



Exploiting Images and Image Collections in the New Media

Gold Mine or Legal Minefield?

Editor

Barbara Hoffman



and
International Bar Association



International Bar Association Series

Exploiting Images and Image Collections in the New Media

Gold Mine or Legal Minefield?

Edited by

Barbara Hoffman



KLUWER LAW
INTERNATIONAL

and
International Bar Association

Published by
Kluwer Law International Ltd
Sterling House
66 Wilton Road
London SW1V 1DE
United Kingdom

Sold and distributed in the USA and
Canada by
Kluwer Law International
675 Massachusetts Avenue
Cambridge MA 02139
USA

Kluwer Law International incorporates
the publishing programmes of
Graham & Trotman Ltd,
Kluwer Law & Taxation Publishers
and Martinus Nijhoff Publishers

In all other countries, sold and distributed
by Kluwer Law International
P.O. Box 322
3300 AH Dordrecht
The Netherlands

International Bar Association
271 Regent Street
London W1R 7PA
United Kingdom

ISBN 90-411-9721-4

© International Bar Association 1999
First published 1999

British Library Cataloguing in Publication Data

A catalogue record for this book is available from the British Library

This publication is protected by international copyright law. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of the publisher.

Typeset in Bembo 11/12 by Creative Associates, Oxford
Printed and bound in Great Britain by Antony Rowe Ltd, Reading, Berkshire

About the International Bar Association Intellectual Property and Entertainment and Art and Cultural Property Law Committees

International Bar Association

The IBA is a non-political, not-for-profit membership association, open to members of the legal profession from all nations. Founded in 1947, it is the world's largest international organization of individual lawyers, law societies and bar associations. At the time of writing (April 1999), the Association has more than 18,000 members from 183 countries.

On an operational level, the IBA functions through 60 specialist Committees, which between them cover every aspect of law. The topic of this book had its genesis at a panel which was presented at the 1997 IBA biennial conference in New Delhi. The Committees involved are:

- Art and Cultural Property Law of the Section on Legal Practice; and
- Intellectual Property and Entertainment of the Section on Business Law.

Art and Cultural Property Law Committee

Formed in 1986, this Committee has more than 170 members in 58 countries. Members represent governments, museums, auctioneers and dealers, private owners and collectors, and artists and their estates.

Encouraging and facilitating communications about issues concerning all aspects of the law relating to the art market, international transactions in works of art, cultural property law and museum law, is the mandate of the IBA Art and Cultural Property Law Committee. Recent conferences and panels included subjects as diverse as culture and tourism, museums and the new media, UNIDROIT, international trade in works of art, and gifts of art to museums. Programmes are often sited in historic residences, museums, and other venues of interest to Committee members.

Intellectual Property and Entertainment

Formed in 1970, this Committee has more than 1,500 members in 61 countries. Through 4 sub-Committees, members deal with copyright and entertainment law, patent law, trademark law and the licensing of intellectual property and international treaties. Members of the IBA Intellectual Property and Entertainment Committee seek to achieve an international exchange of dialogue and views about the latest developments and problems that affect their members. Recent conference programmes include:

- building partnerships – production, co-production and distribution structures;
- direct broadcasting satellites (DBS) around the world;
- patenting and ownership of genes and lifeforms; and
- intellectual property audits.

To find out more about the International Bar Association and its activities please contact:

International Bar Association
271 Regent Street
London
W1R 7PA

Telephone: +44 (0)171 629 1206
Fax: +44 (0)171 409 0456
E-mail: member@int-bar.org
Website: www.ibanet.org

Introduction

Barbara Hoffman

The new information technologies have pushed to the forefront the use of images for commercial products as software companies with an expanded appetite for images search to acquire rights to scan photographs of paintings digitally in libraries, photo and film archives and museum collections worldwide.

The London-based *Art Newspaper* writes, 'We are witnessing a wholesale transformation of the market for photographic archives or "stock photography" – the sale and distribution of pictures for newspapers, advertising agencies, graphic and television agencies. The market is worth \$1 billion and has an annual growth rate of 10–15%.' Getty Images possesses an archive of more than 30 million pictures, 15 million of which are in the Hulton Getty archive. Other competitors are Kodak, the Image Bank, and Visual Communication in England and Corbis, a wholly owned subsidiary of Microsoft. In 1997, the turnover of Getty Images was \$100 million dollars with a gross profit margin of 62 per cent in 1997 figures. Mark Getty states that 'the development of the internet reminds us that in about seven to eight years time 90% of images will be distributed digitally over the net.'

