
COMMENTARY

THE DEAD SEA SCROLLS: A LIVE COPYRIGHT CONTROVERSY

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It is a shame and a pity that the panel of the Supreme Court of Israel that heard the appeal from Judge Dorner's decision in the Jerusalem District Court did not have the benefit of David Nimmer's piece before it.¹ David's essay not only goes further than anything I have read in exploring the concepts underlying, as well as the meanings of, expression, originality, and works of authorship—in other words, the essence of copyright—but it also examines the policies that any law of copyright must serve if it is indeed “To promote the Progress of Science and useful Arts,” as stated by Article I, Section 8, Clause 8 of our Constitution.²

What does our Constitution have to do with the Israeli decision? Because three copies of the allegedly infringing book were sent to readers in Israel, where some marketing efforts also occurred, the Israeli Supreme Court held that Israeli law was applicable even though the place of infringement was the United States, where the Israeli orders were placed.³ The Supreme Court, parenthetically, did not need to rely on the “presumption of the equality of laws”—that United States law would be the same as Israeli law—which was utilized by the Jerusalem District Court.⁴ While there is no indication that Article I, Section 8, Clause 8 is embodied in Israeli law, the policies of

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1. The author was an admirer of David's father's intellectual prowess and became friends by virtue of a three-day “junket” with David's father and mother. Subsequently, it was a pleasure to have David as a student extern law clerk when he was attending Yale Law School.

2. U.S. CONST. art. I, § 8, cl. 8.

3. C.A. 2790/93, 2811/93, Eisenman v. Qimron, 54(3) P.D. 817, at para. 8.

4. *Id.*

Israeli copyright law are at least generally similar to promoting the progress of science and the useful arts. In the words of an Israeli decision that in essence follows *Feist Publications, Inc. v. Rural Telephone Service Co.*,⁵ to the effect that effort alone is insufficient to justify the right of copyright:

This conclusion is supported both by the fact that copyright laws constitute a balance between competing social needs and in the extent of protection that the right holder is entitled to. *The balancing role* of the law derives from the fact that the grant of copyright in certain expression limits possible future expressions. An approach that views the right as deriving from the effort itself is not sensitive enough to this important balance that underlies copyright laws.⁶

Thus, Israeli law, in giving obeisance to the fact that “the grant of copyright in certain expression limits possible future expressions,” recognizes that there must be some limits—policy limits based on “competing social needs”—to copyright rights.

How far does the Israeli Supreme Court go in casting aside the policy and theoretical considerations to which David Nimmer would have had it give weight? The court certainly gave Qimron copyright to *4QMMT*. Nimmer agrees that Qimron was entitled to copyright over his 235-page analysis of and commentary on *4QMMT* contained in *DJD X* (standing for Discoveries in the Judean Desert, Volume X in the Oxford series).⁷ But Nimmer’s thesis is that Qimron should not be able to claim copyright in any successful reconstruction or recreation of the ancient manuscript itself.⁸ It is with this thesis the Israeli Supreme Court disagreed, as discussed below. But how much further, if at all, did the Israeli Supreme Court go?

Here it is important to note the District Court’s decision, also contained in an unofficial translation. The suit concerned “the deciphering of *one* of the Dead Sea Scrolls,”⁹ said to be “one of the most important of the eight hundred Dead Sea Scrolls,” namely, the “Miqsat Ma’aseh Torah” (“*MMT*” or “*4QMMT*”).¹⁰ The District Court’s decision relates entirely to *4QMMT*, the sixty or seventy fragments of which were found at the beginning

5. 499 U.S. 340 (1991).

6. *Qimron*, 54(3) P.D. at para. 11 (quoting C.A. 513/89, *Interlego A/S v. Exinlines Bros. S.A.*, 48(4) P.D. 133, 165) (internal quotation marks omitted).

7. David Nimmer, *Copyright in the Dead Sea Scrolls: Authorship and Originality*, 38 HOUS. L. REV. 1, 141 (2001).

8. *Id.* at 82–84.

