

# TEACHING RIGHTS OF PUBLICITY: BLENDING COPYRIGHT AND TRADEMARK, COMMON LAW AND STATUTES, AND DOMESTIC AND FOREIGN LAW\*

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## INTRODUCTION

Rights of publicity are the neglected stepchild in the family of intellectual property rights. Among the leading intellectual property casebooks, most include only two or three cases concerning rights of publicity.<sup>1</sup> Thus, in a typical survey course on intellectual property, rights of publicity often receive no more than one or two class sessions during the course of a semester. Even in casebooks devoted specifically to trademark and unfair competition, copyright, or entertainment law, rights of publicity often are covered only as an

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1. See, e.g., MARGRETH BARRETT, *INTELLECTUAL PROPERTY: CASES AND MATERIALS* 1098–1133 (3d ed. 2007) (three principal cases); ROCHELLE COOPER DREYFUSS & ROBERTA ROSENTHAL K WALL, *INTELLECTUAL PROPERTY: CASES AND MATERIALS ON TRADEMARK, COPYRIGHT AND PATENT LAW* 538–63 (2d ed. 2004) (two principal cases); PAUL GOLDSTEIN, *COPYRIGHT, PATENT, TRADEMARK AND RELATED STATE DOCTRINES: CASES AND MATERIALS ON THE LAW OF INTELLECTUAL PROPERTY* 178–215 (rev. 5th ed. 2004) (three principal cases); ROBERT P. MERGES, PETER S. MENELL & MARK A. LEMLEY, *INTELLECTUAL PROPERTY IN THE NEW TECHNOLOGICAL AGE* 883–913 (4th ed. 2006) (three principal cases); CRAIG ALLEN NARD, DAVID W. BARNES & MICHAEL J. MADISON, *THE LAW OF INTELLECTUAL PROPERTY* 234–42 (2006) (one principal case). Two casebooks published in 2007 have four principal cases each. See SHUBHA GHOSH, RICHARD GRUNER, JAY P. KESAN & RICHARD I. REIS, *INTELLECTUAL PROPERTY: PRIVATE RIGHTS, THE PUBLIC INTEREST, AND THE REGULATION OF CREATIVE ACTIVITY* 630–66 (2007); DAVID LANGE, MARY LAFRANCE & GARY MYERS, *INTELLECTUAL PROPERTY: CASES AND MATERIALS* 278–346 (3d ed. 2007).