



Expression
Copyright

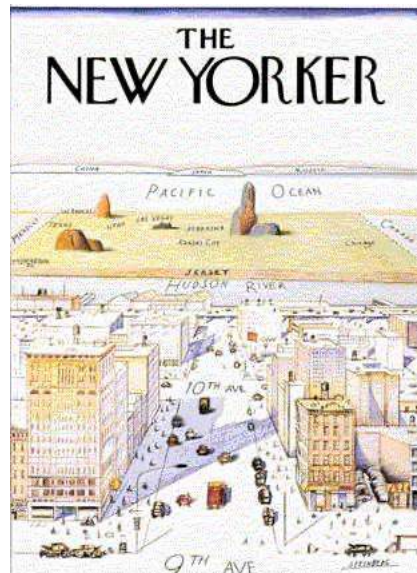
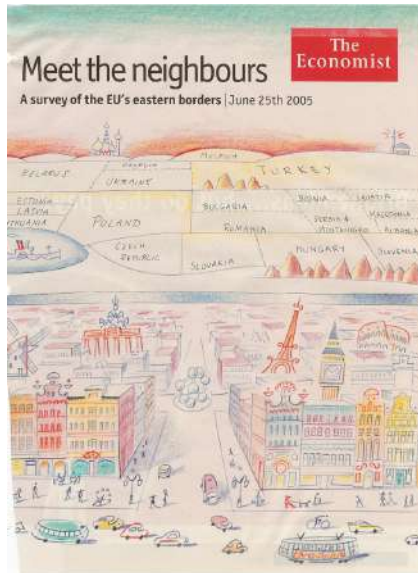
Copyright Infringement Analysis

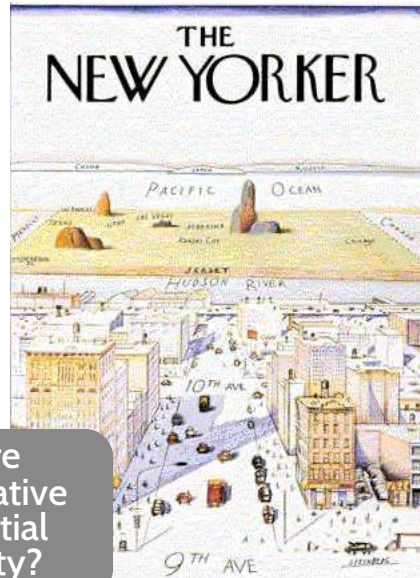
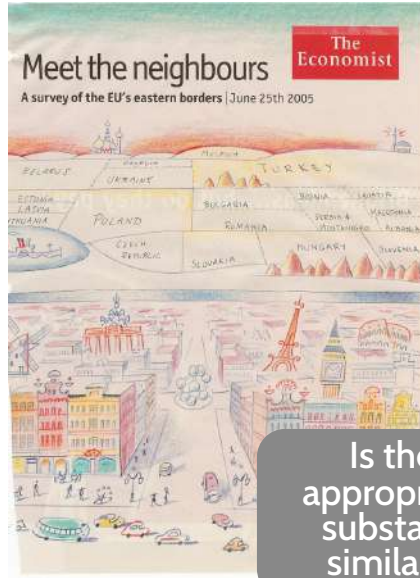
Part Two

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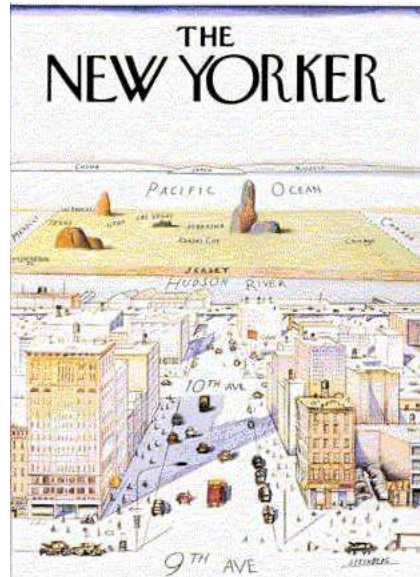
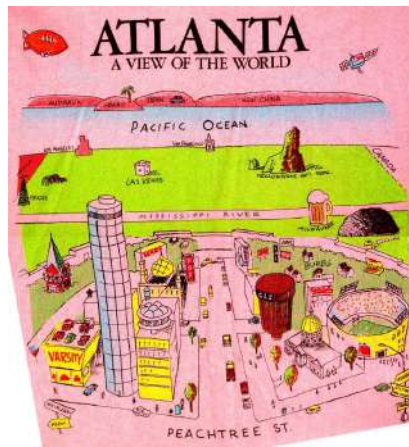


