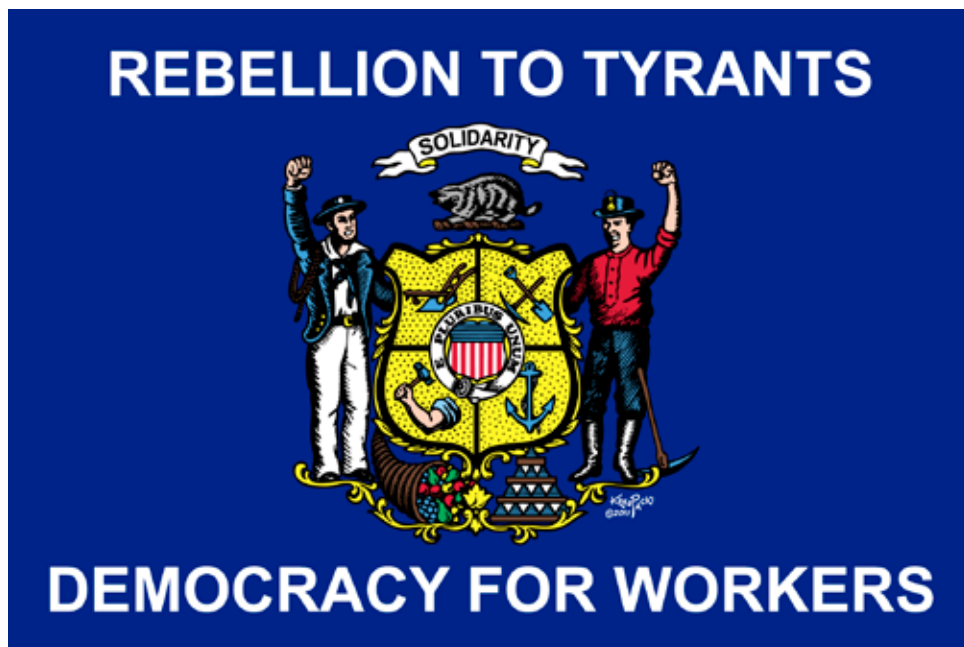


Using Parody Art For Mobilization

by Mike Konopacki



MIKE KONOPACKI
©2012

Using Art For Mobilization

We are constantly bombarded with corporate images in advertising, television, movies, newspapers and magazines. These images are created for the sole purpose of selling products and making consumers identify with the corporate political and economic agenda.

This agenda is often destructive to the needs and interests of working people. Workers must learn that they can use parody to fight back.

Redefining Corporate Identity

Corporations spend millions of dollars to develop their public image. Public employers are also identified by logos, emblems and seals. These images are represented in both print and electronic form. Under the U.S. Constitution, political speech is protected speech. Copyright law cannot override political speech. Therefore, the symbols, logos and brand names of both public and private organizations can be parodied to criticize and ridicule an employer's anti-union behavior.

What is the difference between Parody and Satire?

Parody and **satire** are often thought of as interchangeable, but they are quite distinct legally. Parody is direct commentary on a work; satire is indirect commentary. That is, while parody copies from an original work in order to comment on that work, satire (in a legal sense) copies from an original work in order to comment on another work. Union activists can use parody to ridicule an employer if they use **ONLY** the employers' identity. Satire, using intellectual property of one to satirize another, is not protected speech for our purposes.

What is the difference between Libel and Slander?

Libel and **slander** occur when a person or entity communicates false information that damages the reputation of another person or entity. Slander occurs when the false and defamatory communication is spoken and heard. Libel occurs when the false and defamatory communication is written and seen. The laws governing libel and slander, which are collectively known as **DEFAMATION**, are identical. Libel and slander are not protected speech. Employers are fair game for criticism, but they cannot be falsely accused.

Does Parody violate Copyright Law?

Copyright law protects ownership rights. While corporate speech is commercial speech, union speech is political speech and therefore cannot infringe on a copyright. Parody is protected speech and is thus a defense against copyright violation. A true parody will not confuse a viewer that the origin of the parody is the copyright owner. Parody and political speech that rely on the identity of the subject of criticism fall under the doctrine of fair use.

What is Fair Use?

The U.S. Copyright Office cites examples of activities that courts have regarded as fair use: "quotation of excerpts in a review or criticism for purposes of illustration or comment; quotation of short passages in a scholarly or technical work, for illustration or clarification of the author's observations; **use in a parody of some of the content of the work parodied**"

Unions MUST exercise their right to Parody!