9. C.F. (Jm.) 41/92, *Qimron v. Shanks*, 69(iii) P.M. 10, at para. 1 (emphasis added).

10. *Id.* at para. 3.

of the 1950s.¹¹ The fragments corresponded to six copies of the Scroll, and are in different handwritings on parchment or papyrus.¹² Thus, there is no doubt that the District Court's decision related only to that Scroll. In addition, Qimron's counter-appeal, or cross-appeal as we would call it, related not to the scope of his copyright, but only to his remedies of actual monetary damages and the return of the copies of the infringing book remaining in the appellants' hands.¹³

The Supreme Court decision, therefore, related solely to *4QMMT*, although some of its language could perhaps be read more broadly, and the decision's implications, policy-wise, are of course significant, as will be discussed below. Lest anyone read the decision too broadly, the court, per Justice Y. Tirkel, made it "clear . . . that Qimron does not have a right in the 'raw material'—the fragments of the scrolls themselves—and he does not even request this."¹⁴ The court goes on to say:

His copyright in the Deciphered Text does not prevent anyone from the possibility of researching the Scroll fragments, arranging them, deciphering the writing upon them and completing the missing portions between the fragments, in a manner different from that taken by Qimron, and to publish the results of his work and even receive copyright protection. As it were, before us is an equation of many "variables" that all of those who come to solve it may try to place different "values" in their places.¹⁵

With the to-some-extent limited scope of the decision, what then of David Nimmer's conclusion that copyright does not protect a "reconstruction," as he puts it, of an ancient manuscript insofar as that reconstruction is correct or successful?¹⁶ Nimmer asserts that creativity, if any, "inheres only in [the] mistakes," that is to say, the incorrect version of the manuscript.¹⁷ But what if a portion of the manuscript is missing, so that it becomes impossible to determine whether the reconstruction is correct or incorrect? What if it happens to be imagined, interpolated, created, as it were, by the person doing the reconstruction? And is not that the very case here?

11. *Id.* at para. 4.

12. *Id.* More specifically, as David elucidates, the Scroll itself is only about 150 lines, of which approximately 120 have been reconstructed from the bits and pieces of the six different copies. Nimmer, *supra* note 7, at 150–51.

13. C.A. 2790/93, 2811/93, Eisenman v. Qimron, 54(3) P.D. 817, at para. 6.

14. *Id.* at para. 15.

15. *Id.*

16. Nimmer, *supra* note 7, at 84.

17. *Id.* at 126.

The Israeli District Court relied on the fact that the original scroll has not been found whole.¹⁸ The tens of fragments that were discovered belonged to different copies, “there was no physical match between a considerable [part] of the fragments,” and even after they were collated, nearly half of the text was still missing.¹⁹ As aforesaid, without linguistics and halakhic²⁰ research, it would have been impossible to combine the fragments and complete the missing parts.²¹

The Supreme Court relied on similar grounds, emphasizing the District Court’s judgment regarding the differences of opinion between Qimron and his predecessor/co-worker Strugnell.²² Those differences involved whether the fragments ought to be assembled lengthwise or breadthwise and whether a missing character should be replaced by the letter “aleph” (per Strugnell) so that the word would read “orot,” meaning lights, or by the letter “ayin” (per Qimron) so that the word would read “o’rot” meaning hides.²³ This critical portion of the District Court’s decision permitted it to find “creative and original elements” and thereby to distinguish the work from, for example, a telephone-book compilation, as in the *Feist* line of cases.²⁴

Similarly, the Supreme Court explained that the reconstruction process

included a number of levels of creation: construction of the fragments according to the way they fit together physically, the arrangement of the “islands” of fragments that were constructed and their placement in the estimated framework of the parchment of the Scroll, the decipherment of the writing that is on the fragments, to the extent that such decipherment was necessary and the completion of the missing portions between the fragments.²⁵

And, as the Supreme Court went on to say, “[I]t is not appropriate to examine each level separately.”²⁶ Rather:

In the case before us, the different levels of the work of creation are woven and bound to each other, dependent upon each other and influence each other. So the decipherment of the writing in a certain way influences the

18. C.F. (Jm.) 41/92, *Qimron v. Shanks*, 69(iii) P.M. 10, at para. 22.

19. *Id.*

20. According to the District Court, *halacha* is traditional Jewish doctrine. *Id.*

21. *Id.*

22. C.A. 2790/93, 2811/93, *Eisenman v. Qimron*, 54(3) P.D. 817, at para. 14.

23. *Id.* (internal quotation marks omitted).

24. *Shanks*, 69(iii) P.M. at para. 21.