The Corbis Corporation (www.Corbis.com), the publishing subsidiary of Microsoft, has amassed more than 20 million images in its collection, from various sources with the strategy of providing two products: (1) a multimedia stock agency; (2) a series of databases available either via CD-ROM or through an electronic network. Corbis, however, has yet to build up its distribution network and ranks tenth in sales.

'I do have a love of art,' Bill Gates, CEO of Microsoft, has said, 'but this is also very much a business opportunity.' (The name Corbis is derived from 'Core Business'.) Gates initially attempted to purchase exclusive digital rights from museums worldwide and was quickly rebuffed by the museum world. Contrary to the belief of some, the National Gallery, London has not sold its usage rights exclusively to Microsoft or Corbis. Corbis, however, has

successfully negotiated limited digital rights deals with Vatican Museum Rome (IBM has digitized manuscripts in the Vatican Library), the Louvre, Paris, the Seattle Art Museum, the Barnes Foundation, the National Gallery and other cultural institutions. In most cases, the agreement entered into with these museums has been a non-exclusive licence agreement for a short period of time which provides the museum with approval and control over the use of images licensed to third parties. While the copyright, if any, in the underlying image is not conveyed, Corbis claims to own a copyright in the digital image. The purchase of the Bettman Picture Library by Corbis is by far its biggest step toward building a huge library of digitally stored images. Many of these images are purportedly in the public domain, which means the image can be used without the permission of the author, because the image was never protected by copyright or the copyright has expired. For those works protected by copyright, purchase of the Bettman archive includes a grant to Corbis of the archive's proprietary rights, including copyright.

The World Wide Web, which transforms sites on the Internet into a graphical interface, has been incorporated by museums like the Smithsonian, the Whitney Museum, Montreal's Museum of Fine Arts, the Warhol Museum, and the Los Angeles County Museum as a medium to make exhibitions, curatorial and archival material available globally. Le Web Museum in Paris, with images pirated from galleries around the world, sends out over 3 million pages of electronic information each week. Originally called Le Web Louvre, it was obliged to change its name by lawyers for the Louvre Museum (based on French intellectual property law) even though most of the works on the web site are public domain images. The *Espirit* project TISUS, funded by the European Commission in the IV Framework Programme in Information Technology, deals with the creation and the use of a distributed on-line library of historical collections of textiles held by museums and schools. Currently two museums: the Musée de Tissus in Lyon and the Benaki Museum in Athens, two schools: ENSCII/ANAT in Paris and Instituto Tecnico della Seta in Como, and a designer association in Como are joining the project.¹ The website for the Museum of Modern Art in New York ("MOMA") had an estimated 1.2 million users in 1997 with visits approaching actual museum attendance in 1997 (1.65 million). One section of the site is devoted to artist's projects (<http://www.moma.org>). The Dia Center for the Arts in New York has commissioned artists such as Susan Hiller, Claude Closky, Cheryl Donega, and Tony Oursler, to produce original art for its website since 1995. <http://www.diacenter.org>.

As museums race to get on line, they are having to rethink concepts basic to their operations. Museum directors throughout the world are using multimedia technology to open up their collections to the public, at the same time such

¹ Discussed at EVA'97 Brussels—Convergence: Creating the Future in Electronic Imaging & the Visual Arts in Brussels, Belgium (26 November 1997).

collections are viewed as financial assets to contribute to the bottom line. On the other hand, museums must respect the legitimate interests of rights holders – artists, donors and the institutions themselves. On the other hand, museums have an obligation to the public to make their collections reasonably available for research, teaching and the education of the public. To avoid the minefields of legal issues surrounding copyright, Elizabeth Brown, Director of the National Museum of American Art in Washington, DC, which offers an array of museum images on the Internet subscription service, America Online, revealed that her museum will focus mainly on online distribution of holdings that are not specifically copyrighted to other owners or artists – ‘institutions with alternatives will tend to avoid or diminish involvement with living artists. It will be much more difficult for the arts to find a new basis in society if yesterday’s legal structure is allowed to shackle the greatest potentialities of the new media.’²