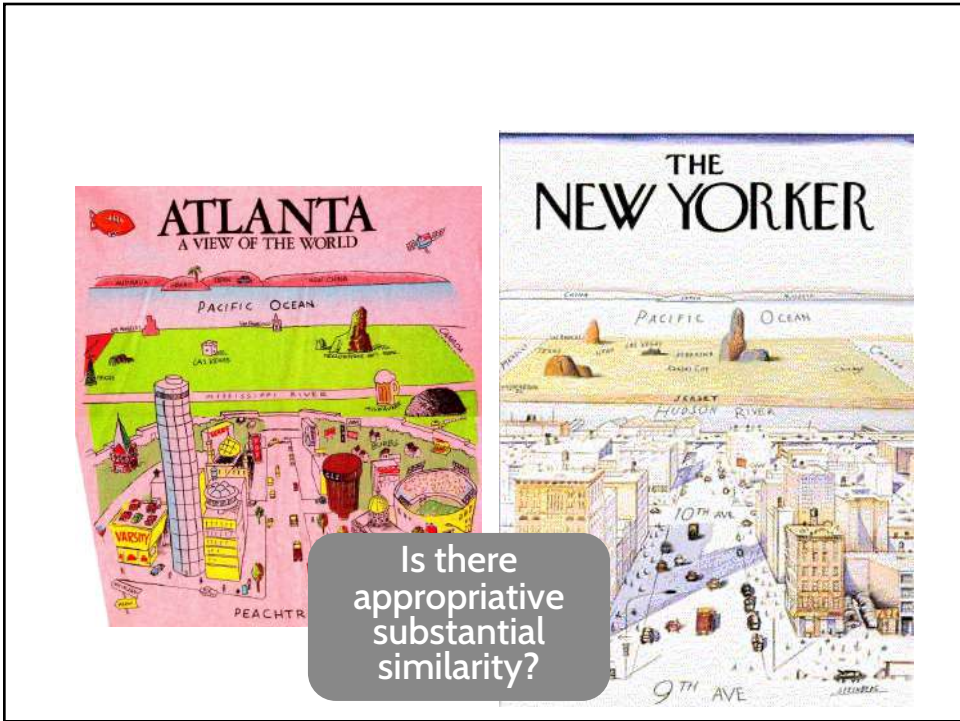
Konomark
Most rights sharable





Is there appropriate substantial similarity?







Harney's creation consists primarily of subject matter—"facts"—that he had no role in creating, including the central element of the Photo: the daughter riding piggyback on her father's shoulders. ... Sony copied little of Harney's original work—only the placement of Gerhartsreiter and Reigh in the photograph—and no jury could conclude that the similarity resulting solely from that copying is substantial. Moreover, given the differences in background, lighting and religious detail, a reasonable jury comparing the entirety of the two works could not conclude that the ordinary observer would "regard their aesthetic appeal as the same."

[Harney v. Sony Pictures Television](#)
(1st Cir. 2013)

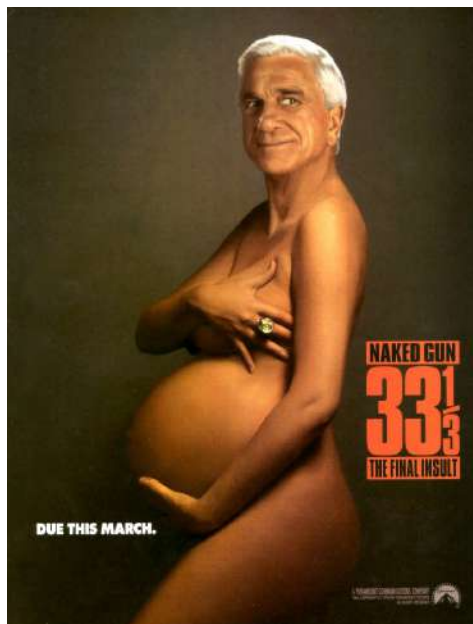






[McDonald's would have us] dissect further to analyze the clothing, colors, features, and mannerisms of each character. We do not believe that the ordinary reasonable person, let alone a child, viewing these works will even notice that Pufnstuf is wearing a cummerbund while Mayor McCheese is wearing a diplomat's sash. ... We have viewed representative samples of both the H. R. Pufnstuf show and McDonaldland commercials. It is clear to us that defendants' works are substantially similar to plaintiffs'. They have captured the "total concept and feel" of the Pufnstuf show.

[Sid & Marty Krofft Television Prods v. McDonald's](#) 562 F.2d 1157 (9th Cir. 1977)



Is there appropriate substantial similarity?

