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NOTE AND COMMENT

‘Fixing’ the First Sale Doctrine: Adapting Copyright Law to the New Media Distribution Paradigm

Samuel Perkins 1

This Article discusses Section 109 of the Copyright Act, the first sale doctrine, in the context of digital media and internet-based storage. Traditionally, the first sale doctrine served as an important limitation on the exclusive rights of copyright owners, allowing copies of lawfully obtained works to be resold without interference from the copyright owner. As a result of this limitation, physical media remains freely alienable after the first sale, providing secondary markets for used copies and more consumer choice. However, due to the nature of digital media and the recent market shift among media distributors, first sale doctrine has become ambiguous and inconsistently applied.

This Article argues that Section 109 of the Copyright Act should be amended to allow consumers to resell their lawfully acquired digital media. By amending the Copyright Act for the digital media age, copyright holders will benefit from the increased clarity of the extent of their rights, while consumers will benefit from greater choice and competition in the market. Alternatively, this Article argues that reinterpreting the first sale doctrine using the common law principle of copyright exhaustion is necessary to restore the balance between the ability of copyright holders to exploit their works and the ability of consumers to alienate and resell their property.

Protecting the Sanctity of Family: An Argument for the Equitable Parent Doctrine

Kelli Schmidt 29

This Comment examines the rights of men who held themselves out as a child’s father or who did not know they were the biological father with a focus on the equitable parent doctrine. Because the equitable parent doctrine has not been adopted in Illinois, the author proposes new legislation. The proposed legislation establishes factors to assist a court in determining when a man should be granted rights to a child with respect to two different

scenarios: first, if he held himself out as the child's father, but ultimately found out he was not the biological father, or second, if the man did not know he was the child's father but found out he was the biological father after parentage had already been granted to a different man. The author then applies the proposed legislation to recent court decisions that established parentage to determine whether a more equitable result could have been reached. Lastly, this Comment briefly examines the effect the proposed legislation would have on child support.

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