
Foreword

The Hon Robert French AC

Exploration of interceptions between different fields of human creativity often yields a richness of experience and depth of perception that no field by itself can offer. Art and science, for example, intersect in many ways – mathematical patterns and symmetries, biological and botanical forms and the geometries of space and time. Each enlivens aesthetic insights. So Einstein said of Newton:

In one person he combined the experimenter, the theorist, the mechanic – and, not least, the artist . . . his joy in creation and his minute precision are evident in every word and every figure.

Law is best viewed in intersection with everything else. By itself it is a gray phantasm. It is only in its engagement with the multiple concrete realities of human action that it gains solidity. Law crossing with art yields intellectual delights and even occasional flashes of beauty. This book, exploring many of its crossings, provides us, as the editors observe, with ‘a walk through a gallery’.

One of the pieces in the gallery reflects on the relationship between the state of mind of the creator of a work and its interpretation by the viewer. Sonia Katyal in her chapter entitled ‘The public good in poetic justice: on the art (and law) of Felix Gonzalez-Torres’ reflects upon ‘the space between the artist’s intent and the audience’s interpretation’. This has a resonance with the fine art of statutory interpretation which involves extracting meaning from a text and applying it to a real world situation. The reading of texts generally has been described as a ‘constructive act’ in which meaning emerges from the reader’s choice in a ‘transactional zone’ defined by common conventions and codes. The relationship between the reading of a legal text and its authorial intention, be it that of a legislature or a contracting party, is as elusive as the relationship between the viewing of an artistic work and the purpose of the artist.

In this zone of high level congruencies is Shane Burke’s discussion of intellectual property as an ‘artistic medium’ in which he refers to the legal fictions and ‘inherent performativity’ of the law. He writes of ‘the use of the law as an artistic raw material, similar to how a painter may use oil paints or a sculptor may use clay’. One interestingly direct intersection which he recounts involved the reputed theft by an artist of 153 hub caps from cars and their inclusion in a sculptural piece called *Violations*. The artist performed his work in this way on the basis that it would be virtually impossible to trace the individual hub caps back to the cars.

The book is not just about the application of legal rules and principles to the making, reproduction and dealing in works of art. It includes a discussion of the ways in which ‘artistic theory tends to lag behind some forms of artistic practice’ and the challenge

for copyright law in accommodating the avant-garde.¹ A particular case, discussed in a separate chapter, is the preservation of street and graffiti art.²

The tragic case of the artist who commits a high-profile crime and the effects upon public attitudes to his or her work is the subject of another chapter by Gregory Dale, who writes of spectators becoming 'overwhelmed by feelings of guilt when confronted with the affected artwork'.

These are just a sample of the 25 fine chapters in this book, which covers a wide range of topics beyond those mentioned including the regulation of colour in art, the regulation of the artist, legal classification applied to artworks, artworks about abortion, art and human rights, art fraud, art politics and the State, the 'picturisation' of words in copyright law, murals in Northern Ireland and inequality and legal iconography.

The book is, as the authors describe it, 'a multi-faceted international and interdisciplinary dialogue between fascinating territories'. They and the publishers and contributors are to be congratulated for what they have wrought.

¹ Jonathan Barrett, 'Copying artistic works: copyright, aesthetics, and artistic practice'.

² Enrico Bonadio, 'Preserving street art and graffiti: can the law reconcile the (often conflicting) rights of artists, property owners and local communities?'.