

## Syllabus

### **L575 -- LEGAL ISSUES IN THE ARTS**

**Class #13888; Fall 2008**

#### ***Professor Langvardt***

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Office Hours: T, 2:30-4:30 p.m.; W, 1:00-3:00 p.m.; other times by appointment

**CLASS MEETING TIME & LOCATION:** T, R 9:30-10:45 a.m.; CG 2069

**TEXTBOOKS:** Crawford, **Legal Guide for the Visual Artist** (4th ed., 2001)  
DuBoff & King, **Art Law in a Nutshell** (4th ed., 2006)  
Halloran, ed., **The Musician's Business & Legal Guide**  
(4th ed., 2008)

**SUPPLEMENTARY READINGS:** Packet for L575--available at IU and TIS Bookstores.

**OTHER READINGS:** Handouts to be distributed periodically in class.

#### **EXAMS AND TAKE-HOME EXERCISES:**

Two exams (a Mid-Term Exam and a Final Exam) will be given during the semester. There will also be two take-home exercises. Students are responsible on exams for all reading material assigned, regardless of whether it is discussed in class, and for all information conveyed and material discussed in class.

**Take-Home Exercise #1** -- At the end of class on **September 25**, I will distribute a case problem concerning which you must write an analysis of approximately three typed, double-spaced pages. Your analysis, which will be worth a maximum of 50 points, will be **due at the beginning of class on September 30**. (Feel free to submit your analysis sooner, if you are so inclined.) You may use your textbooks, the supplementary readings, any handout materials distributed in class, and your class notes in completing this exercise. However, you cannot discuss the case problem with other students and cannot work with other students in the preparation of your analysis. Specific instructions pertaining to the preparation and content of the analysis will be provided when the take-home exercise is distributed.

**Mid-Term Exam** -- The Mid-Term Exam will be given in class on **October 16**. This 100-point exam will consist of multiple choice and essay questions. The vast majority of the questions will be fact situation-based. All material covered or assigned since the beginning of the semester will be fair game for this exam.

**Take-Home Exercise #2** -- This 70-point exercise, which will deal with material covered since the October 16 Mid-Term Exam, will include a take-home portion consisting of fact situation-based multiple choice questions (45 points) and an in-class component involving individual writing (25 points). The take-home portion will be distributed at the end of class on **November 6**. You may use your textbooks, the supplementary readings, any handout materials distributed in class, and your class notes when you work on the take-home portion. In addition, you are free to confer with other students regarding this portion of the exam. Your answers to the take-home questions will be **due at the beginning of class on November 11**. The in-class component, concerning which you will operate on your own, will be administered on **November 11**. For the in-class component, I will select certain ones of the multiple choice questions included in the take-home portion. You will then be expected, during the first 25 minutes of the November 11 class session, to write analyses of each of the questions selected for the in-class component. Your analyses must justify the answers you chose and must include explanations of why the other answers are incorrect. *You will not know, in advance of the November 11 class session, which questions from the take-home portion will be included in the in-class component.*

**Final Exam** -- The 100-point final exam will be given on **December 16 from 7:15 to 9:15 p.m.** (The date and time are as dictated by the Fall 2008 Schedule of Classes.) It will consist of multiple choice and essay questions, again mostly fact situation-based. The final exam will deal with material covered or assigned from November 11 through the end of the semester (*i.e.*, the final exam is *not cumulative* in nature).

#### **40-POINT PAPERS:**

You are expected to prepare three papers, each of which will be worth a maximum of 40 points. Your first two papers will be analyses of law-related articles published in a newspaper, magazine, or other periodical during 2006, 2007, or 2008. The first is **due by 5:00 p.m. on Friday, October 24**. The second is **due by 5:00 p.m. on Monday, November 17**. Your third paper, which is **due by 5:00 p.m. on Friday, December 5**, will take a different form. In it, you will write either a dissent or a concurrence in the judgment regarding a judicial decision with which you disagree.

