EXPECT TO SEE OR HEAR IT WHENEVER THE PLAY, THE MOVIE OR THE BOOK DEALS WITH A GIVEN TOPIC, OR INVOLVES WHAT IS CALLED A CERTAIN GENRE.

DISTRICT COURT'S RULING

I FIND THAT THERE IS NO BONA FIDE DISPUTE OF MATERIAL FACT, AND THAT THE DEFENDANTS HAVE DEMONSTRATED ENTITLEMENT TO JUDGMENT AS A MATTER OF LAW. THEY ARE ENTITLED TO JUDGMENT AS A MATTER OF LAW, BECAUSE THERE IS FOUND TO BE NO SUBSTANTIAL SIMILARITY BETWEEN PLAINTIFFS' PICTURE TAKEN AS A WHOLE AND DEFENDANTS' PICTURE TAKEN AS A WHOLE.

COURT OF APPEALS

WE CONCLUDE THAT THE FILMS DO IN FACT RAISE GENUINE ISSUES OF MATERIAL FACT AS TO WHETHER ONLY THE STAR WARS IDEA OR THE EXPRESSION OF THAT IDEA WAS COPIED.

TWENTIETH CENTURY-FOX FILM CORP. V. MCA, INC., 715 F.2D 1327, 217 USPQ 611 (C.A.9 (CAL.), 1983)

ALLEGED SIMILARITIES

(1) THE CENTRAL CONFLICT OF EACH STORY IS A WAR BETWEEN THE GALAXY'S DEMOCRATIC AND TOTALITARIAN FORCES.

(2) IN STAR WARS THE YOUNG HERO'S FATHER HAD BEEN A LEADER OF THE DEMOCRATIC FORCES, AND THE PRESENT LEADER OF THE DEMOCRATIC FORCES IS A FATHER FIGURE TO THE YOUNG HERO. IN BATTLESTAR THE YOUNG HERO'S FATHER IS A LEADER OF THE DEMOCRATIC FORCES.

(3) THE LEADER OF THE DEMOCRATIC FORCES IS AN OLDER MAN, DISPLAYING GREAT WISDOM, AND SYMBOLIZING GOODNESS AND LEADERSHIP, WITH A MYSTERIOUS MYSTICAL ABILITY TO DOMINATE A LEADER OF THE TOTALITARIAN FORCES.

(4) AN ENTIRE PLANET, CENTRAL TO THE EXISTENCE OF THE DEMOCRATIC FORCES, IS DESTROYED.

ALLEGED SIMILARITIES

(5) THE HEROINE IS IMPRISONED BY THE TOTALITARIAN FORCES.

(6) A LEADING CHARACTER RETURNS TO THE FAMILY HOME TO FIND IT DESTROYED.

(7) THE SEARCH BY THE TOTALITARIANS AND THE LIBERATION ATTEMPT BY THE DEMOCRATIC FORCES ARE DEPICTED IN ALTERNATING SEQUENCES BETWEEN THE TOTALITARIAN AND DEMOCRATIC CAMPS.

(8) THERE IS A ROMANCE BETWEEN THE HERO'S FRIEND (THE CYNICAL FIGHTER PILOT) AND THE DAUGHTER OF ONE OF THE LEADERS OF THE DEMOCRATIC FORCES.

ALLEGED SIMILARITIES

(10) THERE IS A SCENE IN A CANTINA (STAR WARS) OR CASINO (BATTLESTAR), IN WHICH MUSICAL ENTERTAINMENT IS OFFERED BY BIZARRE, NON-HUMAN CREATURES.

(11) SPACE VEHICLES, ALTHOUGH FUTURISTIC, ARE MADE TO LOOK USED AND OLD, CONTRARY TO THE STEREO-TYPICAL SLEEK, NEW APPEARANCE OF SPACE AGE EQUIPMENT.

(12) THE CLIMAX CONSISTS OF AN ATTACK BY THE DEMOCRATIC FIGHTER PILOTS ON THE TOTALITARIAN HEADQUARTERS.

