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Book Review. Copyright for the Eighties: Cases and Materials, 2d ed.

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REVIEWED BY MARSHALL A. LEAFFER*

Law professors all have certain casebooks to which they return with special pleasure. One personal favorite is Copyright For the Eighties (2d ed. 1985) by Alan Latman, Robert Gorman, and Jane Ginsburg. Although published in a first edition in 1981, the work was developed from materials used by the late Alan Latman, a renowned copyright scholar, in his copyright courses at New York University in the early 1970's. I was fortunate to have used this work as a student in his classes, and later in my own copyright courses, seeing it continually improve into the current second edition. For this edition, Jane Ginsburg, who was a practitioner in New York specializing in copyright matters and is now on the faculty at Columbia Law School, joins Robert Gorman1 as co-editor. Many will know Ms. Ginsburg for the series of articles she wrote with Alan Latman on copyright law for the New York Law Journal, as well as other articles through the years.

One perceives two general tendencies in the teaching of copyright law, both of which are reflected in the current casebooks specializing in the field. One tendency is to treat copyright as a self-contained subject whose focus is on the 1976 Act and its development. The other tendency is to situate copyright law in an entertainment or related law context. In this type of casebook, an author treats subjects such as defamation, privacy and unfair competition law and places less emphasis on an exhaustive treatment of copyright law.2

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1. Robert Gorman is perhaps even better known in the field of labor law, having written, among other works, a major text in the field. See R. GORMAN, BASIC TEXT ON LABOR LAW, UNIONIZATION AND COLLECTIVE BARGAINING (1976).

2. Both West Publishing Company and Foundation Press have widely-
Until recently, *Copyright For the Eighties* was the only book with a purely copyright law orientation, focusing on the 1976 Act. Although *Copyright For the Eighties* focuses on the 1976 Act, it is not unidimensional in any way. It explores related subject matter areas, never failing to place copyright law in the larger field of intellectual property law or in the context of copyright industries.

The organization of *Copyright For the Eighties* generally follows the sequence of the 1976 Act, starting with a thoughtful chapter on the historical origins of copyright. This first chapter provides an overview of the subject and shows through a few well-selected cases and concise notes how copyright relates to other branches of intellectual property law. The following casebook chapters treat subject matter, duration and renewal, ownership formalities, international issues, exclusive rights, limitations, and remedies, and ends with a strong chapter on preemption.

The chapter on preemption is typical—and masterful. It integrates the famous pre-1976 Act cases with related issues such as idea protection and right to publicity. The second part of the chapter takes the well-known sequence of Supreme Court cases treating preemption under the supremacy clause from the *Sears, Roebuck & Co. v. Stiffel Co.* and *Compco Corp. v. Day-Brite Lighting, Inc.* cases to *Zacchini v. Scripps-Howard Broadcasting Co.*, and through notes and questions is able to shed new light used copyright-oriented casebooks taking this entertainment law approach. See M. Nimmer, *Cases and Materials on Copyright* (3d ed. 1985) [hereinafter Nimmer]; and R. Brown & R. Denicola, *Cases and Materials on Copyright, Unfair Competition, and Other Topics Bearing on the Protection of Literary, Musical, and Artistic Works* (4th ed. 1985) [hereinafter Brown & Denicola].


6. 433 U.S. 562 (1977). *Zacchini* was the Supreme Court's only discussion of state law Right of Publicity. Although the court had no need to address the possibility of preemption in *Zacchini*, subsequent courts have considered the issue with varying results. For cases in which no preemption was found, see Bi-
on the subject. The next section considers preemption under section 301 of the 1976 Act, providing legislative history, case law, questions, and problems. This chapter is impressive from every standpoint and covers this difficult subject more thoroughly and effectively than perhaps any other copyright casebook.

Copyright For the Eighties is not only comprehensive in scope, but it is a challenging and teachable work as well. Perhaps its most significant feature is the use of extensive sets of questions placed regularly throughout the work. All casebooks, of course, sandwich questions between textual matter and cases, but the question sets found in Copyright For the Eighties raise this method to a high art. One’s entire copyright course could be organized around these questions.

In the second edition, Copyright For the Eighties looks much better on the page and has increased its use of the visual materials found in appropriate places throughout. At this time, all major copyright law casebooks use this method, but Copyright For the Eighties is exceptionally adept. For an example of the useful interaction of text and visuals, one should look at the sequence of reproductions illustrating the originality issue in Gracen v. Bradford Exchange. In general, the visual materials bring home issues such as originality and infringement as nothing else can. In addition to these visual materials, another useful feature of the book is a comprehensive bibliography listing the leading articles on the subject.

The second edition has updated, extended and improved its coverage on the interplay between copyright and new technology. Its twenty page section on computers effectively surveys the topic

Rite Enters. v. Button Master, 555 F. Supp. 1188, 1201 (S.D.N.Y. 1983) (defendants infringed rock stars’ publicity rights by selling pictures and names on buttons); Lugosi v. Universal Studios, 25 Cal. 3d 813, 849, 603 P.2d 425, 160 Cal. Rptr. 323 (1979) (Mansfield, J., dissenting) (issue not reached by majority; finding that Bela Lugosi’s publicity rights in his name and likeness could not be preempted by the copyright in the movie Dracula); but see Baltimore Orioles, Inc. v. Major League Baseball Players Ass’n, 805 F.2d 663, 679 (7th Cir. 1986), cert. denied, 107 S. Ct. 1624 (1987) (holding that Players’ publicity rights were preempted by the Clubs’ copyright in the telecasts).

7. 698 F.2d 300 (7th Cir. 1983). See the sequence of photographs on page 121 of Copyright For the Eighties illustrating the issues of originality and substantial similarity.
by providing a generous portion from the 1977 CONTU report, followed by pertinent notes and questions. The text also discusses the Semiconductor Chip Protection Act and recent developments in cable television regulation.

Copyright For the Eighties will appeal to copyright law professors who want a challenging and teachable work whose focus is the 1976 Act. My only suggestion to the casebook editors would be to develop a teacher's manual which would answer those superb sets of questions and problems used throughout their book. To my knowledge, none of the major copyright texts have matching teacher's manuals. Although I had difficulty in adequately doing justice to the material in the time constraints of a two-hour course, I look forward to using future editions of this work and Copyright For the Nineties, which will surely follow.


9. Unfortunately the casebook appeared too soon to include the important "second generation" computer cases such as Whelan Assocs. v. Jaslow Dental Laboratory, Inc., 609 F. Supp. 1307 (E.D. Pa. 1985), aff'd, 797 F.2d 1222 (3d Cir. 1986), cert. denied, 107 S. Ct. 877 (1987), treating the infringement of the "look and feel" of software.

10. 17 U.S.C. §§ 901-914 (Supp. IV 1986); see casebook at 168-70.