Hand in your papers in BU 233 (the Department of Business Law office), where you will find a submission box in the lobby area. Early submissions are encouraged; **late submissions, however, will not be considered**. *The separate handout titled Guidelines and Requirements for 40-Point Papers contains information on the nature of the articles you may select for the first two papers, a description of the required components of the first two papers, and an explanation of the task you must undertake in the third paper.*

#### **COURSE GRADE:**

Your course grade will be based on your performance on the exams, exercises, and papers described above, and on the extent and quality of your class participation. *Class participation will be worth a maximum of 60 points.* The maximum number of points attainable in the course will be 500 (200 for exams, 120 for the take-home exercises, 120 for the papers, and 60 for class participation). I expect to determine semester grades according to this scale:

***Attained Percentages  
of Maximum Possible Points***

***Semester Grade***

92% and above	A
90-91%	A-
87-89%	B+
82-86%	B
80-81%	B-
77-79%	C+
70-76%	C
66-69%	C-
63-65%	D+
59-62%	D
55-58%	D-
Below 55%	F

Note that I reserve the right to depart from the scale just listed if I find doing so to be necessary or desirable to achieve a suitable semester grade distribution. Any such departure would relax--rather than make more difficult--the grading scale.

**PROJECTED SCHEDULE & ASSIGNED READINGS:**

The remainder of this syllabus sets forth a projected course schedule and list of assigned readings from the textbooks (designated as "Crawford," "DuBoff," and "Halloran," respectively) and the supplementary readings packet (designated as "Supp."). *Both the schedule and the assigned readings are subject to modification.* Additional assigned readings will be provided in the form of handouts distributed in class.

<i>Date</i>	<i>Topic(s)</i>
Sept. 2	Introduction to Course; Introductory Exercise
Sept. 4	Copyright Law and the Visual and Performing Arts--Basics; Works Subject to Protection; What Copyright on Work Protects & Does Not Protect; Ownership; Registration; Notice  <p style="margin-left: 40px;">READ:        <u>Crawford</u>, pp. 3-6 (to "Term of Copyright"), 10-16, 17-26  <u>DuBoff</u>, pp. 164-84 (to "Duration")  <u>Halloran</u>, pp. 58-63 (to "Duration"), 69-73, 94-98  <u>Supp.</u>, pp. 1-5 (<i>Nash v. CBS</i>)</p>
Sept. 9	Copyright Law--What Copyright on Work Protects & Does Not Protect; Ownership; Registration; Notice  <p style="margin-left: 40px;">READ:        <u>Crawford</u>, pp. 3-6, 10-16, 17-26, 27-34  <u>DuBoff</u>, pp. 164-84  <u>Halloran</u>, pp. 58-63, 63-65 (to "Copyright Infringement"),  69-73, 94-98, 113-23  <u>Supp.</u>, pp. 1-5 (<i>Nash</i>), 6-13 (<i>CCNV v. Reid</i>)</p>
Sept. 11	Copyright Law--Duration; Ownership Rights  <p style="margin-left: 40px;">READ:        <u>Crawford</u>, pp. 6-7 ("Term of Copyright" to "Transfers &amp;  Nonexclusive Licenses"), 14-15, 27-34,  41-42 ("Permissions")  <u>DuBoff</u>, pp. 168-69, 184-87 (to "Infringement")  <u>Halloran</u>, pp. 58, 63-65, 94-98, 99-112, 113-23  <u>Supp.</u>, pp. 14 (CTEA summary), 15-30 (article excerpt  discussing <i>Eldred v. Ashcroft</i>)</p>
Sept. 16	Copyright Law--Duration; Ownership Rights; Licensing; Transfer of Ownership  <p style="margin-left: 40px;">READ:        <u>Crawford</u>, pp. 6-7, 7-8 (to "Termination"), 9-10 (through  "Entering Contests"), 40-43 ("Advertising Use of  Editorial Art" through end of chapter)  <u>DuBoff</u>, pp. 168-69, 184-87  <u>Halloran</u>, pp. 49-56, 82-93, 94-98, 99-112, 126-55,  156-83 (<i>skim</i> sample licenses), 184-97  <u>Supp.</u>, pp. 14, 15-30, 31-36 (<i>N.Y. Times v. Tasini</i>)</p>

Sept. 18 Copyright Law--Licensing; Transfer of Ownership; Termination of Transfer