In educational institutions, museums, film and photo archives and libraries, where images have long played a central role, the future use of digital imagery in teaching and research has emerged as one of the central concerns. As American art historian Charles S. Rhyne noted:

‘In conducting research, art historians browse photographs, slides, reproductions in books, and other images as avidly as statisticians study numbers... . For the great majority of art historians, who consider the visual experience of the work of art an essential part of its study, no image can fully satisfy... . In contrast, artists most intensively press the demand for free manipulation and innovative use of computer images... . The best education, like the best research, requires flexibility and free exploration... . Images on most CD-ROM’s and photo CD’s become educationally useful when they are copied onto institutional file servers, where thousands of images can be accessed by many different viewers at the same time... . In large classes where expensive art books cannot be assigned for study, computer images offer for the first time the possibility of assigning high quality color images for student study... . But it may eventually be in the seemingly prosaic provision of an immense number of new, higher quality images, not entirely dependent on but stimulated by the new technology, that digital imagery makes its most significant contribution.’³

The electronic revolution is taking educational institutions, museums, archives, and libraries into uncharted legal and technological terrain, causing concerns particularly in the museum and higher education community about the intellectual, aesthetic, and institutional implications of converting visual images to electronic form. It is not only museums which are rethinking concepts basic to their operations such as ‘stewardship’ and ‘exhibition’ as well as copyright,

² Remarks at Panel Discussion, Conference on Intellectual Property Rights and the Arts. The Impact of New Technologies, 43 (13 Dec. 1994) (on file with the author) (sponsored by the New York International Festival of the Arts).

³ Charles S. Rhyne, ‘Computer Images for Research, Teaching, and Publication in Art History and Related Disciplines,’ *Visual Resources* 12 (1996), pp. 20–25.

connoisseurship, and control; universities, archives, libraries, and study centres are reexamining issues such as the development of international standards for the capture, storage, transmission, and description of images, and the resolution of the complex issues of copyright and fair use.⁴ Image archives are both a gold mine and a minefield of intellectual property.

At the same time that digital technologies provide significant opportunity to software companies, publishers, on-line services, cultural institutions, artists, galleries and art educators to explore innovative ways to display, reproduce, study, share, store and create visual images on line and in CD Rom, they pose a challenge to the legal framework for copyright and licensing in cyberspace.

How can images be distributed over networks without compromising their integrity? In the new electronic world, will students be able to freely incorporate into a class report images of works in their local museum? Will museums and archives be able to share with local educational institutions a database of images in their collection made available via a networked environment or on CD-ROM? Will such sharing take place internationally? If so on what terms? Who are the rights holders and what are the appropriate mechanisms for managing rights to use images and compensating rights holders for their use?

In theory, the use of images in the new media raises the same thorny and as yet unresolved issues as in the traditional print media. Yet, the nature of digital images makes more obvious the legal and ethical problems that are still unresolved in the print media.

The new digital technologies permit image, sound, and text to be digitized into zeros and ones; stored and replicated with ease in copies as perfect as the original; permit existing works to be incorporated into new works; and increase the potential for unauthorized alteration and appropriation of copyrighted work. To a far greater extent than photocopying, the digital technologies have eroded traditional roles and boundaries among authors and users, content owners, service providers, producers, publishers and distributors, making it imperative to seek a balance between access to images and protection of authors and publishers' economic and moral rights. Over the past decade, computer technology itself has forced lawmakers and judges worldwide to reconsider, and in some cases redefine copyright doctrine in such areas as originality authorship, fixation, reproduction, infringement and limitations.

Robert A. Baron, a US museum computer consultant, has written that central to all work in the visual arts and the key to our electronic future is the process of finding and using images. We need to know how our online age will affect our range and depth of access, how mundane affairs such as researching images and obtaining permission to sue those images will be affected, and how the *mores* of a digital and electronic present will affect how we use our customary resources in the future.⁵

⁴ Ibid., p. 35.

⁵ Robert A. Baron, 'Digital Fever: A Scholar's Copyright Dilemma,' *Museum Management and Curatorship* 15 (1996), pp. 49–64.

