

Art, Cultural Heritage, and the Law

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Art, Cultural Heritage, and the Law

Cases and Materials

SECOND EDITION

Patty Gerstenblith

PROFESSOR OF LAW
DEPAUL UNIVERSITY COLLEGE OF LAW

CAROLINA ACADEMIC PRESS

Durham, North Carolina

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ISBN 978-1-59460-543-7
LCCN 2008930707

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

*To Sam
Jennifer, Shira, and Theo*

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Preface to the Second Edition

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.

Acknowledgments

Books & Articles

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- Merryman, John Henry, *The Free International Movement of Cultural Property*, 31 *N.Y.U. J. Int'l L. & Pol.* 1, 4-14 (1998). Copyright © 1998 New York University School of Law. Reprinted by permission of John Henry Merryman.
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Figures

Chapter 1

Fig. 1-1, page 8. Benvenuto Cellini. *Saliera* (Saltcellar). 1540-1543. Gold, niello work, and ebony base, height 26 cm. Kunsthistorisches Museum, Vienna. Photo © Erich Lessing/Art Resource, N.Y.

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Chapter 7

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Fig. 9-2, page 538. Statue of Enmetena, King of Lagash (IM 5). Photo courtesy of John M. Russell.

Fig. 9-3, page 538. A Lioness attacks a Nubian. Chryselephantine (gold and ivory) inlay plaque, Nimrud. Photo Credit: Scala/Art Resource, NY. Iraq Museum, Baghdad, Iraq.

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Fig. 9-6, page 541. Umm al-Aqarib. Photo courtesy of the Italian Carabinieri, Republic of Italy.

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