I am not a lawyer so I can't give legal advice. However, it is my belief that the job of a good labor lawyer is not to prevent workers from exercising their free speech rights, but to but to make us aware of the risks and to defend us in case an employer challenges those rights. Labor law has been so deformed that it is now used against us more than it defends us. However, as long as free speech still exists unions have not only the right, but the DUTY to exercise their right to Parody. Like any muscle, free speech only gets stronger the more it's used.

Union publicity is more powerful when it displays the "authorized" employer trademark or logo. The more the employer tries to suppress our right to parody their identity, the stronger we become. Images are more powerful than words!

Thanks to Max Kimbrough of the Philadelphia Volunteer Lawyers for the Arts for his paper on *Parody and Satire* and to the law firm of Davis, Cowell & Bowe of San Francisco for their 1996 paper: *Trademark and Copyright Tactics for Labor Speech*.

Hyatt workers strike at Hyatt O'Hare

Chicago, IL — Just days before Labor Day, UNITEHERE! workers at the Hyatt Regency near Chicago's O'Hare Airport are on strike. Hyatt O'Hare workers join Hyatt workers in several cities across North America who are striking as part of a wave of demonstrations this week by thousands of hotel workers protesting Hyatt and its billionaire ownership family, the Pritzkers. Workers say the company is trying to make the recession permanent for its employees, despite significantly improving industry conditions and Hyatt's increased profitability and huge cash reserves.



- Hyatt corporate logo



- UNITEHERE! parody of Hyatt logo

Workers protest shutdown of NUMMI

Sacramento, CA — Teamsters and UAW members officials, community leaders and politicians protested the planned March 31 closure of the plant, which would put 4,700 union members out of work.

Seeking to piggyback on bad publicity generated by Toyota's massive safety recalls, the United Auto Workers union held a rally Friday outside the quarter-century-old New United Motor Manufacturing Inc. factory in Fremont, 40 miles south-east of San Francisco.



- Toyota corporate logo



- Konopacki parody of Toyota logo

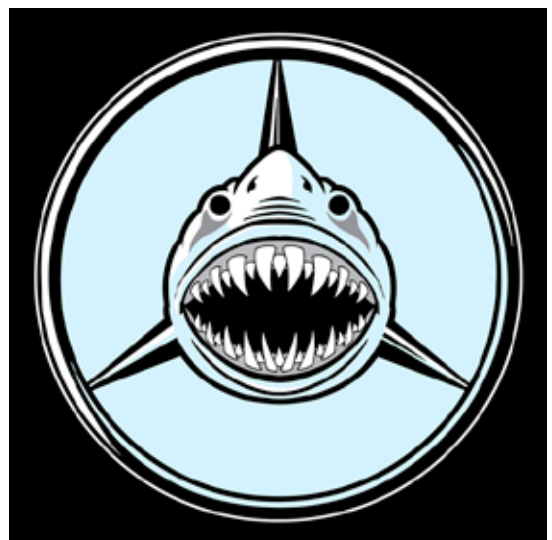
Activists Hold Protest Against Mercedes/Daimler Financing Scheme

WASHINGTON and FARMINGTON HILLS, Mich., Aug. 20 /PRNewswire-USNewswire/ --- A delegation of high-ranking representatives from civil rights, minority, consumer and worker rights advocacy groups were joined today by several dozen activists carrying signs calling for an end to a predatory lending scheme by Daimler/Mercedes Benz and the Port of Long Beach. Noisy protests at the German Embassy in Washington, DC and Mercedes-Benz' parent company in the Detroit-area culminated with the simultaneous delivery of a report to company and diplomatic officials entitled "Foreclosure on Wheels: Long Beach's Truck Program Puts Drivers at High Risk for Default."

The report analyzes the financial risk and details concerns that the Port of Long Beach, in partnership with Daimler, has wrongfully placed the burden for cleaner commerce on Latino-American and immigrant port drivers by targeting the workers -- not their companies -- to sign up for risky loans to replace a fleet of 16,000 aging vehicles. Under the terms of the lease-to-own scheme, Daimler will financially back low-emissions trucks (costing \$100,000-\$200,000 after volume discounts) to any driver whose dirty diesel rig was recently banned by the port, regardless of his/her credit worthiness and ability to pay. Port drivers, before the cost of fuel skyrocketed, netted an average of \$11 an hour. The monthly payment for the trucks is between \$500-1,000 for seven years, with a balloon payment of \$7,000-\$15,000 at the end of the lease term.