The global information infrastructure and the World Wide Web have facilitated the merging of massive data storage with interactive hypermedia. Information technology is providing the ability to digitize (via high speed international networks) the cultural and academic libraries of the world, to transmit images across the globe, and to provide software producers, consumers, scholars and educators with remote access to the treasures of these libraries. It may be unclear, however, how copyright and other intellectual property rules apply since the simultaneous transmission of digital images to computers worldwide often implicates inconsistent legal regimes. Not only copyright regimes, but trademark, moral rights, rights of publicity, privacy, unfair competition and database protection differ in scope and method of protection.

The objective of this publication is to discuss the special legal concerns and issues in exploiting film, photographic and museum archives and collections by creating electronic or digital image archives and collections and using such archives and collections for commercial exploitation, research, education and artistic production. The digital information environment cannot be contained within the border of any one country. Inevitably, the full exploitation by museums, archives, and educational institutions of the new technologies will require links to an extensive global network. Thus, an understanding of various national laws which provide the legal framework which govern the use and display the images is both instructive and necessary.⁶ Software producers and others who seek to exploit museum, film, and photo archives commercially must also be aware of the international context and the laws of countries in which their product will be distributed.

There is a general recognition that there will have to be a better understanding of how the differing systems of countries can be made to cooperate whenever an image, book or database is uploaded from one country and downloaded, distributed and copied in another. Questions include: when does copyright infringement occur; who will have a cause of action to sue;

⁶ 'The European Economic Community is developing two telecommunications computer networks, one linking libraries, the other linking museums and technical partners. A Visual Arts Network for the Exchange of Cultural Knowledge (VAN-EYCK, http://www.bbk.ac.uk/Departments/HisotryOfArt/van_eyck.html) will provide cross-library access to art history photographic archives and texts. It will link The Witt Library, Courtauld Institute of Art, London; The RKD (Rijksbureau Voor Kunsthistorische Documentatie), The Hague; Cruickshank-Glin Archive, Trinity College, Dublin; Birkbeck College, London; Utrecht University & Vasari Ltd. Telecommunications links to be used include EURO ISDN and academic research telecommunications facilities. A European MuseumsNetwork will provide cross-museum access to images of works in the participating museum collections with accompanying text. It will link museums in Lisbon, Madrid, Paris, The Hague, Bremen, Bremerhaven, Copenhagen, and Hamburg, and provide interactive multimedia access for museum visitors.' See Rhyne, n. 3 above, p. 44, n. 24; Achim Lipp, 'Towards *The Electronic Kunst and Wunderkammer*: Spinning on the European MuseumsNetwork EMN,' *Visual Resources* 10, pp. 101–118.

what national law will apply; what other intellectual property rights are implicated; and what will be the role of national treatment?⁷

Given both the importance of copyright to the new media and international efforts at harmonization of national laws by the European Union and through the Berne Convention administered by WIPO (World Intellectual Property Organisation), it is appropriate that this publication had its genesis in a programme co-sponsored by Committee 20 of the General Practice Section and Committee L of the Business Law Section of the International Bar Association at the IBA's New Delhi Conference, India 1997 entitled 'Copyright and Other Intellectual Property Issues in the Use of Motion Picture Archives, Photo Archives and Museum Collections in the New Media'. Papers presented at the programme have been updated and additional essays have been commissioned for this publication, which has as its primary focus the copyright and other intellectual property issues, which grow out of the commercial exploitation and digitization of images in film and photo, archives and museum collections. Because many users of film, photo and museum archives in the new media will involve multimedia applications, additional articles on music licensing and music website use have been commissioned. Topics and issues considered from a policy, legal and practical standpoint include:

- integrity and authorship issues, including multiple authorship issues, in the reproduction of images from motion picture, photo and museum archives and collections;
- protection of motion picture and photo archives, and museum collections as databases or under trademark principles;
- differences in national legal regimes, including the scope of copyright protection, duration and distinction between published and unpublished works;
- copyright protection for digitized versions of public domain works;
- efforts at international harmonization, the EC directive and other initiatives;
- fair use or fair dealing in a global networked environment;
- the role of collecting societies;
- rights of publicity and privacy;
- recent legislative initiatives in Germany, India, Japan, the United Kingdom, the United States, the European Union and WIPO;
- licensing issues with respect to film, photo and museum collections, including both text, image and music;
- practical drafting tips for a digital future, including CD-Rom and on-line licensing agreements for the exploitation of images in picture archives and museum collections by software providers and others and, for the use by museums, of the intellectual property of others.

