

LEGAL EYE

by Michael Bergman

Controversy in color

Interference with an artist's creation has always been a controversial matter, whether it be placing scarves or other Christmas decorations around the geese mobile in the Toronto Eaton Centre, the relocation of a piece of sculpture or the tearing down of a wall mural. All artists claim the right to maintain the inherent integrity of their work. Feature films are no different. However, feature films, being not simply a matter of art but of commercial enterprise, the latter dominates the former. The principle of the director's artistic and creative control over a feature film is well recognized not only in principle but as a covenant in virtually all directors' contracts and film-union collective agreements. An aspect of the director's creative control is the "director's cut," the ability of the director to prepare the cut of the negative to conform to his artistic and creative tastes.

The director's artistic and creative rights though can be measured on a diminishing

scale the further one gets from principal photography. In the absence of a contractual provision these rights tend to be reduced to zero once a final answer print has been made. In Canada and the United States where the notion of moral rights has nominal if any statutory basis and where the theory of the director as author of the film is purely an abstract argument, a feature film's destiny as a work of art is not safe.

One of the latest and most controversial problems in the field of the director's artistic rights is the issue of colorization. This is a process whereby black and white feature films are rendered into color by means of computer and other electronic technology. The incentive for many producers is the expectation that audiences of today would like to see past greats in living color, thereby prolonging if not increasing the commercial life of an old movie.

In the United States the prospect of colorization has created some considerable

outrage amongst many reputable and well-known directors. At the same time producers insist on their right to colorization whether because they have acquired in the past all the rights to the film including whatever residual rights the director may have had, or the copyright in the film has expired and the director has long since passed away. In Canada colorization is not presently a hot topic despite the fact that Canadians are active in the development of the colorization technique and Canada is one of the places with the equipment to apply it. Presumably the lack of an active concern is because colorization is primarily an issue with respect to American - particularly studio-made - feature films. No one has yet shown an interest in colorizing early Canadian black and white films. Perhaps even if this were a problem for Canadian films, the concern would be muted by the desire to revitalize, if that is the correct word, early works to promote the Canadian film industry.

Nevertheless colorization is a Canadian issue because it is symptomatic of the problem of where to draw the line between the necessities of commercial exploitation and the integrity of creativity.

There are many laws in the statute books to protect historical properties, there are few to protect the integrity of existing artistic works.

Unless an entrenched system of inalienable, moral rights for the artist is adopted, the integrity of artistic works, particularly audio-visual ones, will always be subject to tampering. There are legislative alternatives. The implementation of a regime governing artistic works which makes consultation with the creator a precondition of alteration, is a first step.

However, for film directors substantive protection must ultimately emanate from their contracts. This will be a slow and difficult process of negotiations both for the individuals concerned but more importantly for the organizations that represent their interests who have the clout to, over a period of time, effect a change in the degree of directors' rights.

Colorization is a useful basis for commencing this dialogue because it has nothing to do with the cutting or recutting of a film. Colorization for the producer is an added if unexpected bonus.

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Meta in full expansion

VANCOUVER - Meta Communications Group Inc. aims to gain enough vertical integration by the end of 1987 to develop, finance, produce, and distribute Canadian films which appeal to an international market.

To that end Meta was listed on the Toronto Stock Exchange in late October, and in November a Los Angeles office was set up to initiate co-venture deals. Already the L.A. office is bearing fruit - Meta president Alan Morinis announced in December that a feature film development deal has been struck between Meta's subsidiary company, Northern Lights Media Corp., and international producer Kim Jorgensen (executive producer, *Out of Africa*). The deal was handled by Peter Martin Nelson (formerly a New York entertainment lawyer) who is Meta's vice-president of U.S. Operations and Business Affairs in L.A.

A minimum of two feature films will be financed as a package (\$6 million total) and will be co-produced by Northern Lights and Jorgensen in Canada. Both films will satisfy all Canadian film regulations,

though Telefilm funding may not be required. Pre-sales to cable and video will be part of the financing. Jorgensen's distribution company, Landmark Films, will handle U.S. theatrical distribution, while an as yet unnamed Canadian company will take Canadian rights. Jorgensen also co-owns Landmark Theatres, a chain of 36 screens in the U.S. which will provide the initial launch of the two pictures.

Jorgensen, a Danish citizen and self-described internationalist, listed the advantages of co-venturing with a B.C. company: Canada is considered to be a kind of cultural bridge between the U.S. and the rest of the world; economically, Canada's interest in co-productions with Common Market countries (of which Denmark is one) is another asset. Other advantages which drew him to the deal were the usual ones - B.C. is beautiful, inexpensive, close to L.A., and chock full of world-class technicians.

Meta's four subsidiary companies include Northern Lights Media Corp., Interaxis Visual

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