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## Theatrical Motion Pictures and the Law: A Comprehensive Bibliography of Law-Related Materials, Supplement (1980-1984)

Frank G. Houdek

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# Theatrical Motion Pictures and the Law: A Comprehensive Bibliography of Law- Related Materials, Supplement (1980-1984)\*

by FRANK G. HOUDEK\*\*

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\* Supplementing Houdek & Gunderson, *Theatrical Motion Pictures and the Law: A Comprehensive Bibliography of Law-Related Materials*, 3 COMM/ENT L.J. 117 (1980). This supplement follows the organizational framework of the original bibliography with several minor exceptions. A separate section, entitled Periodicals, has been added to list the journals now published in the field. One new subsection covering the Right of Publicity has been added to the listing of Law Review Articles. The subject subsections were omitted from the listing of Federal Government Publications because of the small number of additions to this section. The documents are listed in reverse chronological order. This supplement lists materials which have been published through July 1984.

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## I. BOOKS

*The American Movie Industry: The Business of Motion Pictures.* Gorham Kindem, editor. Carbondale, Ill.: Southern Illinois University Press, 1982. 474 pp.

De Grazia, Edward and Roger K. Newman. *Banned Films: Movies, Censors, and the First Amendment.* New York: Bowker, 1982. 532 pp.

Directors Guild of America, Inc. *Basic Agreement of 1978.* Hollywood: The Guild, 1978. 140 pp.

Fleener-Marzec, Nickieann. *D.W. Griffith's The Birth of A Nation: Controversy, Suppression, and the First Amendment as it Applies to Filmic Expression, 1915-1973.* Salem, N.Y.: Ayer Co. Press, 1980. 564 pp.

Great Britain, Committee on Obscenity and Film Censorship. *Obscenity and Film Censorship.* Bernard Williams, editor. Cambridge: Cambridge University Press, 1982. 192 pp.

Hanlon, R. Brendan. *A Guide to Taxes and Record Keeping for Performers, Designers, Directors.* (rev. ed.) New York: Drama Book Specialists, 1980. 92 pp.

Mannix, E.F. *Tax and the Australian Film Industry.* Sydney: Butterworths, 1981. 92 pp.

McQuillan, Peter. *Investing in Canadian Films: Evaluating the Risks and Rewards.* Don Mills, Canada: CCH Canadian, Ltd., 1981. 88 pp.

*1983 Entertainment, Publishing and the Arts Handbook.* Michael Meyer and John David Viera, editors. New York: Clark Boardman Co., 1983. 300 pp.

INCLUDES: Articles by practicing attorneys on motion pictures, right of publicity, managers and agents, and tax considerations.

*Producing for Motion Pictures and Television: A Practical Guide to Legal Issues.* Vance Scott Van Petten, edi-

tor. Los Angeles: Los Angeles County Bar Association, 1983. 407 pp.

Presented at the 5th Annual Symposium of Intellectual Property and Unfair Competition Section, Los Angeles County Bar Association, May 14, 1983, Beverly Hills, California.

CONTENTS: 1) Clearance of Rights. 2) The Use of Foreign Talent. 3) Guild and Union Considerations. 4) Production Insurance and Completion Guarantees. 5) Production Hiring and Accounting, Flow of Revenue and Net Profit Participation.

Rudell, Michael I. *Behind the Scenes: Practical Entertainment Law*. New York: Law & Business, Inc./Harcourt Brace Jovanovich, 1984. 270 pp.

INCLUDES: 2) Names, Credits and Titles. 3) Copyright Protection. 4) Representation—Managers, Agents, and Attorneys. 8) New Technologies.

Selz, Thomas D. and Melvin Simensky. *Entertainment Law*. Colorado Springs, Col.: Shepard's/McGraw-Hill, 1983. 3 vols.