Thirteen multifaceted articles written by prominent intellectual property lawyers and government officials discuss various issues in the exploitation and

⁷ *Columbia Journal of World Business*, 22 March 1996.

protection of motion picture, photographic and museum collections in the new media. The essays present a national perspective with submissions from Argentina, France, Germany, India, Japan, Malaysia, the United States and the United Kingdom as well as a discussion of efforts at international harmonization including the World Intellectual Property Organization ("WIPO") Copyright Treaties and the European Commission Data Base Directive and the European Commission Proposal on the Harmonisation of Certain Aspects of Copyright and Related Rights in the Information Society.⁸ Collectively the articles draw together and highlight the key differences and similarities in national regimes with respect to copyright and how such differences may impact the creation, exploitation and protection of digital image archives.

In addition to copyright issues, the articles discuss other intellectual property rights which may effect the exploitation of digital image collections such as the rights of publicity and privacy and trademark law. Several articles discuss alternative forms of protection of digital image archives as databases or under theories of trademark or anti-competition law. As noted above, two articles focus on the use of music in the new media.

The editor and contributing authors intend that this publication provide practical and useful information on the current state of the law as it relates to the creation, profitable exploitation and protection of museum, film and photo archives. This book is designed to assist the players in the on-line image or multimedia business and their attorneys to navigate the minefields successfully.

⁸ A diplomatic conference held in Geneva in 1996 produced two new treaties. The two WIPO Treaties are known as the WIPO Copyright Treaty (the WIPO Copyright Treaty) and WIPO Performances and Phonogram Treaty (the Phonogram Treaty). The Copyright Treaty, which concerns 'literary and artistic' works, is, in the large part, intended to extend the protection of the Berne Convention into the digital domain. The Phonogram Treaty addresses the rights of producers and performers in sound recordings.

Under the WIPO Copyright Treaty, computer programs will be protected as literary works; collective works may be copyrightable based upon the expressive or creative selection or arrangement of the elements, regardless of the copyrightability of those individual elements; authors shall be entitled to the exclusive right of public distribution (subject to the first sale doctrine, as individual nations may elect).

Communication to the Public. Article 8 of the WIPO Copyright Treaty establishes a new right, which gives authors the right of 'authorizing any communication to the public of their works, by wire or wireless means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them.'

About the Editor and Contributors

BARBARA HOFFMAN

Law Offices of Barbara Hoffman

New York, New York, USA

Barbara Hoffman has practised art, publishing, entertainment and intellectual property law for more than 20 years, engaging in both counselling and litigation. She is an attorney for visual artists, art collectors, museums, directors, writers and producers of independently financed theatrical, TV, motion pictures and multi-media projects, and new media companies. She has acted as legal adviser to various non-profit institutions including the College Art Association which she represented at CONFU, the Catalogue Raisonné Scholars Association, and the International Art Critics Association. She has been a professor of law and taught courses on art and the law, the First Amendment and Intellectual Property. She lectures and writes frequently for such publications as *Artnews*, *New York Law Journal*, *National Law Journal* and *Archeology*. Her most recent publications include *Art On-line: From the Virtual Gallery to the Legal Web: Censorship and the Arts* and *A Visual Artists Guide to Estate Planning*.

Ms Hoffman is recent past chair of the Association of the Bar of the City of New York's Committee on Art Law, Chair of Committee 20 and a founder and past president of the Washington Volunteer Lawyers for the Arts. She is an honors graduate from Brown University, with graduate degrees from the Johns Hopkins SATS, the London School of Economics and the Columbia University School of Law. She speaks French, Spanish and Italian.

RACHELLE V. BROWNE

Assistant General Counsel

The Smithsonian Institution

Washington, DC

HIROTAKA FUJIWARA**Hikari Sôgô Hôritsu Jimusho****Tokyo, Japan**

Hirotaka Fujiwara is a Japanese attorney-at-law who qualified in 1985. He established the law firm Hikari Sôgô Hôritsu Jimusho in 1995. He works in various areas of laws with an emphasis on intellectual property and general corporate issues. He is involved in litigation involving computer and electronic networking issues and gives lectures on such networking issues and security concerns related to computer and electronic media. His publications include *Introduction to Copyright Law for Programmers* (Gijyutsu-hyôron-sha, 1991), *Security in the Network Society* (Softbank, 1995) and *Cyberspace and Legal Regulations* (Nihon-keizai-shimbun-sha, 1997), among others.