25. *Qimron*, 54(3) P.D. at para. 14.

26. *Id.*

way in which the “islands” of fragments are arranged; so the arrangement affects the possible meanings of the text, including its structure, its content and the way in which the missing portions are completed. One should not sever the levels of creation from each other and they should be seen as a single work of creation. Examination of the work, on all of its levels as a complete single work shows originality and creativity that are undoubtable.²⁷

David Nimmer would disagree that the decipherment level involves creativity.²⁸ His exposition I find compelling, and it is far deeper than that of the Israeli judges. His conclusion, of course, is at total odds with that of the Israeli courts,²⁹ and while one is persuaded by his reasoning, one can nevertheless understand how those courts went awry, as it were.

I probably would concede the Nimmer thesis in terms of the intent of the manuscript reconstructor being determinative:³⁰ Is there or is there not a conscious desire to involve some new and subjective expression into the mix?³¹ But does this ask, for the judge facing the pressure of the docket,³² the right question? I am not sure that it does. What of the situation where a substantial part (14%, 40%, whatever) of the manuscript being reconstructed is missing? Nimmer’s Case 3 (The Translation) also still bothers me.

In that hypothetical case, poet Ted Hughes, using original Hebrew sources, derives his own, much more lyrical, rendition of the Scroll in issue.³³ This is copyrightable, David posits, as does the Nimmer treatise, provided only that there is more than a minimal contribution.³⁴ In the words of *L. Batlin & Son, Inc. v.*

27. *Id.*

28. *See* Nimmer, *supra* note 7, at 192.

29. Nimmer writes that:

These considerations, at base, furnish the ultimate answer why Qimron’s copyright claim is fatally flawed. Nonetheless, it is hard to believe that even Qimron himself would be the loser, in the greater sense, by confining copyright to its proper bounds. As a philologist, his work and advancement in the field is dependent on his ability to quote and build upon the philological advancements of his predecessors. He is clothed with complete protection for his book-length review of *MMT* and for his other articles on the subject. The denial of copyright to his reconstruction of *MMT* simply affords successor philologists the same elbow-room that allowed Qimron himself to achieve his own breakthroughs.

Id. at 127–28.

30. *See id.* at 188–89.

31. *See id.* at 191.

32. *See id.* at 188.

33. *Id.* at 115–16.

34. *Id.*; 1 MELVILLE B. NIMMER & DAVID NIMMER, NIMMER ON COPYRIGHT §3.03[A] (2000).

Snyder,³⁵ “[T]he quantum of originality that is required may be modest indeed”³⁶

I ask the question: Was Qimron’s contribution more than minimal? Why should he not stand in the same shoes as a translator, be the translator Ted Hughes or some more prosaic soul? To explore this a little further, I will turn to a recent case perhaps on point.

The oldest³⁷ English (or Anglo-Saxon) poem, *Beowulf*, is a 3000 verse story of the hero of a Scandinavian tribe, his battles and tribulations with a monster, the monster’s mother, and finally a dragon.³⁸ Like Homer’s earlier works, *Beowulf* was probably long told orally before being written down in the form we now know it.³⁹ And, like the Dead Sea Scrolls, the *Beowulf* manuscript survived centuries of neglect before being rediscovered in the 1700s.⁴⁰ Two recent translations, one by Seamus Heaney and one by R. M. Liuzza, each entitled, *Beowulf: A New Verse Translation*, have recently been reviewed in *The New York Review of Books*.⁴¹ The review, by Frank Kermode, tells of J.R.R. Tolkien’s 1936 lecture, *Beowulf: The Monsters and the Critics*, and how that lecture changed not only the approaches of scholars, but the qualitative views of the public toward the poem, as well as the idea that the poem must be translated as verse, not prose.⁴² Complicating that task, however, is that Anglo-Saxon verse “resembles nothing in modern English prosody,”⁴³ with a pause at about the middle of the metrical line and each half line having two stresses, and with “an agreement between stressed elements beginning with the same consonant or lacking consonants.”⁴⁴ Numerous translators have more or less successfully attempted since the Tolkien lecture to achieve the break and the alliteration, but apparently the two new books are, according to the review, “better.”⁴⁵

Now, are these translations copyrightable? We are dealing with an ancient manuscript but no missing parts. Why can’t it be

35. 536 F.2d 486 (2d Cir. 1976) (en banc).

