

# **Art, Cultural Heritage, and the Law**

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# Art, Cultural Heritage, and the Law

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Cases and Materials

SECOND EDITION

**Patty Gerstenblith**

PROFESSOR OF LAW  
DEPAUL UNIVERSITY COLLEGE OF LAW

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*To Sam  
Jennifer, Shira, and Theo*



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# Preface to the Second Edition

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The intersection of law with art and cultural heritage has come into its own only in the past few years. But the vibrancy and excitement of this area of law are demonstrated by the need for a new edition of this casebook. The purpose of this book is to draw this discipline into the mainstream of the American law school curriculum and to present coherent legal doctrines in a fashion that binds together what often appear to be disparate areas of the law. This subject is increasingly important, not just because the amounts of money at stake continue to grow even as the national and international legal regimes have become more complex, but because we increasingly realize how important cultural heritage is to us as individuals, as communities, as a nation, and as part of our place in the international arena. Law students are attracted to the subject because it resonates with their sense of who they are and it will increasingly become an area of practice in the future. This is also an inherently interdisciplinary topic drawing on history, art history, anthropology, archaeology, economics and international relations, to name just a few. This casebook brings in that interdisciplinary flavor, particularly by showing the students illustrations of many of the art works that were at stake in the legal disputes they study.

There are many individuals who contributed in important ways to the publication of this book. Several colleagues used early versions of the casebook. They and those who used the first edition contributed valuable suggestions and comments for improvements in this edition. In particular, I want to thank Jane Levine, Jennifer Richman and Lucille Roussin for their valuable contributions and suggestions. The students in my classes at DePaul have also provided valuable feedback. I owe a particular debt of gratitude to my research assistants, Kelly Kuglitsch, Rebecca Martel, Elizabeth Marie Lally, and Dana Duffield, who worked on the first edition, and to Jennifer Marie Wegmann and Jo Ann G. Lim, who assisted with the second edition. I am grateful, as well, to the many teachers from whom I have learned. Finally, I think my family for their constant love, patience, and support.

Patty Gerstenblith  
June 2008

Author's note: Footnotes to the text, opinions, and other quoted materials are numbered consecutively within each chapter. Some footnotes in opinions and secondary materials are omitted. The format for citations has been harmonized.



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## Books & Articles

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## Figures

### Chapter 1

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Fig. 1-2, page 9. Pablo Picasso. *Bull's Head*. © 2008 Estate of Pablo Picasso/Artists Rights Society (ARS), New York. Photo: Beatrice Hatala. Photo credit: Réunion des Musées Nationaux/Art Resource, NY. Musée Picasso, Paris, France.

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## Chapter 7

Fig. 7-1, page 388. Artist unknown. Kouros, Greece, ca. 530 B.C.E. or a modern forgery, dolomitic marble, 206.1 x 54.6 cm. The J. Paul Getty Museum, Villa Collection, Malibu, California.

## Chapter 8

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Fig. 8-4, page 509. Edgar Degas. *Landscape with Smokestacks*. 1890. Reproduced by permission of the Art Institute of Chicago, Chicago, IL.

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Fig. 10-3b, page 645. Head of Amenhotep III with gold paint. Photo © Jonathan Tokeley-Parry. Reprinted by permission of Jonathan Tokeley-Parry.

Fig. 10-4, page 663. Artemis and the Stag. Photograph Courtesy of Sotheby's, Inc. © 2007.

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Fig. 10-6, page 704. Cult Statue of Goddess, possibly Aphrodite. Limestone and marble. H.: 7 ft 6 in. Greek, South Italy, possibly Sicily, 425-400 B.C.E. Courtesy of the Ministero per i Beni Culturali, Republic of Italy.

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Plate 4. Mosaic, The Apostle James, Panagia Kanakaria Mosaics, post-removal, Lythrankomi, Cyprus. Photo by Catherine Sease. Reproduced by permission of Catherine Sease.

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Plate 8. Gustav Klimt, Mrs. Adele Bloch-Bauer I. Private Collection. Photo © Erich Lessing/Art Resource, NY.

Plate 9. Gustav Klimt, Mrs. Adele Bloch-Bauer II. Private Collection. Photo © Erich Lessing/Art Resource, NY.

Plate 10. The Phiale of Achyris. Hellenistic, Gold, 23 cm x 4 cm. Photo Copyright © 1997 Ira Block. Reproduced by permission of Ira Block.

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