

# WHY ENTERTAINMENT AND MEDIA LAW MATTER TO THE REST OF US

BY GUEST WRITER PROF. NANCY B. RAPOPORT

Although I'm mostly a bankruptcy person and an ethics person in my day job (happily teaching at Boyd!), I also dabble in the area of entertainment law when I write and talk about the image of lawyers in popular culture. My thesis about why we should care about the images of lawyers in movies, television and books is twofold: first, that clients who are exposed to all of these images start to think that "good" lawyers behave the way that they're portrayed in the media; and second, that lawyers who aren't careful can find themselves drawn to the belief that the way lawyers behave in popular culture is ethical, when often the opposite is true. (If you want to read more about what I've written on this topic, please check out [papers.ssrn.com/sol3/papers.cfm?abstract\\_id=936188](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=936188), [papers.ssrn.com/abstract=949168](http://papers.ssrn.com/abstract=949168) and [papers.ssrn.com/abstract=1157053](http://papers.ssrn.com/abstract=1157053).)

Probably, I'm just a hanger-on to the real folks who do media and entertainment law because I think that their day-to-day jobs are extremely cool. They get to do the deals that result in us watching, reading or listening to something new; they get to litigate the applicability of all sorts of new property rights; and even on those days when they're doing just normal, garden-variety contract law (or labor law, or tort law, etc.), their clients are glamorous.

But for all of us, even those of us who don't practice directly in the media or entertainment law areas, there are some important issues that matter to us. One of the biggest issues concerns what we should be doing about all of the Internet access that we have to artists' work.

I was recently at a program at which Robert Pisano spoke about this topic. (He's currently the National Executive Director/Chief Executive Officer of The Screen Actors Guild, but he's also served as Vice Chairman of Metro-Goldwyn-Mayer, as an Executive Vice President of Paramount Pictures, and a partner of the law firm O'Melveny & Myers.) He pointed out that getting bootlegged copies of artists' performances was playing into a new generational culture – one in which downloaders don't really respect the artists' intellectual property enough to be willing to pay for the downloaded product.

I come from a pre-computer generation, and certainly I admire the comfort with which teenagers can navigate

the Internet, finding things (mostly good things) that I'd never even know existed. But when I spoke to my 20-year-old cousin about why people would watch bootlegged copies of shows on the Internet and not feel guilty about it, he and I had a difficult time coming to an understanding of when something was "viewing" and when something was "taking the intellectual property of another without paying." And my cousin, who's extremely bright and is well-versed in the arts, is representative of countless others. It wouldn't even occur to many people that viewing an unauthorized copy of a show or sharing songs without paying for them is different from time-shifting the viewing of an authorized copy or transferring a purchased song from one of your players to another.

Pisano observed that, at some point, artists could go broke if most people missed the point about the artists' intellectual property rights. I think that the problem goes more deeply; if we miss the point about intellectual property rights, how far is it to get to the point where we "miss the point" about real property rights and personal property rights?

Technology gives us all sorts of whiz-bang new things to enjoy. What makes media and entertainment law so juicy right now is that technology is also giving us a lot of very hard questions, not all of which are going to be answered by simple legal rules. **NL**

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