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Springfield, Massachusetts

*draft*

Intellectual Property

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© Prof. Wendy J. Gordon

SENSORY RECALL DEVICE

Perception is a bodily function. The brain "sees" according to the orders which the optic nerve relays from its position at the back of the eye. Similarly, it is the brain which also "hears." As we know from our dreaming and our remembering, neither eye nor ear is indispensable to having the sensations of seeing and hearing.

Perception affects the body. At the close of the 1812 Overture, our hearts are beating at a rate quite different from that experienced during the concluding notes of a Chopin nocturne. In the audiences of movie theaters, adrenalin spurts or subsides according to whether the Psycho stalks or sleeps. Subtle changes take place constantly in the body, adapting the person to deal with the events (real or imagined to be real) which the person perceives.

Taking advantage of these physical facts, a biochemist and a biological engineer recently collaborated on a stunning invention. Dubbed a Sensory Recall Device, their machine will produce sensitive disks capable of being imprinted with an individual's chemical response to a sensory experience. Once imprinted, these disks are capable of stimulating the nerve cells to recreate, in its fullness, the prior experience.

The way the device works is this: It produces an orange disk about the size of a quarter which is ready to be imprinted. The

individual places this disk in his or her mouth immediately at the close of the experience, and keeps it there for approximately five minutes while the chemicals in the saliva imprint the disk. At the end of that time, the disk turns red, indicating that the imprinting function is complete. The red disk is treated with a fixative and booster solution, and can then be stored indefinitely. When later placed in the mouth of the person who did the original imprinting, the red sensory recall disk will stimulate that person to experience the imprinted set of perceptions with as much vividness, completeness, and clarity as the original. (The disks are highly personal and will usually have no effect in the mouth of anyone but the original imprinter.)

The Sensory Recall Device is fairly well developed. The biochemist recently told me that she has produced disks capable of storing up to ten minutes of perception, and soon expects to have disks with a twenty-minute capability developed. When the disks reach thirty-minute capability, the inventors expect to start commercial manufacture.

The inventors are seeking patents on the Device, the disk, and the fixative-booster solution.

The Sensory Recall Device has great potential as a money-maker. Owners of the Devices can store their favorite concerts, their favorite live, movie and TV shows, their favorite books, their favorite experiences of all sorts. It is likely that the disks will also create new forms of public amusement, as groups of like-minded persons gather to ingest recall disks together. Sales to dieters

alone (who could mentally recreate their favorite meals while sitting down to cottage cheese) are expected to be in the millions.

The two inventors are concerned about the legal consequences of their machine and its processes. For example, they expect to encounter some attempts to license or to outlaw the device on the part of persons who see the Sensory Recall Disk as a form of drug. They also have more mundane concerns, such as whether, under existing law, they or their customers would be restricted in any way by, or have any liability under, <sup>the</sup> Copyright act. (The inventors are concerned about customer liability because such liability might depress the market for their device.)

We will be discussing the inventors' copyright concerns in detail. You have read many of the relevant cases already (pages 386-405); please review them with care in relation to the Sensory Recall Device. You will find §§ 101-102, 106-107, 109, 501 and 504 (1976 statute) of particular use. Sections 111-115 may also be helpful.

WJG/njh

## Sensory Recall Device

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xxxxxxTakingxx

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The way the device works is this: It produces <sup>quarter</sup> a disk, about the size of a quarter, which is ready to ~~xxxxx~~ be imprinted. The individual places this disk in his or her mouth ~~the~~ immediately at the close of the experience, and keeps ~~xxxxx~~ it there for approximately five minutes ~~while~~ the chemicals in the saliva imprint the disk. At the end of that time, the disk turns <sup>red</sup>red, indicating that the imprinting function is complete. The disk is ~~treated~~ <sup>available from the manufacturer</sup> with a fixative and booster solution. (a dispenser for which

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