

<<美国财产法-第2版-英文版>>

图书基本信息

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内容概要

《美国财产法(第2版)(英文版)》共分为六章，通过财产的取得、不动产权益、不动产租赁、私人对土地使用的控制、不动产转让、国家对土地使用的管理这六个方面介绍了美国的财产法，书中还加入了案例分析。

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章节摘录

版权页： The right of publicity is assignable during the life of the celebrity, for without this characteristic, full commercial exploitation of one's name and likeness is practically impossible. *Haelan Laboratories v. Topps Chewing Gum*, supra, 202 E2d at 868. That is, without assignability the right of publicity could hardly be called a "right". Recognizing its assignability, most commentators have urged that the right of publicity must also be inheritable. The courts that have considered the problem are not as unanimous. In *Price v. Hal Roach Studios, Inc.*, supra, 400 ESupp. 836, the court reasoned that since the right of publicity was assignable, it survived the deaths of Stanley Laurel and Oliver Hardy. Other decisions from the Southern District of New York recognize the descendibility of the right of publicity, which has also been recognized by the Second Circuit Court of Appeals (infra). In *Factors Etc., Inc. v. Pro Arts, Inc.*, 579 F.2d 215 (2d Cir. 1978), Elvis Presley had assigned his right of publicity to Boxcar Enterprises, which assigned that right to Factors after Presley's death. Defendant Pro Arts published a poster of Presley entitled "In Memory". In affirming the grant of injunction against Pro Arts, the Second Circuit Court of Appeals said: "The identification of this exclusive right belonging to Boxcar as a transferable property right compels the conclusion that the right survives Presley's death. The death of Presley, who was merely the beneficiary of an income interest in Boxcar's exclusive right, should not in itself extinguish Boxcar's property right. Instead, the income interest, continually produced from Boxcar's exclusive right of commercial exploitation, should inure to Presley's estate at death like any other intangible property right. To hold that the right did not survive Presley's death, would be to grant competitors of Factors, such as Pro Arts, a windfall in the form of profits from the use of Presley's name and likeness. At the same time, the exclusive right purchased by Factors and the financial benefits accruing to the celebrity's heirs would be rendered virtually worthless."

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