INCLUDES: 1) Industry Structure. 2) Huge Investments/High Risks. 5) Anticompetitive Practices. 7) Practical Limits on Power of Distributors. 9) The Value and Uses of Billing. 11) Credit Vehicles: Where and How. 12) Multiple Contributor Credits. 18) Right of Privacy. 19) Right of Publicity. Volume 3 contains Sample Entertainment Industry Forms, including model agreements for literary purchases; screenplay employment; screenplay loanout; producer/director relationship; producer's/director's loanout; performer's agreement; actor's agreement; composer's agreement.

Writers Guild of America. *Theatrical and Television Basic Agreement of 1977*. Los Angeles: The Guild, 1977. 218 pp.

## II. PERIODICALS

*Cardozo Arts & Entertainment Law Journal*. New York: Benjamin N. Cardozo School of Law. v. 1-, 1982-. Semiannual.

*Comm/Ent Law Journal: Hastings Journal of Communications and Entertainment Law*. San Francisco: Uni-

versity of California, Hastings College of Law. v. 1-, 1977-. Quarterly.

*The Entertainment and Sports Lawyer*. Chicago: Forum Committee on the Entertainment and Sports Industries, American Bar Association. v. 1-, 1982-. Quarterly.

*Entertainment Law Reporter*. Beverly Hills, Cal.: Entertainment Law Reporter Pub. Co. v. 1-, 1979-. Semimonthly.

Covers motion pictures, television, radio, music, theater, publishing, and sports.

INCLUDES: Articles on business affairs, digests of recent cases, accounts of new statutes and administrative regulations, book reviews and lists of recent articles, and an education programs calendar.

*The Journal of Arts Management and Law*. Washington: Helen Dwight Reid Educational Foundation. v. 12-, 1982-. Quarterly.

*Journal of Copyright, Entertainment and Sports Law*. Nashville: Tennessee Bar Association, Copyright, Entertainment and Sports Law Section. v. 1-, 1982-.

*Loyola Entertainment Law Journal*. Los Angeles: Loyola Law School. v. 1-, 1981-. Annual.

### III. LEGAL INSTITUTE PROGRAM MATERIALS

#### A. Forum Committee on the Entertainment and Sports Industries, American Bar Association

*The Financing and Distribution of Feature Motion Pictures*. Mar. 17-18, 1983. Chicago: Forum Committee on the Entertainment and Sports Industries, American Bar Association, 1983. 400 pp.

#### B. Practising Law Institute

*Counseling Clients in the Entertainment Industry, 1983*. Martin E. Silfen, Chairman. (Patents, Copyrights, Trademarks, and Literary Property Course Handbook Series, no. 156) New York: PLI, 1983. 1465 pp.

INCLUDES: 1) Personal Management and Legal Representation Problems. 3) Motion Picture Problems. 6) Tax Problems.

*Counseling Clients in the Entertainment Industry, 1982*. Martin E. Silfen, Chairman. (Patents, Copy-

rights, Trademarks, and Literary Property Course Handbook Series, nos. 145-46) New York: PLI, 1982. 2 vols. 1474 pp.

INCLUDES: 1) Personal Management, Agency, Legal Representation, and Business Management Problems. 4) Motion Picture Problems. 6) Home Viewing and New Technologies. 8) Merchandising, Licensing and Endorsements.

*Counseling Clients in the Entertainment Industry, 1981.* Martin E. Silfen, Chairman. (Patents, Copyrights, Trademarks, and Literary Property Course Handbook Series, nos. 145-46) New York: PLI, 1981. 648 pp.

C. **UCLA Entertainment Symposium**

*The Business and Legal Aspects of Representing Talent in the Entertainment Industry.* Michael H. Lauer and Peter J. Dekom, editors. Los Angeles: University of California, 1982. 564 pp.

INCLUDES: The Sale and Acquisition of Rights for Theatrical Motion Picture and Television Productions (pp. 371-424). Selected Issues in the Negotiation of Basic Deal Terms in Employment Agreements for Theatrical and Free Television Motion Pictures (pp. 425-74). Analysis of Cash Flow in the Exploitation of Theatrical, Feature Length Motion Pictures (pp. 505-64).