36. *Id.* at 490 (citing *Herbert Rosenthal Jewelry Corp. v. Grossbardt*, 436 F.2d 315, 316 (2d Cir. 1970)).

37. “Conjectures range from the early eighth to the late tenth century.” Frank Kermode, *The Geat of Geats*, N.Y. REV. BOOKS, July 20, 2000, at 18, 18.

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.*

42. *Id.* at 18–19.

43. *Id.* at 19.

44. *Id.*

45. *Id.*

argued that, to the extent the translator successfully conveys in English not just the story, but the verse with the pause and alliteration of the Anglo-Saxon text, and its kennings, which are metaphysical compound expressions for the name of something—for example, a “whale-road” for the sea—he has done just what Qimron did? The translations differ. For instance, the reviewer notes that when Heaney writes “hall-session,” Liuzza translates “ale-sharing”; when Heaney writes “horn-rigged,” Liuzza says “bone-adorned.”⁴⁶ While the reviewer concludes that the best bet for the student or reader is to buy both of the translations, can it be said that neither is copyrightable, that all Heaney and Liuzza have done is reconstruct or decode a text with perhaps—allowing for their differences—ninety-six percent accuracy? After all, the original version was itself verse, so the fact that these translations are poetic, as it were, means only that they are more accurate. As in Judge Jacobs’ words, quoted at the beginning of Nimmer’s Chapter IV,⁴⁷ “faithfulness to the public-domain original is the dominant editorial value.”⁴⁸

How, then, do these translations differ from Qimron’s version of *4QMMT*? Nimmer on *Copyright* uses as a footnote example a translation and abridgement of the Bible as a copyrightable derivative work.⁴⁹

I agree with the statement in David’s piece that “copyright theory does not cohere perfectly.”⁵⁰ And while I cannot speak for Judge Jacobs to support what I have said above, he might, in discussing the Dead Sea Scroll litigation, refer to his own dictum in the *West Publishing* case in which he states that “creating an accurate version of the missing parts of an ancient document by using conjecture to determine the probable content of the document may take a high amount of creativity.”⁵¹ But I might ask another question: Is the creative really, or always, to use Judge Jacobs’s phrase, the “enemy of the true?”⁵²

The Israeli Supreme Court held Qimron’s creative work to be copyrightable,⁵³ and the decision is understandable to me. In

46. *Id.* at 20 (internal quotation marks omitted).

47. Nimmer, *supra* note 7, at 39–43.

48. *Matthew Bender & Co. v. West Publ’g Co.*, 158 F.3d 674, 688 (2d Cir. 1998), *cert. denied*, 526 U.S. 1154 (1999).

49. NIMMER & NIMMER, *supra* note 34, § 3.03[A], at 3-9 n.6 (citing *United Christian Scientists v. Christian Sci. Bd. of Dirs.*, 616 F. Supp. 476, 478 n.5 (D.D.C. 1985), *aff’d on other grounds*, 829 F.2d 1152 (D.C. Cir. 1987)).

50. Nimmer, *supra* note 7, at 37.

51. 158 F.3d at 688–89 n.13.

52. *Id.* at 688.

53. C.A. 2790/93, 2811/93, *Eisenman v. Qimron*, 54(3) P.D. 817, at para. 36.

Justice Tirkel's words, he did not take lightly the arguments based upon policy considerations—the document being of historical value and part of the cultural heritage of the Jewish people (I would add of the Western world)—that copyright to Qimron would preclude academic research and freedom.⁵⁴ He realized, he said, that there is a balance between competing interests—“the right of the individual to protection of the fruits of his creation against the right of society to continue to flourish upon the fertile ground of the past.”⁵⁵ But then, inexplicably, he added, “But in this case there is no need to discuss the proper balance since there is no reason to fear.”⁵⁶ To fear what?, I would ask. But by quoting Judge Maltz in *Geva v. Walt Disney Co.*,⁵⁷ Justice Tirkel supports the proposition that the qualification of copyright is “possible only in the framework of the exceptions to the right,”⁵⁸ that is, once the area of copyright protection involved has not been initially removed for reasons of public policy, a court looks only to the defenses, that is, the “exceptions.” But doesn't this beg the question? Justice Tirkel is “of the opinion that these exceptions in the Law are sufficient in order to ensure the freedom of academic research,” such as fair use and other defenses.⁵⁹ Perhaps, perhaps not.

