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COPYRIGHT VS. THE PAPARAZZI MENTALITY

One thing that can really trouble a lawyer prepping for the courtroom is having an unsympathetic client. It's hard to make jurors see your client as an injured party, or innocent victim of a spurious charge, if they also see your client as, oh, a vapid, parasitic scumbag. Let's say.

So, um, it must be hard to represent paparazzi and their photo agencies, huh? The video vultures who stalk celebrities, swarming like underfed locusts to steal moments of their private lives and sell them up a chain of gossip-porn TV shows, magazines and Web sites, are all aflutter that up-to-the-minute gossip Web sites are swiping and/or failing to credit the paparazzi agencies.

The *Los Angeles Times* reports on a gossip blogger calling himself Perez Hilton (Click [here](#) before it vanishes behind the Times' pay wall). Photo-stalker base camp X17 has filed a \$7.6 million federal suit in San Francisco against the owner of perezhilton.com for stealing images off X17's site, failing to credit the agency, and for being "arrogant." And consider that, as this is posted, one of the top "items" on X17's site is the back of a young, flinching man's head, captioned: "If Leonardo DiCaprio really doesn't want his picture taken, he might consider dating slightly less heart-stoppingly beautiful women ..." If *these* people think you're arrogant, you might want to double-check whether you really are, in fact, God.

If the conceit above is that you probably don't look good representing paparazzi, it's not like the guy who uses Windows Paint program to scribble "cheap" on Beyonce's forehead (he's referring to her hairstyle – rest assured, Destiny's Child fans) is going to seduce jurors with his charm and class. Still, "Perez Hilton" (Mario something-or-other, in real life) says he's standing up for free speech, fair use and arrogance everywhere. No word on whether he's also going to save sunshine, kittens and right-turns-on-red.

While the trial is likely to be a little more entertaining than average, it also stands to make some case law about copyright and fair use in our current age. That's the Internet Age, not the "Must Know Every Time Katie Holmes Goes Jogging" Age. Just making sure. The way we consume news (and seriously, is Paris Hilton stumbling drunk out of a limo *still* "news" at all?) is changing, and the laws governing intellectual property and commentary that uses or abuses it are facing new challenges that may lead to new case law.

"Hilton" attorney Bryan Freedman tells the LAT his client must prevail, for the sake of all things good: "The effect would be to eliminate the ability to comment on and transform photographs under the fair-use exception to the Copyright Act."

X17 mouthpiece John Tehranian may be paraphrased, roughly, as saying "fair use, shmare use." To wit: "[Hilton] is basically free-riding on the labor and efforts of X17 and its photographers who stay up all night and roam the city, and he simply right-clicks and posts their photos."

Yes, one can imagine X17's consternation (they are shocked ... *shocked!*) at the idea of some clown taking advantage of the career, the reputation, the talent and accomplishments of someone who has worked very hard to get where he or she is, just to make a sleazy buck in the gossip trade.

Remember the good old days when the worst job hazard a Nikon-toting celeb stalker had to face was Sean Penn's fist?