*New Economic Fame: Money and Movies.* Christine S. Cuddy, Gary Stiffelman, and Michael H. Lauer, editors. Los Angeles: University of California, 1981. 704 pp.

D. **USC Entertainment Law Institute: Legal Aspects of the Entertainment Industry**

**1984**

*Current Developments Concerning the Representation of Performing Talent—Motion Pictures, Television, Stage, Commercials and Music.* Apr. 28, 1984. Los Angeles: University of Southern California Law Center, 1984.

INCLUDES: 1) Representation of Actors in Theatrical Motion Pictures. 4) Representing Actors in Commercials.

**1983**

*Pay Television—A Primary and Secondary Market: Dynamics of Production and Distribution Arrangements.* Apr. 16, 1983. Los Angeles: University of Southern California Law Center, 1983.

INCLUDES: 1) The Competitive Pay Television Marketplace—An Overview. 2) Production of Original Programs for Pay Television as a Primary Market. 5) Impact of Guild Agreements. 6) Over-scale Deals for Talent.

**1982**

*Fictional Characters and Real People.* Apr. 24, 1982. Los Angeles: University of Southern California Law Center, 1982. 344 pp.

INCLUDES: 1) The Ownership and Protection of Performers' Names. 2) Right of Publicity. 4) A Brief Analysis of Privacy Interests in an Entertainment Production. 5) Fictional Characters. 6) Overview: Practical and Legal Approaches to Dealing with Entertainment Projects Involving Fictional Characters.

**1981**

*Participations in the Motion Picture, Television and Music Industries.* Apr. 25, 1981. Los Angeles: University of Southern California Law Center, 1981. 553 pp.

INCLUDES: 1) Theatrical Motion Pictures. A) An Overview—The Eighties: Where Are Our Revenues Coming From? B) Motion Picture Participations.

**IV. DISSERTATIONS AND THESES**

none listed

**V. FEDERAL GOVERNMENT PUBLICATIONS****1983**

United States. Congress. Senate. Committee on the Judiciary. Subcommittee on Patents, Copyrights and Trademarks. *Audio and Video Rental.* Hearing, 98th Cong., 1st Sess., Apr. 29, 1983. Washington: U.S. Govt. Print. Off., 1984. 338 pp.

Hearing to consider copyright bill S.33, which would

prohibit commercial rental, lease, or lending of motion pictures or other audiovisual works without authorization of the copyright owner.

**1982**

United States. Congress. Senate. Committee on the Judiciary. *Copyright Infringements (Audio and Video Recorders)*. Hearings, 97th Cong., 1st Sess., Nov. 30, 1981, 2d Sess., Apr. 21, 1982. Washington: U.S. Govt. Print. Off., 1982. 1384 pp.

Hearings to consider copyright bill, which would exempt from copyright infringement liability video recordings made by individuals for noncommercial use. This bill would reverse the 1981 Ninth Circuit decision in *Universal City Studios, Inc. v. Sony Corp.* It would also prohibit the commercial rental of motion pictures unless authorized by the copyright owner.

United States. Congress. House. Committee on the Judiciary. *Piracy and Counterfeiting Amendments Act of 1982*. House Report No. 97-495, 97th Cong., 2nd Sess., Apr. 29, 1982. Washington: U.S. Govt. Print. Off., 1982. 14 pp.

Recommends passage of H.R. 3530, which increases penalties for trafficking in counterfeit labels for copyrighted records, tapes, and audiovisual works, and for copyright infringement of these products.

United States. Congress. House. Committee on the Judiciary. Subcommittee on Courts, Civil Liberties, and the Administration of Justice. *Copyright/Cable Television, Part 1*. Hearings, 97th Cong., 1st Sess., May 14-July 22, 1981. Washington: U.S. Govt. Print. Off., 1982. 1018 pp.

Includes testimony by James Bouras, representing the Motion Picture Association of America, as to the extent and impact of motion picture and record piracy and counterfeiting (pp. 766-97).

