Acquisition by Creation cont’d

- Property in One’s Persona
  - Bette Midler
  - Tom Waits
  - Vanna White
- Property in One’s Person
  - *Moore v. Regents of the University of California*

Property in One’s Persona

“Right of Publicity”

- Bette Midler’s voice in Ford commercial – appropriation of identity
- Tom Waits’ voice in a Frito Lay radio ad - impersonation
Vanna White Robot

No deception intended but Vanna White has a “marketable celebrity identity value”

The right of publicity is not limited to appropriation of name or likeness.

A _______ Robot

Consider a hypothetical advertisement which depicts a mechanical robot with male features, an African-American complexion, and a bald head. The robot is wearing black hightop Air Jordan basketball sneakers, and a red basketball uniform with black trim, baggy shorts, and the number 23.
A ______ Robot

The ad depicts the robot dunking a basketball one-handed, stiff-armed, legs extended like open scissors, and tongue hanging out. Now envision that this ad is run on television during professional basketball games. Considered individually, the robot’s physical attributes, its dress, and its stance tell us little.

A Michael Jordan Robot?

Taken together, they lead to the only conclusion that any sports viewer who has registered a discernible pulse in the past five years would reach: the ad is about Michael Jordan.
Vanna White Robot cont’d

Viewed separately, the individual aspects of the advertisement in the present case say little. Viewed together, they leave little doubt about the celebrity the ad is meant to depict. The female-shaped robot is wearing a long gown, blond wig, and large jewelry. Vanna White dresses exactly like this at times, but so do many other women.

Vanna White Robot cont’d

The robot is in the process of turning a block letter on a game-board. Vanna White dresses like this while turning letters on a game-board but perhaps similarly attired Scrabble-playing women do this as well. The robot is standing on what looks to be the Wheel of Fortune game show set.
Vanna White Robot cont’d

Vanna White dresses like this, turns letters, and does this on the Wheel of Fortune game show. She is the only one. Indeed, defendants themselves referred to their ad as the "Vanna White" ad. We are not surprised.

---

Moore v. Regents of the University of California
793 P.2d 479 (1990), cert. denied
Casebook, p. 70

Property in One’s Person

• Conversion (general definition)
• Publicity cases inapplicable
• Once cells removed
• Uniform Anatomical Gift Act
Moore v. Regents of California cont’d

Property in One’s Person

• Uniqueness – patented cell line v. Moore’s cells

• Extension of law of conversion to body parts unnecessary

• Bundle of rights

Moore v. Regents of California cont’d

Professor Hank Greely and The Rest of the Story

• The Moore/Golde Relationship

• Moore’s Medical Care

• The Cell Line’s Value

• The Litigation
Margaret Jane Radin

*Market-Inalienability*

Perspectives, p. 336

- Nonsalability
- Commodification
- Inalienabilities not always anomalies
- Continuum
- Fetishism
- Rhetoric