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Civil Rights - Damages: Crocker V. Tennessee
Secondary School Athletic Ass'n., 980 F.2d 382
(6th Cir. 1992)

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COPYRIGHT REGISTRATION

ATARI GAMES CORP. V. OMAN, ET AL, 979 F.2d 242 (D.C. Cir. 1992).

Copyright applicant appealed decision of the Register of Copyrights not to grant a copyright on the video game "Breakout." "Breakout" was presented to the Register as an audiovisual work. The Register refused registration of the game and concluded that the display screens both individually and as a whole lacked sufficient creativity to make them registerable as audiovisual works. The dispute in question centered on whether the video game qualified as a work of authorship, which necessitates a modicum of creativity. Because an audiovisual work is a series of related images, the interrelationship of successive 'Breakout' screens was crucial. The Circuit Court stated that the hallmark of a video game is the expression found in the entire effect of the game as it appears and sounds.

Held: The Register's denial of copyright for the video game "Breakout" was unreasonable when measured against the minimal creativity standard applicable in making a determination. *Reversed and Remanded.*

H.C.

CIVIL RIGHTS - DAMAGES

CROCKER V. TENNESSEE SECONDARY SCHOOL ATHLETIC ASS'N., 980 F.2d 382 (6th Cir. 1992).

High school student appealed the district court's summary judgment disallowing any damage award for his §1983 claim that the athletic association deprived him of federally protected rights secured by the Education of the Handicapped Act (EHA) and §504 of the Rehabilitation Act of 1973. The athletic association enacted a policy of not allowing transfer students to participate in interscholastic sports for a period of one year absent an approved hardship hearing in order to prevent students from placing athletic interests above academic interests. When plaintiff transferred schools, the association refused to permit him to play on the football team in accordance with the policy. Plaintiff requested a hardship hearing on the grounds that his transfer was based on the inability of his prior school to provide the remedial education classes he needed. The district court found that no valid claim existed for damages under the original EHA or the Rehabilitation Act.

Held: Because plaintiff cannot recover general damages under the EHA or Rehabilitation Act, he cannot recover damages under

§1983 for any violation of his rights that may have been secured by these statutes. Plaintiff was able to bring an action under §1983 that may have otherwise been foreclosed, but he was not thereby provided a right to damages where none had existed before. *Affirmed.*

P.J.

ADMINISTRATIVE LAW

SCHURZ COMMUNICATIONS, INC. v. FEDERAL COMMUNICATIONS COMMISSION AND UNITED STATES OF AMERICA, Nos. 91-2350, 91-2597, 91-2598, 91-2684, 91-2855, 91-2883, 92-1117, 92-1120, 92-1484, 1992 U.S. App. LEXIS 28898 (7th Cir. Nov. 5, 1992).

Coalitions of producers and of independent television stations, in addition to the NBC, CBS, and ABC television networks, petitioned the court to invalidate new Federal Communications Commission (FCC) "financial interest and syndication" rules. Petitioners challenged FCC rules originally enacted in 1970 and revised in 1991 aimed at regulating the syndication of television programs. The rules were intended to prevent monopolistic competition among the networks and to ensure diversity in programming. Petitioners argued that the rules as promulgated were arbitrary and capricious, and prayed that they be repealed.

Held: The FCC's justification for establishing its rules fails the standard for judicial review of administrative action. That standard requires that the statement of the basis for a rule's enactment must demonstrate that in light of all the arguments presented for and against the rule, the rule was a reasonable response to the problem which confronted the agency. The FCC's articulation of its grounds for enacting its financial interest and syndication rules was unreasoned and unjustifiable. Important concepts were not explained, critical evidence was overlooked, key arguments were not addressed, and ambiguities were ignored. *Order Vacated.*

J.B.

COPYRIGHT LAW

D.C.I. COMPUTER SYSTEMS, INC. v. BILL PARDINI, No. 91-15890, 1992 U.S. App. LEXIS 29951 (9th Cir. Nov. 5, 1992).

Plaintiff, D.C.I. Computer Systems, Inc., appeals summary judgment granted in favor of the defendant, Bill Pardini, in plaintiff's copyright infringement action. D.C.I. argues that it may claim copyright protection for a computer software program which it licensed to automobile dealers for six years before the copyright was