READ: Crawford, pp. 7-8, 8 ("Termination"), 9-10, 40-43  
DuBoff, pp. 184-87  
Halloran--pages assigned for preceding class session,  
plus 64-65  
Supp., pp. 31-36 (*Tasini*)

Sept. 23 Copyright Law--Termination of Transfer; Infringement

READ: Crawford, pp.8, 35-37 (to "Fair Use"), 45-53  
DuBoff, pp. 187-90 (to "Fair Use")  
Halloran, pp. 65-68, 74-78 (to "Remedies"), 82-90,  
108-09  
Supp., pp. 37-41 (*Newton v. Diamond*)

Sept. 25 Copyright Law--Infringement; Fair Use

READ: Crawford, pp. 35-37, 45-53, 37-40  
DuBoff, pp. 187-90, 190-94  
Halloran--pages assigned for preceding class session  
Supp., pp. 37-41 (*Newton*), 42-46 (*A&M Records v. Napster*), 47-53 (*MGM v. Grokster Ltd.*),  
54-61 (*Harper & Row v. Nation Enterprises*)

**TAKE-HOME EXERCISE #1 TO BE DISTRIBUTED AT END OF CLASS**

Sept. 30 **TAKE-HOME EXERCISE #1 (Written Analysis) DUE BY CLASS TIME**

Copyright Law--Fair Use

READ: Crawford, pp. 37-40  
DuBoff, pp. 190-94  
Halloran, pp. 66-67, 83-84  
Supp., pp. 54-61 (*Harper & Row*), 62-69 (*Elvis Presley Ent. v. Passport Video*), 70-74 (*Bill Graham Archives*), 75-77 (*Campbell v. Acuff-Rose Music*)

Oct. 2 Copyright Law--Fair Use; Remedies

READ: Crawford, pp. 37-40  
DuBoff, pp. 190-94  
Halloran, pp. 66-67, 78-81, 83-84  
Supp., 75-77 (*Campbell*), 78-82 (*Mattel v. WMP*))

- Oct. 7 Copyright Law--Remedies  
 READ: Halloran, pp. 66, 78-81
- Oct. 9 Visual Artists Rights Act; Other Moral Rights Issues  
 READ: Crawford, pp. 55-68, 115-16  
DuBoff, pp. 212-31  
Halloran, pp. 113-14, 117-18
- Oct. 14 Visual Artists Rights Act; Other Moral Rights Issues  
 READ: Crawford, pp. 55-68, 115-16  
DuBoff, pp. 212-31  
Halloran, pp. 113-14, 117-18
- Oct. 16 **MID-TERM EXAM**
- Oct. 21 Trademark Law and the Visual and Performing Arts--  
 Basics of Trademark Protection  
 READ: Crawford, pp. 69-72 (to "Right of Privacy"), 73  
DuBoff, pp. 195-203 (to "Infringement")  
Halloran, pp. 2-14  
Supp., pp. 83 (*Qualitex Co. v. Jacobson Products Co.*),  
 84-88 (*Survivor Media v. Survivor Productions*)
- Oct. 23 Trademark Law--Infringement  
 READ: Crawford, pp. 69-72  
DuBoff, pp. 203-11  
Halloran, pp. 2-14  
Supp., pp. 84-88 (*Survivor Media*), 89-93 (*Dreamwerks  
 Production Group v. SKG*), 94-98 (*Eveready v. Coors*),  
 99-107 (*Mattel v. MCA Records*)
- Oct. 24 (Friday) **PAPER #1 DUE (by 5:00 p.m.)**
- Oct. 28 Trademark Law--Infringement; Dilution; Other Trademark Issues  
 READ: Crawford, pp. 69-72  
DuBoff, pp. 203-11  
Halloran, pp. 2-14  
Supp., pp. 94-98 (*Eveready*), 99-107 (*Mattel*)

Oct. 30 Commercial Appropriation of Name or Likeness; Right of Publicity  
READ: Crawford, pp. 72-73  
Supp., pp. 108-09 (*White v. Samsung Electronics*),  
110-12 (*Comedy III Productions v. Saderup*)