PIERRE GIOUX

Born Bourges, France, 9 March 1963; admitted 1994, Paris. Education: University Paris I (Licence, 1988), University Paris I (Maîtrise, 1992). Lecturer in Law, Ecole Nationale Supérieure de la Création Industrielle, Institut National des Langues et Civilisations Orientales, Ecole Supérieure de Journalisme de Lille. Author: 'Internet et al Loi Toubon', *Expertises*, August 1997. Member: Association Française du Droit de l'Informatique et de la Télécommunication. Languages: French and English. Areas of Practice: Multimedia Law, Communications and Media Law, Intellectual Property Law, Right to Image.

NORBERT KLINGER

Born in Munich in 1966. Admitted to the Bar: 1996, Munich. 1994 to 1996 assistant to the Institut für Urheber und Medienrecht (Copyright and Media Law Institute). 1997 to 1998 – legal department of a major media company. Publications: *Rechtstolgen der Beendigung von Filmlizenz Verträgen* (together with Prof. Dr. Mathias Schwarz), 1998 Grur.

BOB KOHN

Bob Kohn is Chairman of the Board of GoodNoise Corporation, The Internet Record Company (www.goodnoise.com), a leading provider of digital music recordings direct to consumers over the Internet. He is also co-author of the 1,500 page book, *Kohn On Music Licensing* (www.kohnmusic.com), a practical guide to the business and legal aspects of the music industry, which he wrote with his father, Al Kohn, retired vice president of licensing for Warner Bros. Music. Prior to GoodNoise, Mr. Kohn served as a chief legal counsel for Pretty Good Privacy, Inc., Borland International, Inc., and Ashton-Tate Corporation. Prior to Ashton-Tate, he was an attorney at the Beverly Hills law offices of Rudin & Richman, an entertainment law firm whose clients included Frank Sinatra, Liza Minelli, Cher, and Warner Bros. Music. He also served as Associate Editor of the *Entertainment Law Reporter*, for which he continues to serve as a member of its Advisory Board.

THE HONORABLE P.V. VALSALA G. KUTTY**Registrar of Copyright, Secretary****Copyright Board & Deputy Secretary to the Government of India
India****ANTONIO MILLÉ****Estudio Millé****Buenos Aires, Argentina**

Argentine Lawyer (University of Buenos Aires Law School, 1964) Senior Partner of Estudio Millé legal firm; International Chairman of the Latin American High Technology, Computers and Law Institute (ILATID); Vice-president of the Inter-American Copyright Institute (IIDA); Expert Counsel of WIPO and of UNESCO; Counsel of the Argentinean Computer Industry and Computer Software Commerical Chambers; Publisher of the monthly journal *DAT – Derecho de Alta Tecnología* (Buenos Aires); writer and lecturer in High Tech Law matters; member of the Editorial Board, correspondent or collaborator of different Copyright Law and Computer Law international publications.

JOHN RUBINSTEIN**Manches & Co****London, England**

John Rubinstein was educated at Marlborough School and Magdalen College, Oxford University where he gained a BA Hons (Juris). After gaining admission as a solicitor in 1977, he went to New York and worked with Eaton Van Winkle Greenspoon & Grutman, passing the New York Bar and being admitted to practise as a New York attorney in 1979.

He returned that year to England to join the family publishing law firm Rubinstein Callingham and became a partner in 1983. He has remained a partner of the firm through two mergers, the later of which occurred when Rubinstein Callingham Polden & Gale merged into Manches & Co. in 1994. During his career he has increasingly specialized in intellectual property, media and defamation litigation and spearheaded the recognition of Manches Media Group as leading English publishing lawyers. He conducted the first English university course of lectures in Confidentiality at the University of Essex in 1986 and subsequently ran courses at the University of Southampton and the University of Leicester. He has also lectured extensively, written articles and broadcast both on national television and radio on Obscenity, Privacy and Personality issues.