**1981**

United States. Congress. Senate. Committee on the Judiciary. *Piracy and Counterfeiting Amendments Act of 1981*. Senate Report No. 97-274, 97th Cong., 1st Sess., Nov. 18, 1981. Washington: U.S. Govt. Print. Off., 1981. 15 pp.



Recommends passage of S. 691, which increases penalties for trafficking in counterfeit labels for copyrighted records, tapes, and audiovisual works, and for copyright infringement of these products.

United States. Congress. Senate. Committee on the Judiciary. Subcommittee on Criminal Law. *Piracy and Counterfeiting Amendments Act of 1981: S. 691*. Hearing, 97th Cong., 1st Sess., June 19, 1981. Washington: U.S. Govt. Print. Off., 1981. 68 pp.

Considers bill that would increase penalties for trafficking in counterfeit labels for copyrighted records, tapes, and audiovisual works, and for copyright infringement of these products. Includes testimony by James Bouras, representing the Motion Picture Association of America, describing the extent of illegal duplication of films, videotapes, and their packaging (pp. 19-68).

#### 1980

United States. Congress. House. Committee on Aging. *Media Portrayal of the Elderly*. Hearing, 96th Cong., 2nd Sess., Apr. 26, 1980. Washington: U.S. Govt. Print. Off., 1980. 99 pp.

Examines television and motion picture industry practices regarding portrayal of the elderly, including alleged underrepresentation and negative stereotyping.

### VI. ALR ANNOTATIONS

*Applicability of Sales or Use Taxes to Motion Pictures and Video Tapes*. 10 ALR 4th 1209-18.

*Federal Legal Problems Arising from Subscription Television or "Pay TV" Broadcast over the Air*. 61 ALR Fed 809-15.

*Immoral or Obscene Materials As Subject to Copyright Protection*. 50 ALR Fed 805-08.

*Processor's Right to Refuse to Process or Return Film or Video Tape of Obscene Subject*. 18 ALR 4th 1326-30.

### VII. LAW REVIEW ARTICLES

#### A. Antitrust

Cirace, John. *Five Conflicts over Income Distribution in the Motion Picture-Television Industry*. 25 Villanova Law Review 417-57 (1980).

Conant, Michael. *The Paramount Decrees Reconsidered*. 44 *Law and Contemporary Problems* 79-107 (1981).

Lieberman, John K. *A Motion Picture Producer's Standing to Recover Treble Damages from a Movie Distributor for Block Booking*. 14 *Journal of the Beverly Hills Bar Association* 185-96 (1980).

*Motion Picture Split Agreements: An Antitrust Analysis*. 52 *Fordham Law Review* 159-91 (1983).

Price, Monroe E. and Mark S. Nadel. *Antitrust Issues in the New Video Media*. 3 *Cardozo Arts & Entertainment Law Journal* 27-52 (1984).

#### B. Censorship, Ratings, and Regulation

Austin, Bruce A. *G-PG-R-X: The Purpose, Promise and Performance of the Movie Rating System*. 12 *Journal of Arts Management and Law* 51-74 (Summer 1982).

Coldham, Simon. *Reports of the Committee on Obscenity and Film Censorship*. 43 *Modern Law Review* 306-18 (1980).

*Constitutional Law—Obscenity—The State May Not Prohibit Future Exhibitions of Motion Pictures Through a Nuisance Abatement Statute Which Allows a State Trial Judge, on the Basis of a Finding That a Theater Has Shown Specific Obscene Films in the Past, To Issue Such Injunction Against Future Activity, Unless Procedural Safeguards Govern the Entry of Orders Restraining the Exhibition of Named or Unnamed Films with Regard to the Context in Which They Are Displayed*. 8 *American Journal of Criminal Law* 199-208 (1980).

Manchester, Colin. *Controlling Obscene Films in Post-War Britain*. 10 *Performing Arts Review* 327-51 (1980).

Robertson, Geoffrey. *The Future of Film Censorship*. 7 *British Journal of Law and Society* 78-94 (1980).