Nov. 4 Right of Publicity  
READ: Crawford, pp. 72-73  
Supp., pp. 108-09 (*White*), 110-12 (*Comedy III*),  
113-20 (*Wendt v. Host Int'l*)

Nov. 6 Right of Publicity  
READ: Crawford, pp. 69-72  
Supp., pp. 108-09 (*White*), 110-12 (*Comedy III*),  
113-20 (*Wendt*), 121-31 (*Parks v. LaFace Records*)

**TAKE-HOME EXERCISE #2 TO BE DISTRIBUTED AT END OF CLASS**

Nov. 11 **ANSWERS TO TAKE-HOME EXERCISE #2 DUE BY CLASS TIME.**

**IN-CLASS WRITING PORTION OF EXERCISE #2 FOR FIRST 25 MINUTES OF CLASS.**

Other Applications of Tort Law to the Arts Setting--Defamation

READ: Crawford, pp. 72, 75-76  
Supp., pp. 132-36 (*Knievel v. ESPN*)

Nov. 13 Defamation; Invasion of Privacy  
READ: Crawford, pp. 72, 75-76, 76-81 (to "Obscenity")  
Supp., pp. 132-36 (*Knievel*), 137-39 (*Revell v. Hoffman*)

Nov. 17 (Monday) **PAPER #2 DUE (by 5:00 p.m.)**

Nov. 18 First Amendment Issues for Artists, Performers, and Arts Organizations  
READ: Crawford, pp. 77, 81-85  
DuBoff, pp. 232-45 (to "Obscenity")  
Supp., pp. 140-48 (*Hopper v. City of Pasco*), 149-52  
(*PETA v. Gittens*), 173-78 (*Morse v. Frederick*)

- Nov. 20 First Amendment Issues for Artists, Performers, and Arts Organizations
- READ: Crawford, pp. 77, 81-85, 231-35  
DuBoff, pp. 232-45, 245-55, 136-49  
Supp., pp. 140-48 (*Hopper*), 149-52 (*PETA*), 173-78  
(*Morse v. Frederick*), 153-65 (*Mastrovincenzo v. City of New York*), 166-72 (*Ashcroft v. ACLU*)
- Nov. 25 Contract Law for Visual or Performing Artists, Authors, and Arts-Related Businesses or Organizations--Basics; Visual Art Sales and Consignments; Dealings with Museums, Galleries, and Publishers
- READ: Crawford, pp. 87-156, 223-25  
DuBoff, pp. 37-57, 68-82,  
122-31 (to "Working Conditions")
- Nov. 27 ***THANKSGIVING BREAK***
- Dec. 2 Contracts Between Authors or Artists and Agents or Managers; Author-Publisher Contracts; Other Arts-Related Services Contracts
- READ: Crawford, pp. 157-84  
Halloran, pp. 200-43 (*skim sample contracts*)
- Dec. 4 Recording Contracts; Engagement Contracts for Performers; Record Producer Agreements; Music Union Contracts
- READ: Halloran, pp. 244-70 (*skim sample contracts*),  
272-415 (*skim sample contracts*)
- Dec. 5 (Friday) **PAPER #3 DUE (by 5:00 p.m.)**
- Dec. 9 Law of Personal Property--Arts-Related Issues
- READ: Crawford, pp. 223-25, 112-16  
DuBoff, pp. 1-36, 58-101
- Legal Aspects of Organizing a Business; Forms of Business Organization; Not-for-Profit Organizations and § 501(c)(3)
- READ: Crawford, pp. 203-04 ("Forms of Doing Business")  
DuBoff, pp. 152-54, 256-84  
Halloran, pp. 14-34

Dec. 11 Forms of Business Organization; Not-for-Profit Organizations and § 501(c)(3);  
Law of Agency

READ: Crawford, pp. 203-04  
DuBoff, pp. 256-84  
Halloran, pp. 14-34

Attorney-Client Relationships in Arts Contexts; Dispute Resolution;  
Tax Issues (**reading assignments only; not to be discussed in class**)

READ: Crawford, pp. 237-40, 185-212  
DuBoff, pp. 102-21 (*skim*), 150-63 (*skim*)  
Halloran, pp. 35-48

Dec. 16 **FINAL EXAM** (7:15 to 9:15 p.m.)