Mercedes-Benz



**CONSUMERS
BEWARE**

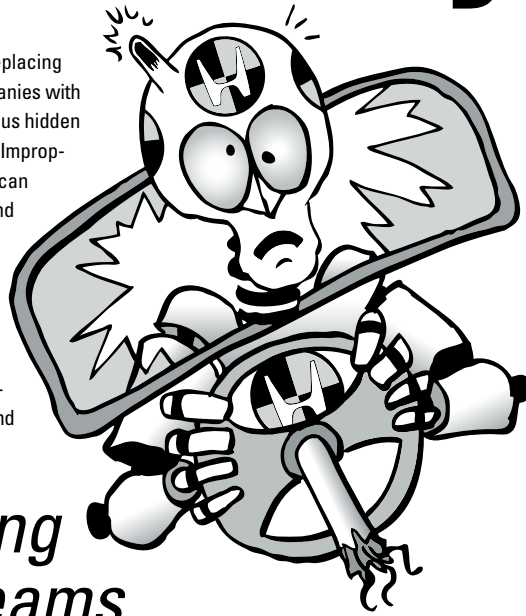
Tell Honda You're No Dummy

Toyota's not the only Japanese auto company to have safety problems.

Over 1 million Hondas have been recalled due to substandard parts such as faulty brakes and defective airbags.

Given these problems, why is Honda replacing their professional auto transport companies with risky car carriers that may create serious hidden damages to cars delivered to dealers? Improperly secured and transported vehicles can sustain damages to tires, rims, axles and frame. This can threaten your safety and lead to costly repair bills.

It's no wonder that a new Honda may not be all that you had dreamed. Honda's move to substandard car carriers is destroying good American jobs and the American dream.



Honda: *Killing American Dreams*

See the startling photos at: www.CarBuyersBeware.com

♻️ This leaflet is not intended to nor does it ask any employee to cease work or delivery. Please do not litter - recycle.



HONDA



TOX ICK TOYS 3

HEY KIDS, WE
NEED YOUR HELP!!

TOYS "Я" US IS SELLING
TOYS MADE FROM AN
EVIL PLASTIC CALLED
PVC!

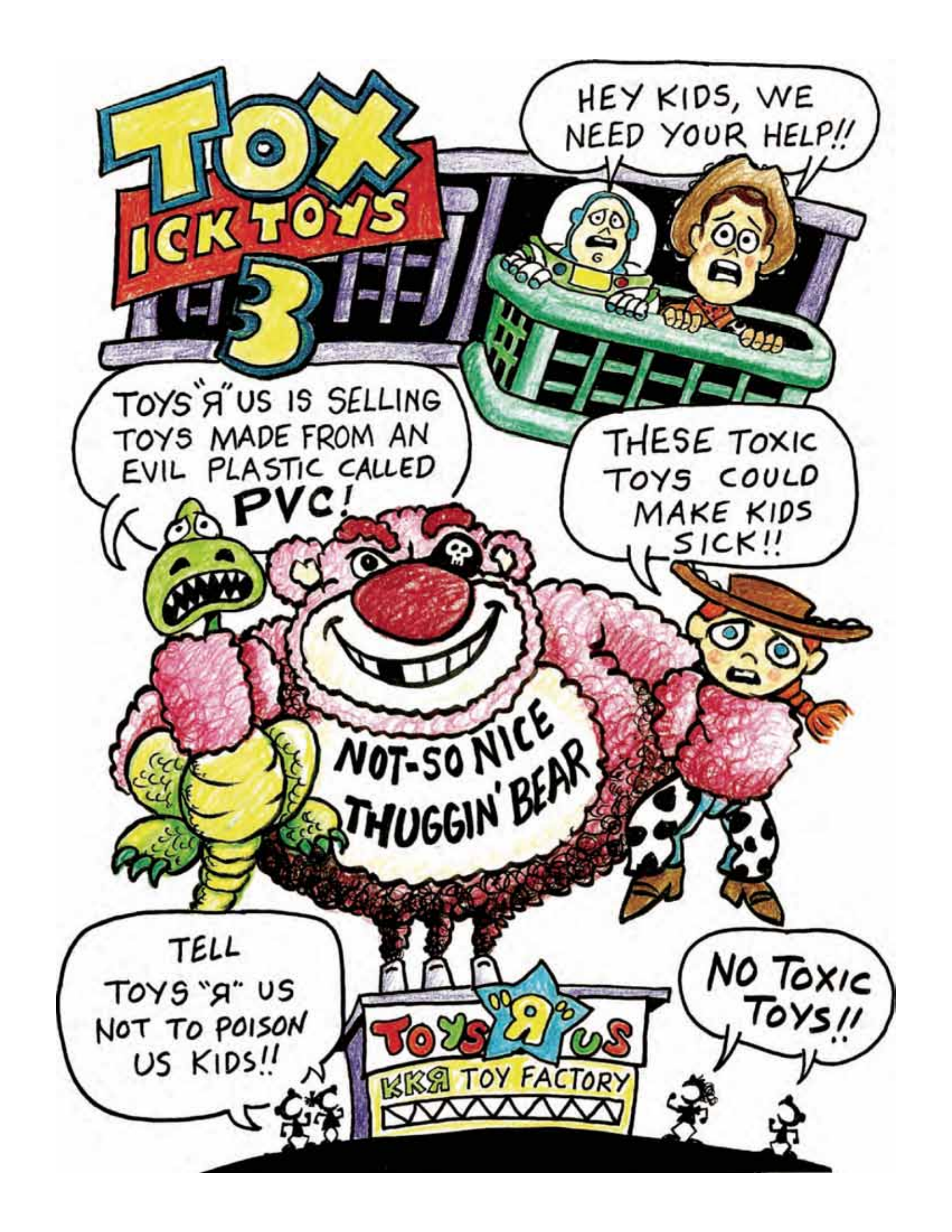
THESE TOXIC
TOYS COULD
MAKE KIDS
SICK!!