Rosten, Keith A. *Legal Control of the Soviet Cinema: The Scenario Writer's Contract*. 14 *Rutgers Law Journal* 115-33 (1982).

### C. Copyright and Related Problems

Anthony, Michelle and Richard Finkelstein. *Protection Against the Unauthorized Use of the Title of a Song as the Title of a Motion Picture: The Doctrine of Unfair Competition in California and Under the Lanham Act.* 1 Entertainment Law Journal 6-17 (Nov. 1981).

ALSO IN: 1 Journal of Copyright, Entertainment and Sports Law 49-65 (1982).

Beard, Joseph J. *The Sale, Rental, and Reproduction of Motion Picture Videocassettes: Piracy or Privilege?* 15 New England Law Review 435-84 (1979-1980).

Brown, Ralph S. *The Widening Gyre: Are Derivative Works Getting Out of Hand?* 3 Cardozo Arts & Entertainment Law Journal 1-25 (1984).

*Cheaper by the Dozen: Unauthorized Rental of Motion Picture Videocassettes and Videodiscs.* 34 Federal Communications Law Journal 259-89 (1982).

Colby, Richard. *Copyright Revision Revisited: Commissioned Works as Works Made for Hire Under the United States Copyright Act.* 5 Whittier Law Review 491-514 (1983).

Colby, Richard. *Music in Motion Pictures.* 30 Journal of the Copyright Society of the U.S.A. 34-37 (Oct. 1982).

Ellingson, Carol A. *The Copyright Exception for Derivative Works and the Scope of Utilization.* 56 Indiana Law Journal 1-32 (1980-1981).

ALSO IN: 20 Publishing, Entertainment, Advertising & Allied Fields Law Quarterly 25-76 (1981).

Gertz, Ronald H., Anita Ross Van Petten, and Vance Scott Van Petten. *Clearance of Rights for Motion Picture and Television Production.* 8 Century City Bar Association Journal 42 (1983).

Jaszi, Peter. *When Works Collide: Derivative Motion Pictures, Underlying Rights, and the Public Interest.* 28 U.C.L.A. Law Review 715-815 (1981).

- Lange, David. *Recognizing the Public Domain*. 44 *Law and Contemporary Problems* 147-78 (1981).
- Murphy, Rachel D. *Tarzoon v. Tarzan: A New Look at the Legal Status of Parody*. 5 *Art & the Law* 14-18 (1979).
- Rosen, Ronald S. *Current Trends in Entertainment Litigation: The Insurance Empire Strikes Back*. 1 *Entertainment and Sports Lawyer* 1, 3-5, 8 (Spring 1982).
- Turner, James L. *It's a Bird, It's a Plane or Is It Public Domain?: Analysis of Copyright Protection Afforded Fictional Characters*. 22 *South Texas Law Journal* 341-53 (1981).

**D. Financing, Production, and Distribution**

- Anderson, Martin G. *State Regulation of Motion Picture Distributors*. 3 *Pace Law Review* 107-33 (1982).
- Ballantine, Frank. *Non-Profit Entrepreneurship: The Astoria Motion Picture and Television Center*. 12 *Journal of Arts Management and Law* 5-25 (Spring 1982).
- Bartasi, Thomas. *Trade Screening Laws: A Survey and Analysis*. 6 *Comm/Ent Law Journal* 91-135 (1983).
- Cohen, Jerry. *Abolition of an Unfair Business Practice—Anti-Blind Bidding Statute for the Motion Picture Industry*. 65 *Massachusetts Law Review* 239 (1980).
- Coming to a Theater Near You: Movie Distributors Challenge Exhibitor Instigated Anti-Blind Bidding Statutes*. 3 *Cardozo Arts & Entertainment Law Journal* 155-79 (1984).
- Drabinsky, Garth H. *Feature Film Production in Canada and the Newly Proposed Tax Shelter Regulations: Enlightenment or Tunnel Vision?* Report of the Proceedings of the 33rd Conference of the Canadian Tax Foundation, 1981, at 310-16 (1981).
- Holmes, Jeffrey D. *Investing in Independent Motion Pictures Through Small Business Investment Companies*. 13 *U.C. Davis Law Review* 948-68 (1980).
- Kenny, Roy W. and Benjamin Klein. *The Econom-*

*ics of Block Booking.* 26 *Journal of Law and Economics* 497-540 (1983).

