

THE COLUMBIA JOURNAL OF
LAW *& the* **ARTS**

A QUARTERLY JOURNAL OF LAW AND THE ARTS,
ENTERTAINMENT, COMMUNICATIONS, AND INTELLECTUAL PROPERTY

Art, Music, & Mashups:

A View from the Bench on Creativity and Copyright

The Honorable M. Margaret McKeown

Plunder and Provenance:

Using Restitution to Correct a Market Defect

Steffanie E. Keim

Fair Use in the Rag Trade:

In Defense of the Fashion Industry's Casual Appropriation of Artwork

Chantalle R. Forgues

Satan Shoes or Satan Speech? Balancing Trademark and
First Amendment Rights in the Altered Authentic Goods Context

Ann L. Seminara

Vol. 46, No. 2 ♦ Winter 2022

COLUMBIA LAW SCHOOL

ISSN 1544-4848
COLUM. J.L. & ARTS

THE COLUMBIA JOURNAL OF
LAW & **ARTS**
the

VOL. 46

NO. 2

Copyright © 2022 by The Trustees of Columbia University in the City of New York

CONTENTS

ARTICLES

- Art, Music, & Mashups: A View from the Bench on Creativity and Copyright
The Honorable M. Margaret McKeown 109
- Plunder and Provenance: Using Restitution to Correct a Market Defect
Steffanie E. Keim 129
- Fair Use in the Rag Trade: In Defense of the Fashion Industry's
Casual Appropriation of Artwork
Chantalle R. Forgues 187

NOTE

- Satan Shoes or Satan Speech? Balancing Trademark and
First Amendment Rights in the Altered Authentic Goods Context
Ann L. Seminara 221

*Produced and published by members of the Columbia Journal of Law & the Arts.
All members are students at Columbia Law School.*

Columbia Journal of Law & the Arts (JLA)
Columbia Law School
435 West 116th Street
New York, NY 10027
editor@lawandarts.org
<http://www.lawandarts.org>

*ISSN (Print): 1544-4848
ISSN (Online): 2161-9271*

Cite this volume: 46 COLUM. J.L. & ARTS.

Typeset in Crimson Text.

Printed in the United States of America.

Printed by Joe Christensen, Inc.

Joe Christensen, Inc.
1540 Adams Street
Lincoln, NE 68521

The views expressed herein are those of the contributors and do not reflect the views of Columbia Law School.

The author of each article in this issue has granted permission for copies of that article to be made for not-for-profit classroom use.

THE COLUMBIA JOURNAL OF
LAW & **ARTS**
the

VOL. 46

NO. 2

VOL. 46 MASTHEAD (2022–2023)

BOARD OF EDITORS

Aileen L. Kim
Editor-in-Chief

Jake Rothstein
*Executive Submissions Editor
& Articles Editor*

Ann L. Seminara
Executive Articles Editor

Siena Stanislaus
*Executive Production Editor
& Articles Editor*

Tiffany Kim
*Executive Managing Editor
& Articles Editor*

Casey Sandalow
Executive Notes Editor

Celeste A. Fleetwood
*Executive Online and
Symposium Editor
& Submissions Editor*

Noah Klein
*Articles Editor
& Submissions Editor*

Sam Moghadam
Articles Editor

Adam Vischio
*Notes Editor
& Submissions Editor*

EDITORIAL STAFF MEMBERS

Spencer Becerra
Jack Broitman
Joanna Brown
Ingrid Cherry
Anne Diamond
Elizabeth Edel
Dylan Gaffney
Michelle Gery
Brendan Goldberg
Julia Heckelman

Lily Henderson
Jared B. Hopper
Noah Howard
Connor J. Hudson
Elizabeth Huh
Francesca Huth
Alex Lloyd George
Stella Martin
Marielena Melero Pardo
Julie Min
Henry Raffel

Kathan Roberts
Nathaniel Sans
Gabrielle Stanfield
Jeff Szulc
Christopher TenEyck
Brian Uhler
Sebastian Valdez-Oranday
Corey Whitt
Alice S. Zheng
Margalit Zimand

BOARD OF ADVISORS

Professor Shyamkrishna Balganesh
June M. Besek, Esq.
Professor Jane C. Ginsburg
Trey Hatch, Esq.

Adria G. Kaplan, Esq.
Philippa Loengard, Esq.
David Leichtman, Esq.