NOT-SO NICE
THUGGIN' BEAR

TELL
TOYS "Я" US
NOT TO POISON
US KIDS!!

NO TOXIC
TOYS!!

TOYS "Я" US
KRY TOY FACTORY



THE TOYS ARE BACK IN TOWN...

WITH PVC, THE POISON PLASTIC



Woody, Buzz and all your favorite Toy Story characters are returning to the big screen and toy shelves for the release of Toy Story 3, but be careful. Toys R' Us is selling Toy Story merchandise made with PVC, a toxic plastic harmful to children's health.

Chemicals released in PVC's lifecycle have been linked to chronic diseases on the rise in children, impaired child development and birth defects, cancer, disruption of the endocrine system, reproductive impairment, and immune system suppression.


It's no surprise that Toys R' Us is selling unsafe products. After all, Kohlberg Kravitz and Roberts (KKR), the private equity firm that owns Toys R' Us, is out to make a profit at anybody's expense. They even abuse workers' rights at their distribution company, U.S. Foodservice.

End the toxic toy story. Label PVC presence on all toys. Agree to a complete phase-out of poison plastic.

**TELL TOYS R' US: PLAY NICE,
DON'T POISON OUR CHILDREN.**

www.PVCFree.org

Center for Health Environment and Justice & the Teamsters Office of Consumers Affairs

This leaflet is not intended to nor does it ask any employee to cease work or delivery. Please do not litter- recycle. 

Mouse Droppings, Roaches and Flies



Vermin, Mold and Slime

Chevys Fresh Mex restaurants have racked up hundreds of health inspection violations in the last 18 months. These violations include reports of live roaches crawling on refrigerators, flies, insects, rodents and mouse droppings.

Besides vermin, Chevys stores were also cited for unhygienic practices, including food exposed to contamination, buildup of slime in ice machines, moldy food, moldy refrigerators, dirty bathrooms and employees who failed to wash their hands.

Poor health and safety practices are not new issues at companies owned by Sun Capital Partners, like Chevy's Real Mex. At Sun Capital-owned Emerald Performance Materials in Henry, Ill., chemical workers have been locked out of work for five months, during which time there have been six accidental toxic emissions.

At Chevy's, it just doesn't get any ~~fresher~~ more disgusting.

Shoppers for Safe Food and Good Jobs

 This handbill does not ask or intend to ask any employee to cease work or deliveries. Please don't litter – recycle.

Heinz Parody: Sometimes the threat is more powerful than the action.

The Teamsters had a dispute with a Heinz ketchup processing plant. Flyers were produced to be distributed at supermarkets. The flyers simply announced to consumers the amount of mold, maggots, rodent hairs and insect parts that the FDA allowed in ketchup. The union presented the flyers to management during negotiations and warned that they would be distributed if a settlement couldn't be reached. After seeing the flyers, Heinz relented and the flyers were never used.

Oh Boy!

Heinz Ketchup with rodent hairs, mold, maggots and insect fragments!*



*MOLD:

No more than 10% of the seasonal pack shall exceed 30% HMC.