Kilgannon, Mary Elizabeth. *Motion Picture Licensing Acts: An Analysis of the Constitutionality of Their Provisions.* 51 *Fordham Law Review* 293-319 (1982).

Klein, William A. *The Put-Up-Or-Shut-Up Strategy in Business Negotiations.* 17 *U.C. Davis Law Review* 341-58 (1983).

Statfield, Ira J. *Blind Bidding: Or, What Should be Playing at the Bijou?* 11 *Performing Arts Review* 27-61 (1981).

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ALSO IN: 15 *Uniform Commercial Code Law Journal* 195-212 (1983).

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#### **E. Performers' Rights**

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*Injunctions—Unjust Restraints on Entertainers in California.* 1 *Entertainment Law Journal* 91-111 (1981).

Jossen, Sanford. *Fiduciary Aspects of the Personal Manager's Relationship with a Performing Artist.* 11 *Performing Arts Review* 108-26 (1981).

Meyer, Michael and Susan Oman. *Production Com-*

*pany Remedies for "Star" Breaches.* 1 Entertainment Law Journal 25-30 (Apr. 1981).

Nimoy, Adam B. *Personal Managers and the California Talent Agencies Act: For Whom the Bill Toils.* 2 Loyola Entertainment Law Journal 145-64 (1982).

Schaaf, David W. *Estate Planning for Entertainers.* 4 Communications and the Law 45 (1982).

#### F. Right of Publicity

Adams, Ben C. *Inheritability of the Right of Publicity Upon the Death of the Famous.* 33 Vanderbilt Law Review 1251-64 (1980).

*Appropriation of Personality—A New Tort?* 99 Law Quarterly Review 281-313 (1983).

*Choice of Law in Right of Publicity.* 31 U.C.L.A. Law Review 640-70 (1984).

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*Copyright and the Right of Publicity: One Pea in Two Pods?* 71 Georgetown Law Journal 1567-94 (1983).

*Descendability of the Right of Publicity.* 1983 Southern Illinois University Law Journal 547-65.

*The First Amendment v. Right of Publicity in Theatrical Imitations: A Delicate Balance.* 57 Notre Dame Lawyer 658-72 (1982).

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Horowitz, Gary. *An Analysis of the Right of Publicity.* 6 Art & the Law 39-43 (1981).

Marks, Kevin S. *An Assessment of the Copyright Model in Right of Publicity Cases.* 70 California Law Review 786-815 (1982).

*The Right of Publicity As a Means of Protecting Performers' Style.* 14 Loyola of Los Angeles Law Review 129-63 (1980).

*The Right of Publicity: Premature Burial for California Property Rights in the Wake of Lugosi.* 12 Pacific Law Journal 987-1011 (1981).

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*Rooney v. Columbia Pictures: A Performer's Right of Publicity With a Touch of Class.* 3 Cardozo Arts & Entertainment Law Journal 201-25 (1984).

Samuelson, Pamela. *Reviving Zacchini: Analyzing First Amendment Defenses in Right of Publicity and Copyright Cases.* 57 Tulane Law Review 836-929 (1983).

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Shiple, David E. *Publicity Never Dies, It Just Fades Away: The Right of Publicity and Federal Preemption.* 66 Cornell Law Review 673-737 (1981).

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#### G. Taxation

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Biblin, Allan E. *New Law Offers Several Options for*

- Obtaining the Tax Benefits of Motion Picture Films.* 56 *Journal of Taxation* 88-92 (1982).
- Chatzky, Michael G. *Avarua, Rarotonga—Will It Become the New Motion Picture Capital of the World for International Tax Planners?* 7 *Common Law Lawyer* 1-5 (Nov.-Dec. 1982).
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