The “exceptions” in the law were, in any case, found insufficient. Arguing, however, from the 1976 U.S. Copyright Act⁶⁰ that protects works extant as of 1978 but not yet published,⁶¹ David posits that the Teacher of Righteousness had a valid U.S. copyright⁶² so that any derivative work made must have been made in violation of 17 U.S.C. § 303(a).⁶³ But I think it is somewhat farfetched to suggest that there was a pre-existing copyright when the existing six copies of the *4QMMT* had been made over a thousand years before; of course, whether the making of copies amounted to “publishing” remains a matter of conjecture. Nimmer then argues that, in light of the public's right of access to this “cultural patrimony,” Qimron somehow had

54. *Id.* at para. 15.

55. *Id.*

56. *Id.*

57. C.A. 2687/92, 48(1) P.D. 251.

58. *Qimron*, 54(3) P.D. at para. 15 (quoting *Geva*, 48(1) P.D. at 268–69).

59. *Id.*

60. Copyright Act, Pub. L. No. 94-553, 90 Stat. 2541 (1976) (codified as amended at 17 U.S.C. § 101 (1994)).

61. *Id.* §§ 302(a), 303.

62. Nimmer, *supra* note 7, at 83.

63. *Id.*

“unclean hands”⁶⁴ in bringing or threatening to bring a copyright suit, and that, by seeking “to retard serious scholarship in the field,” engaged in “overreach[ing],”⁶⁵ which must deny him copyright protection under general principles (though Nimmer admits “there is no case directly on point”).⁶⁶ David’s argument is more than respectable, but is it a workable rule? He cites the Zapruder case, *Time, Inc. v. Bernard Geis Associates*,⁶⁷ and the Howard Hughes unauthorized biography case, *Rosemont Enterprises, Inc. v. Random House, Inc.*,⁶⁸ but neither case gives one a standard to go by in deciding whether the public interest prevails.

The blurring of the expression/idea dichotomy incidental to any manuscript reconstruction⁶⁹ makes another interesting argument, as does the argument of copyright estoppel based on “[v]indication of the fact/expression dichotomy.”⁷⁰ Nimmer has a bit of a hard time adjusting to novels as a recitation of true events. Using *Moby Dick* as an example, he says the novel was the recounting of “the unfortunate events that befell a man named Ishmael when he got on Captain Ahab’s ship.”⁷¹ Would it be a different case if, as in fact was the case, the sinking of the *Pequod* by the great sperm whale actually paralleled, to a considerable extent, the 1820 voyage and sinking of the ship *Essex* under Captain Pollard of Nantucket,⁷² accounts of which were widely published and undoubtedly read by Melville before he wrote *Moby Dick*? I suggest not. Obviously, *Moby Dick* was copyrightable. Why isn’t *4QMMT*?

The Israeli courts rejected the defenses of “scholarly convention” based on Qimron’s consent, and of “fair treatment” (that is, “fair use”).⁷³ The first defense was rejected because no acknowledgment of the author was given (nor was his request not to copy or transfer the text acknowledged).⁷⁴ The second was rejected because the deciphered text was published in its entirety, rather than in excerpts, and was, again, without

64. *Id.* at 78.

65. *Id.* at 80.

66. *Id.*

67. 293 F. Supp. 130 (S.D.N.Y. 1968).

68. 366 F.2d 303 (2d Cir. 1966).

69. Nimmer, *supra* note 7, at 85.

70. *Id.* at 94.

71. *Id.* at 95.

72. See NATHANIEL PHILBRICK, IN THE HEART OF THE SEA: THE TRAGEDY OF THE WHALESHIP *ESSEX* 107–08 (2000).

73. C.A. 2790/93, 2811/93, Eisenman v. Qimron, 54(3) P.D. 817, at paras. 17–18 (internal quotation marks omitted).

74. *Id.* at para. 18.

acknowledgment of Qimron as decipherer/author.⁷⁵ The courts went on to find a violation of Qimron's moral right, the highest court summoning into play theological law—natural rights?—in the following language:

A man is entitled to have his name applied to the “children of his spirit.” His spiritual connection to these is like, almost, his connection to those who come forth from his loins. Publication of a work without its being attributed to the name of its author “in the accepted manner and to the accepted extent” is a violation of the author's moral right. The roots of this important principle are also delivered through Jewish law, which noted the greatness of the sin of a person who does not attribute his words to the person who said them. So it was said, among many things on this subject:

Great is he who says something in the name of that person who said it and shall not steal the opinion of the person who said it, since such theft is more than the theft of money—and such is the greatness of this sin in my eyes, one who says the simple meaning of the writing in a book, or that he heard, and does not mention the name of the speaker or the writer.⁷⁶

While this argument may seem like a makeweight to the casual observer, it had real ramifications: the award of 80,000 new shekels (\$20,000) for the mental distress occasioned by the violation of Qimron's moral right (four times the maximum statutory amount of damages awarded for the copyright violation) plus a total of 50,000 new shekels (\$15,000) in attorneys' fees.⁷⁷

A word or two more about fair use. This “equitable rule of reason”⁷⁸ requires consideration of the four factors listed in 17 U.S.C. § 107,⁷⁹ but those factors are not exhaustive or exclusive.⁸⁰

75. *Id.* at paras. 19–20.

76. *Id.* at para. 23 (quoting R' Yeshaya HaLevi Horowitz Shnei Luchot Harbrit, Tractate Shavuot (Daf 183, p. B)) (citation omitted) (internal quotation marks omitted).

77. *Id.* at para. 3.

78. *See Sony Corp. of Am. v. Universal City Studios, Inc.*, 464 U.S. 417, 448 & n.31 (1984).

79. 17 U.S.C. § 107 (1994). The following four factors must be considered in determining fair use:

(1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for or value of the copyrighted work.

Id.

80. *Harper & Row, Publishers, Inc. v. Nation Enters.*, 471 U.S. 539, 549 (1985).

The purpose of this equitable doctrine, the United States Supreme Court has told us, is “to avoid rigid application of the copyright statute when, on occasion, it would stifle the very creativity which that law is designed to foster.”⁸¹ Applied to Qimron, the first of the statutory factors, the purpose and character of Shanks’s use, was doubtless for productive ends of scientific research. The second, the nature of the copyrighted work, also tends to support a conclusion of fair use. The third factor, the ratio of the copied portion to the whole copyrighted work, runs directly against fair use. And the fourth factor, the adverse effect of Shanks’s use on the potential market for the work or upon its value, is probably minimal if not altogether illusory. I do not think most courts would have a problem in holding that, given the tremendous importance of the Dead Sea Scrolls for scholarly research in the areas of Judaic and Christian civilization, there was a fair use at least in light of the long delay in Qimron’s own publication of *4QMMT* if, but only if, the Shanks publication had duly acknowledged Qimron’s scholarly role.

As it is, I think the Israeli courts’ decisions are understandable even if certainly problematic under the laws of the United States and—concededly, sometimes incoherent—copyright theory. Once again, we have a copyright decision at the “cutting edge” because this part of intellectual property law embodies mutually conflicting interests, the underlying concepts of which are open to continuing and serious debate.⁸²

David Nimmer is, I think, to be thanked for a great contribution to the enlightenment of us all on the nature, scope, and limitations of the law of copyright. I suspect that Qimron, having vindicated his “authorship” or his scholarly contribution to the decipherment, will not stand as a block to further academic research into *4QMMT*, and, certainly, nothing stands in the way of further understanding and work on the Dead Sea Scrolls.

81. *Id.* at 550 n.3 (quoting *Iowa State Univ. Research Found., Inc. v. Am. Broad. Cos.*, 621 F.2d 57, 60 (2d Cir. 1980)).

82. See generally, e.g., Robert Patrick Merges & Glenn Harlan Reynolds, *The Proper Scope of the Copyright and Patent Power*, 37 HARV. J. ON LEGIS. 45 (2000); Note, *Can Intellectual Property Law Regulate Behavior? A “Modest Proposal” for Weakening Unclean Hands*, 113 HARV. L. REV. 1503 (2000); Benjamin S. Hayes, Note, *Integrating Moral Rights into U.S. Law and the Problem of the Work for Hire Doctrine*, 61 OHIO ST. L.J. 1013 (2000) (winner of the ASCAP Nathan Burkan Award).