(13) EACH WORK ENDS WITH AN AWARDS CEREMONY IN HONOR OF THE DEMOCRATIC HEROES.

STAR TREK AXANAR

***"FAN FILM"
RAISED OVER
\$1 MILLION ON
KICKSTARTER
SUED FOR
COPYRIGHT
INFRINGEMENT***



PROVING INFRINGEMENT

COPYRIGHT INFRINGEMENT OCCURS WHEN THERE IS

(1) OWNERSHIP OF A VALID COPYRIGHT, AND

(2) COPYING OF ORIGINAL ELEMENTS OF A WORK.

FUNKY FILMS, INC. V. TIME WARNER ENTM'T CO., L.P., 462 F.3D 1072, 1076 (9TH CIR. 2006).

COPYING CAN BE SHOWN THROUGH SUBSTANTIAL SIMILARITY OF A WORK.

IN THE NINTH CIRCUIT, SUBSTANTIAL SIMILARITY REQUIRES BOTH AN "EXTRINSIC" (OBJECTIVE) AND "INTRINSIC" (SUBJECTIVE) COMPARISON OF THE ORIGINAL WORK AND THE ALLEGEDLY INFRINGING WORK.

DR. SEUSS ENTERPRISES, L.P. V. PENGUIN BOOKS USA, INC., 109 F.3D 1394, 1398 (9TH CIR. 1997).

OBJECTIVE SIMILARITY

THE EXTRINSIC TEST HAS THREE STEPS:

THE COURT MUST "DISSECT" THE WORK INTO ELEMENTS,

THEN "FILTER OUT" AND DISREGARD THE UNPROTECTABLE ELEMENTS, AND

COMPARE ONLY THE PROTECTABLE ELEMENTS OF THE WORK WITH THOSE OF THE ALLEGEDLY INFRINGING WORK.

IT IS IMPORTANT TO FILTER OUT THE NONPROTECTABLE ELEMENTS BECAUSE "SCENES À FAIRE," OR ELEMENTS FLOWING NATURALLY FROM GENERIC PLOT-LINES, ARE NOT PROTECTABLE.

FUNKY FILMS, INC. V. TIME WARNER ENTMT'T CO., L.P., 462 F.3D 1072, 1077 (9TH CIR. 2006).

PROTECTABLE ELEMENTS

GARTH OF IZAR. THE COURT RULED THAT THIS LEGENDARY STARSHIP CAPTAIN WAS ENTITLED TO COPYRIGHT PROTECTION.

GARTH OF IZAR APPEARS AS A LIVE ACTION CHARACTER, SO HE HAS "PHYSICAL AS WELL AS CONCEPTUAL QUALITIES." HE IS FAMOUS FOR HIS EXPLOITS IN THE BATTLE OF AXANAR AND HIS EXPLOITS ARE REQUIRED READING AT THE STARFLEET ACADEMY.

THE COURT NOTED THAT "GARTH'S IDENTITY AS A FEDERATION HERO SUFFICIENTLY DELINEATES HIM AND SETS HIM APART FROM A STOCK SPACESHIP OFFICER."



PROTECTABLE ELEMENTS

KLINGONS AND VULCANS. THE COURT NOTED THAT THESE SPECIES "MAY BE ENTITLED TO COPYRIGHT PROTECTION."

KLINGONS ARE A "MILITARISTIC, ALIEN SPECIES" FROM THE PLANET QO'NOS AND ARE LONG-TIME ENEMIES OF THE FEDERATION. KLINGONS HAVE DISTINCTIVE PHYSICAL FEATURES INCLUDING RIDGED FOREHEADS, DARK HAIR AND SKIN, UPWARD SLOPING EYEBROWS, AND THE MEN HAVE FACIAL HAIR.

VULCANS ARE A SPECIES THAT VALUES LOGIC AND REASON OVER EMOTIONS. THEY ARE ADVANCED TECHNOLOGICALLY AND ARE PART OF THE FEDERATION. THEY HAVE POINTED EARS AND UPSWEPT EYEBROWS; THE MEN USUALLY HAVE BOWL-SHAPED HAIRCUT.

