

William & Mary Law School

William & Mary Law School Scholarship Repository

Library Newsletter

The Wolf Law Library

10-30-2014

Count Dracula in California Contract Dispute

Michael Umberger

Follow this and additional works at: <https://scholarship.law.wm.edu/libnewsletter>

Copyright c 2014 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.

<https://scholarship.law.wm.edu/libnewsletter>

Count Dracula in California Contract Dispute

Michael Umberger, Reference Librarian

Big money was at stake when Count Dracula died. And by "Count Dracula," I actually mean the man who remains our cultural personification of a vampire, Bela Lugosi. It's natural to associate the two, as the actor created a unique likeness of the age-old vampire.



Lugosi, born Béla Ferenc Dezső Blaskó, passed away in 1956. Ten years later, Lugosi's widow and surviving son sued Universal Pictures -- the studio that brought "Universal Horror" to this nation with films such as *The Phantom of the Opera* (1925), *Dracula* (1931), *Frankenstein* (1931), *The Mummy* (1932), and *The Invisible Man* (1933) -- alleging that the studio profited from property that should have belonged to Lugosi's heirs after his death. Although the lower courts took a stab at settling the matter, the case was eventually resolved by the California Supreme Court in *Lugosi v. Universal Pictures*, 25 Cal. 3d 813 (1979).

The dispute arose from the film production agreement that Universal Pictures and Bela Lugosi had entered into in September 1930. The contract contained a provision granting Universal "the right to use and give publicity to the Artist's name and likeness." After Lugosi died, Universal entered into licensing agreements that authorized licensees to use the Count Dracula character. Lugosi's widow and son filed suit to recover the profits Universal made through these licensing agreements. (Lugosi's other children were reportedly busy making music in the night.)

The issue was whether the 1930 production agreement had granted Universal the merchandising rights in Lugosi's portrayal of Count Dracula, or whether Lugosi had retained those rights, such that they descended to his heirs at his death. The California Supreme Court determined that under California right of privacy law, the right to exploit an artist's "name and likeness is personal to the artist and must be exercised, if at all, by him during his lifetime." The court noted that Lugosi could have but chose not to exercise this personal right during his lifetime, and the right did not survive Lugosi. Court reporters noted that the right turned to dust at exposure to the light of the court's reasoning.

Justice Bird issued a biting dissent from the Court's opinion, arguing that the issue should be settled under the right of publicity rather than privacy. Even though the California Supreme Court drew first blood on the issue, its decision proved not to cast a long shadow. Less than a decade later, the California legislature amended the state's Civil Code to create a right for a famous person's heirs to enforce that person's right of publicity after that person's death. See [Cal. Civ. Code § 3344.1](#).

You can read Bram Stoker's 1897 novel [Dracula](#), which is in the public domain, online at [The Library of Congress](#). Additionally, the Law Library has a copy of Lugosi's career-defining turn as Count Dracula (and many other scary films) in our [feature film collection](#).

PHOTOGRAPH:

[Bela Lugosi as Dracula, anonymous photograph from 1931, Universal Studios](#) (public domain)