

It's a Prop!

Charles Duan & Rachel Bamberger
American University Washington College of Law

Intellectual Property Scholars Conference 2025
August 7, 2025, 8:45 AM



1968 Ford Mustang Fastback Eleanor, <https://www.vanguardmotorsales.com/inventory/4827/1968-ford-mustang-fastback-eleanor>.



Henry Andrews, William Pleater Davidge as Malvolio in "Twelfth Night" by William Shakespeare (c. 1846), <https://artuk.org/discover/artworks/william-pleater-davidge-as-malvolio-in-twelfth-night-by-william-shakespeare-228474/search/keyword:shakespeare/page/12>.

In This Talk

- ▶ History of characters and copyright
- ▶ Defining “character”
- ▶ Application to law
- ▶ Hypotheticals

Narrative Element

ABIE'S IRISH ROSE 5TH Year

7 COMPANIES NOW PLAYING

NEW YORK 242 WEEKS
REPUBLIC THEATRE

AUSTRALIA 20 WEEKS
PLAYING CAPACITY

PHILADELPHIA 17TH WEEK
ADELPHI THEATRE
(PLAYING CAPACITY)

CHICAGO RETURN ENGAGEMENT
LA SALLE THEATRE
(PLAYING CAPACITY)

EASTERN CO.
ON TOUR

SOUTHERN CO.
ON TOUR

SOUTH-WESTERN CO.
ON TOUR

LONDON, England.
OPENING APRIL 15TH 1927

RETURNED FOR THIRD ENGAGEMENT TO WASHINGTON D.C. MEMPHIS, LEXINGTON,
ALTOONA, EASTON, ALLENTOWN, SCRANTON, NIAGARA FALLS AND OTHER CITIES



ANNE NICHOLS
Author & Producer
"ABIE'S IRISH ROSE"

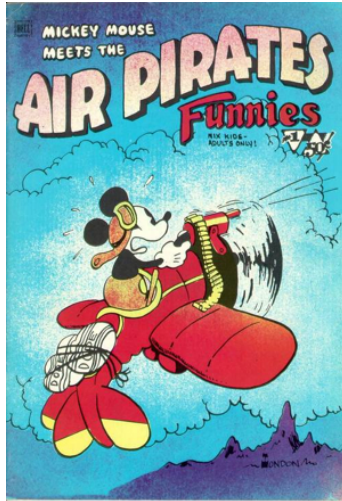
Advertisement Abie's Irish Rose, Variety, Dec. 29, 1926, at 196,
https://commons.wikimedia.org/wiki/File:Abie%27s_Irish_Rose_-_Dec_1926_Variety.jpg.

Visual Work



Betty Boop Doll 1932 Joseph Kallus,
https://bettyboop.fandom.com/wiki/Betty_Boop_Cameo_Doll?file=Betty_Boop_Doll_1932_Joseph_Kallus.jpg.

Hybrid Theory



Air Pirates Funnies (1971), [https://disney.fandom.com/wiki/Air_Pirates_\(comic\)](https://disney.fandom.com/wiki/Air_Pirates_(comic)).

DC Comics v. Towle



*We read these precedents as establishing a three-part test for determining **whether a character** . . . is entitled to copyright protection.*

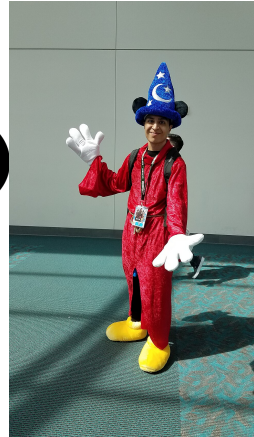
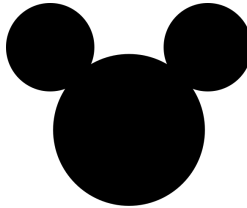
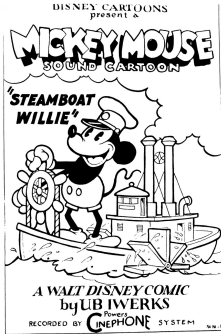
. . .

*First, the character must generally have “physical **as well as conceptual qualities**.”*

What Is Character?



Three Theories



Agency
&
Personality