PROTECTABLE ELEMENTS

COSTUMES- THE COURT VIEWED SEVERAL STAR TREK COSTUMES AS ARTISTIC AND LIKELY TO "CONTAIN ORIGINAL EXPRESSIONS PROTECTABLE UNDER COPYRIGHT ACT."

THE COURT ALSO FOUND THAT THE VULCAN AMBASSADOR SOVAL'S UNIFORM-AN "ASIAN-STYLE LONG ROBE AND A DRAPE DECORATED WITH VULCAN WRITING"-IS ALSO LIKELY TO BE COPYRIGHTABLE.

PROTECTABLE ELEMENTS

OTHER ELEMENTS: PLANETS, SPACESHIPS, PLOT POINTS, SEQUENCE OF EVENTS, DIALOGS, MOOD, AND THEME. THE COURT NOTED THAT ELEMENTS FROM STAR TREK MIGHT BE PROTECTABLE, INCLUDING THE FOLLOWING:

PLANETS (AXANAR, QO'NOS, AND VULCAN)

MILITARY SPACESHIPS INCLUDING KLINGON BATTLECRUISERS, VULCAN SHIPS WITH AN ENGINE RING, AND FEDERATION SPACESHIPS

SPACE TRAVEL ELEMENTS SUCH AS SPACEDOCKS, VULCAN BUILDINGS (CATHEDRALS WITH SWORD-BLADE SHAPED DOMES, FEDERATION LOGO, STARDATE, TRANSPORTERS AND WARP DRIVE

WEAPONS SUCH AS PHASERS AND PHOTON TORPEDOES

PLOT POINTS, SEQUENCE OF EVENTS, AND DIALOGS FROM STAR TREK

MOOD AND THEME OF STAR TREK AS SCIENCE FICTION ACTION ADVENTURE

STAR TREK FAN FILMS

THE FAN PRODUCTION MUST BE LESS THAN 15 MINUTES FOR A SINGLE SELF-CONTAINED STORY, OR NO MORE THAN 2 SEGMENTS, EPISODES OR PARTS, NOT TO EXCEED 30 MINUTES TOTAL, WITH NO ADDITIONAL SEASONS, EPISODES, PARTS, SEQUELS OR REMAKES.

THE TITLE OF THE FAN PRODUCTION OR ANY PARTS CANNOT INCLUDE THE NAME "STAR TREK." HOWEVER, THE TITLE MUST CONTAIN A SUBTITLE WITH THE PHRASE: "A STAR TREK FAN PRODUCTION" IN PLAIN TYPEFACE. THE FAN PRODUCTION CANNOT USE THE TERM "OFFICIAL" IN EITHER ITS TITLE OR SUBTITLE OR IN ANY MARKETING, PROMOTIONS OR SOCIAL MEDIA FOR THE FAN PRODUCTION.

STAR TREK FAN FILMS

THE CONTENT IN THE FAN PRODUCTION MUST BE ORIGINAL, NOT REPRODUCTIONS, RECREATIONS OR CLIPS FROM ANY STAR TREK PRODUCTION. IF NON-STAR TREK THIRD PARTY CONTENT IS USED, ALL NECESSARY PERMISSIONS FOR ANY THIRD PARTY CONTENT SHOULD BE OBTAINED IN WRITING.

IF THE FAN PRODUCTION USES COMMERCIALY-AVAILABLE STAR TREK UNIFORMS, ACCESSORIES, TOYS AND PROPS, **THESE ITEMS MUST BE OFFICIAL MERCHANDISE** AND NOT BOOTLEG ITEMS OR IMITATIONS OF SUCH COMMERCIALY AVAILABLE PRODUCTS.

THE FAN PRODUCTION MUST BE A REAL "FAN" PRODUCTION, I.E., **CREATORS**, ACTORS AND ALL OTHER PARTICIPANTS MUST BE AMATEURS, CANNOT BE COMPENSATED FOR THEIR SERVICES, AND CANNOT BE CURRENTLY OR PREVIOUSLY EMPLOYED ON ANY STAR TREK SERIES, FILMS, PRODUCTION OF DVDS OR WITH ANY OF CBS OR PARAMOUNT PICTURES' LICENSEES.

