

The Idea of Yoga Versus the Expression of It: Bikram's Yoga College of India v. Evolation Yoga, LLC

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Affirming the district court's grant of partial summary judgment, the U. S. Court of Appeals for the Ninth Circuit concluded that a sequence of yoga poses and breathing exercises was directed to the idea or process of improving health, not to a protectable expression and therefore not entitled to copyright protection. *Bikram's Yoga College of India v. Evolation Yoga, LLC*, Case No. 13-55763, (9th Cir., Oct. 8, 2015) (Wardlaw, J.).

In 1979, Bikram Choudhury wrote a book, *Bikram's Beginning Yoga Class*, wherein he described a sequence of 26 yoga poses and two breathing exercises arranged in a particular order, which he calls the "Sequence." In his yoga class, the Sequence is practiced over the course of 90 minutes, to a series of instructions (the "Dialogue"), in a room heated to 105 degrees Fahrenheit. Choudhury also offered a three-month Bikram Yoga Teacher Training course.

In 2002 and 2005, respectively, defendants Mark Drost and Zefea Samson enrolled in and completed Choudhury's Bikram Yoga Teacher Training course. Then, in 2009, they founded Evolation Yoga, which offers, among other types and styles of yoga, a "hot yoga" course that was admittedly similar to Bikram's Sequence because it included 26 postures and two breathing exercises that are done for 90 minutes while accompanied by a series of oral instructions in a room heated to approximately 105 degrees Fahrenheit.

Choudhury and his company, Bikram's Yoga College of India, sued Evolation Yoga, Drost and Samson for copyright infringement. The district court granted the defendants' motion for partial summary judgment that the Sequence is a collection of facts and ideas not entitled to copyright protection under § 102(a) of the Copyright Act. Choudhury timely appealed as to the "Sequence."

Section 102(b) of the Copyright Act codifies the "idea/expression dichotomy" and expressly excludes protection for "any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work." Citing to the venerable (1879) Supreme Court case of *Baker v. Selden*, the 9th Circuit reflected on the fundamental idea/expression dichotomy under which only the expression of ideas are protected, but not the ideas themselves. The 9th Circuit concluded that like the book keeping system at issue in *Baker*, Choudhury's book explaining the Sequence may enjoy copyright protection, but not the Sequence itself.

Rather, the Sequence was an idea, process or, more specifically, a system designed to improve health, rather than a protectable expression. Indeed, Choudhury's book itself described the Sequence as a method to attain identifiable, spiritual and psychological result in the form of a "sense of well-being" and "boundless energy." The appeals court rejected Choudhury's contention that the Sequence's arrangement of postures was "particularly beautiful and graceful," because beauty is not a basis for copyright protection. The Sequence, like the meditation exercises that were codified in a manual that were the subject of the U.S. Court of Appeals for the Eleventh Circuit's 2001 decision in *Palmer v. Braun*, constituted a process under § 102(b) that, even if original, is not entitled to copyright protection.

The 9th Circuit also rejected Choudhury's argument that the Sequence is a coherent and expressive composition, and thus protectable as a compilation under §§ 101 and 103. The Court explained that even though the Sequence might be a compilation, it must still satisfy the requirements of § 102 to qualify for copyright protection. As the 9th Circuit explained, the "availability of copyright protection for compilations . . . does not eliminate Section 102's categorical bar on copyright protection for ideas."

Indeed, the 9th Circuit reasoned that extending copyright protection to the Sequence itself would frustrate the purpose of the book: inviting readers to practice the method it describes. Consumers of the book would have little reason to buy the book if, after doing so, then practicing the very activity it teaches and encourages turns them into copyright infringers.

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