He has been a member of the International Bar Association since 1989 and Co-Chairman (1997-99) of its Section on Legal Practice SGP Committee on Art and Cultural Property Law. He is also a member of the Law Society of England & Wales and the Association of the Bar of the City of New York.

CAROLINA SAEZ**Attorney Advisor Policy and International Affairs****US Copyright Office****Library of Congress****Washington, DC 20559****BRUNO GRÉGOIRE SAINTE-MARIE****FG Associés****Paris, France**

Bruno Grégoire Sainte-Marie, a French admitted attorney specializing in intellectual property, has for many years acted as counsel to numerous companies and professionals in the photographic image and multimedia industries. He was co-founder in 1988 with Christiane Féral-Schuhl of FG Associés, a Parisian law firm principally recognized for its strong specialization in information technology, intellectual property and telecommunications law.

PROF. DR MATHIAS SCHWARZ**Schwarz Kurtz Schinewind Kelwing Wicke****Munich, Germany**

Admitted to the bar: Munich, 1979; 1984 to 1984 to 1987: head of the legal department of a major media company; in 1990: public accountancy examination; readership at the Munich Hochschule für Fernsehen und Film (Television and Film Academy); chair for media law at Leipzig University since 1995.

Main fields of activity: film and media law; publishing law, broadcasting law, new media, film financing, company law, mergers and acquisitions.

Memberships: 1991 to 1995: Chairman of the Entertainment and Intellectual Property Committee of the International Bar Association, Forum Committee on Entertainment and Sports (ABA); Deutsche Vereinigung für gewerblichen Rechtsschutz und Urheberrecht (GRUR – German Association of Industrial Property and Copyright Law), Institute für Urheber und Medienrecht (Copyright and Media Law Institute), Deutscher AnwaltVerein (German Lawyers Association).

Publications: *Urheberrecht und digitale Medien* (1994, *Copyright Law and Digital Media*); *Der Werbebegriff im Rundfunkstaatsvertrag* (1996, *The Concept of Advertising in the German Interstate Broadcasting Convention*), *Urheberrecht im Internet* (1996, *Copyright on the Internet*), *Das Recht im Internet* (1997) Publisher, *Rechtstolgen der Beendigung von Filmlizenz Verträgen* (together with Norbert Klinger), 1998 Grur.

ANTHONY SEEGER**Curator, The Folkways Collection****Director, Smithsonian Folkways Recordings**

CHRISTINE STEINER**The J. Paul Getty Trust****Los Angeles, California USA**

Christine Steiner is Secretary and General Counsel of the J. Paul Getty Trust, where she provides a wide range of counsel and advice on all legal aspects of the Getty Operating programmes. Prior to her position with the Getty, Ms. Steiner was Assistant General Counsel to the Smithsonian Institution, handling litigation and advice for the Smithsonian's museums and its educational and administrative offices. She earlier served in the Office of the Attorney General of Maryland, representing the state colleges and universities, and subsequently was chief attorney for the Maryland public education system and counsel to the State Board of Education. She has been an adjunct law professor and is a frequent lecturer in the areas of education, museums and the arts.

LINDA WANG**Tay & Partners****Kuala Lumpur, Malaysia**

Ms. Linda Wang is a Partner in the law firm of Tay & Partners in Kuala Lumpur, Malaysia. She practises exclusively in the area of intellectual property laws, with an interest in licensing, franchising, sponsorship, media and broadcasting, food and drug, and labelling laws. She is also extensively involved in litigation work relating to infringement of intellectual property rights. She is an active member of both international and Malaysian organizations having an interest in intellectual property rights.

PETER WIENAND**Farrer & Co.****London, England**

Peter Wienand specializes in copyright, multimedia and technology law and leads the intellectual property team at Farrer & Co., a firm which has practised at the same London address since 1972. He chairs the firm's Museums and Galleries Group, which services the needs of the firm's museums and gallery clients (among which there are over 20 major institutions), and is a founder member of the Museums and Galleries Copyright Working Group, an independent body set up in the UK in 1996 to represent the interests of museums and galleries in the copyright sphere. Peter Wienand lectures regularly and has recently contributed to such publications as *Art Antiquity and Law*, *The Art Newspaper* and *Museums Journal*. He is also a member of the Intellectual Property Institute and of the Union Internationale des Avocats (UIA).