STAR TREK FAN FILMS

THE FAN PRODUCTION MUST BE NON-COMMERCIAL:

CBS AND PARAMOUNT PICTURES DO NOT OBJECT TO LIMITED FUNDRAISING FOR THE CREATION OF A FAN PRODUCTION, WHETHER 1 OR 2 SEGMENTS AND CONSISTENT WITH THESE GUIDELINES, SO LONG AS THE **TOTAL AMOUNT DOES NOT EXCEED \$50,000**, INCLUDING ALL PLATFORM FEES, AND WHEN THE \$50,000 GOAL IS REACHED, ALL FUNDRAISING MUST CEASE.

THE FAN PRODUCTION MUST ONLY BE EXHIBITED OR DISTRIBUTED ON A NO-CHARGE BASIS AND/OR SHARED VIA STREAMING SERVICES WITHOUT GENERATING REVENUE.

THE FAN PRODUCTION CANNOT BE DISTRIBUTED IN A PHYSICAL FORMAT SUCH AS DVD OR BLU-RAY.

THE FAN PRODUCTION CANNOT BE USED TO DERIVE ADVERTISING REVENUE INCLUDING, BUT NOT LIMITED TO, THROUGH FOR EXAMPLE, THE USE OF PRE OR POST-ROLL ADVERTISING, CLICK-THROUGH ADVERTISING BANNERS, THAT IS ASSOCIATED WITH THE FAN PRODUCTION.

NO UNLICENSED STAR TREK-RELATED OR FAN PRODUCTION-RELATED MERCHANDISE OR SERVICES CAN BE OFFERED FOR SALE OR GIVEN AWAY AS PREMIUMS, PERKS OR REWARDS OR IN CONNECTION WITH THE FAN PRODUCTION FUNDRAISING.

THE FAN PRODUCTION CANNOT DERIVE REVENUE BY SELLING OR LICENSING FAN-CREATED PRODUCTION SETS, PROPS OR COSTUMES.

REQUIRED DISCLAIMER

THE FAN PRODUCTION MUST DISPLAY THE FOLLOWING DISCLAIMER IN THE ON-SCREEN CREDITS OF THE FAN PRODUCTIONS AND ON ANY MARKETING MATERIAL INCLUDING THE FAN PRODUCTION WEBSITE OR PAGE HOSTING THE FAN PRODUCTION:

"STAR TREK AND ALL RELATED MARKS, LOGOS AND CHARACTERS ARE SOLELY OWNED BY CBS STUDIOS INC. THIS FAN PRODUCTION IS NOT ENDORSED BY, SPONSORED BY, NOR AFFILIATED WITH CBS, PARAMOUNT PICTURES, OR ANY OTHER STAR TREK FRANCHISE, AND IS A NON-COMMERCIAL FAN-MADE FILM INTENDED FOR RECREATIONAL USE. NO COMMERCIAL EXHIBITION OR DISTRIBUTION IS PERMITTED. NO ALLEGED INDEPENDENT RIGHTS WILL BE ASSERTED AGAINST CBS OR PARAMOUNT PICTURES."

STAR TREK FAN FILMS

CREATORS OF FAN PRODUCTIONS MUST NOT SEEK TO REGISTER THEIR WORKS, NOR ANY ELEMENTS OF THE WORKS, UNDER COPYRIGHT OR TRADEMARK LAW.

FAN PRODUCTIONS CANNOT CREATE OR IMPLY ANY ASSOCIATION OR ENDORSEMENT BY CBS OR PARAMOUNT PICTURES.

LESSONS LEARNED FOR CREATORS?

BE ORIGINAL

IDEAS ARE NOT PROTECTED

CHECK RULES ON FAN FILMS

QUESTIONS?

THANK YOU

JOSH@BOWTIELAW.COM