RODENT HAIR:

1/100 gm maximum.

INSECT FRAGMENTS:

40/200 gm maximum.

FLY EGGS & LARVAE:

25 fly eggs/100gms maximum.

12 fly eggs and one maggot/100 gm maximum

OR 2 maggots/100 gm maximum.

**Why doesn't this
french fry want
to be dipped
in Heinz
Ketchup?**



***BECAUSE IT MAY CONTAIN MOLD, MAGGOTS,
RODENT HAIRS, AND INSECT PARTS!***

Billboards

Miller Beer distributors who sought to bust Teamster delivery truck drivers didn't expect this kind of advertising. The union rented billboards and informed consumers of the unfair practices of the distributors. The target, Miller Brewing, put pressure on the distributors to settle.



Billboard companies aren't always cooperative. In Providence, Rhode Island they refused to rent space to the union. One of the best ways to solve problems is to enlist the creativity of the workers themselves. After a brainstorming session, the workers decided to create a "rolling billboard" by painting it on the side of a semi-trailer. After all, they are truck drivers.

on the line

Bud Workers Croak Plans to Kill Seniority, Cut Full-Time Jobs

The Budweiser frogs of television fame came to the aid of 51 Teamster beer drivers and warehouse workers in Rhode Island when management threatened to eliminate seniority and cut full-time jobs.

Using a combination of outreach to customers and a short but effective strike, the members of Teamster Local 251 beat back management's concession demands and won increases in wages and pension contributions.

Working with the International Union, the workers created a billboard-sized parody of the Budweiser frog ad. The slogan on the Teamster billboard read "Budweiser Croaks Rhode Island Jobs." The billboard was attached to a tractor-trailer so that it could be driven through the community.

The workers and other members of Local 251 met with customers of

McLaughlin and Moran, the Budweiser distributor, and asked them not to take beer deliveries from nonunion drivers. Most of the bars, restaurants, and stores agreed.

"People in this area want to keep good jobs," said John Swinson, a warehouse helper at McLaughlin and Moran. "They are still hurting from the loss of 10,000 jobs when a major employer in the area downsized. That's why they supported our fight to keep full-time jobs."

To put additional pressure on the company, the workers began a strike which completely shut down the company's beer deliveries.

On the second day, the workers and management agreed to meet with a federal mediator. Management allowed the union to post striking members in its warehouse to make

"Management didn't expect us to hit them with a strategic campaign and to get the community on our side. We couldn't have won this fight alone."

—JOHN SWINSON, WAREHOUSE HELPER

sure no beer deliveries were attempted while talks continued.

Four days after the strike was called, the workers ratified a new agreement.

"We fought smart," said Swinson. "Management didn't expect us to hit them with a strategic campaign and to get the community on our side. We couldn't have won this fight alone."



Teamster members use a "rolling billboard" created with help from the International Union to protest plans by a local Budweiser distributor to cut full-time jobs. The workers won a new contract that protects full-time jobs.



Cat in the Hat "Parody" Infringes on Seuss
By Robin D. Gross of <http://www.virtualrecordings.com/seuss.html>
November 1997

In a recent Ninth Circuit case, Judge O'Scannlain reaffirmed a circuit court's ruling holding that a poetic account of the O.J. Simpson double murder trial entitled, "The Cat NOT in the Hat! A parody by Dr. Juice," infringed the copyright and trademark rights of the earlier work, "The Cat in the Hat by Dr. Seuss" (a.k.a. Theodore Geisel).

Dr. Seuss Enterprises v. Penguin Books USA involved a case about a book written by the fictional "Dr. Juice". The book depicts O.J. Simpson, wearing the Cat in the Hat's distinctive red and white striped stove-pipe hat, holding a bloody glove, and narrating a rhyming whimsical version of the Simpson murder trial with verses such as, "A man this famous/Never hires/Lawyers like/Jacoby Meyers/When you're accused of a killing scheme/You need to build a real Dream Team" and "One knife?/Two knife?/Red knife/Dead wife."

Dr. Seuss's widow, Audrey Geisel sued for a preliminary injunction to prevent publication of the book, claiming she was eager to prevent a commingling of the Seuss image with that of the accused killer. In its defense, Penguin claimed the book was merely a parody and therefore protected from copyright infringement by the "fair use" doctrine. The appellate court held, "we completely agree with the district court that Penguin's fair use defense is 'pure shtick' and that their post-hoc characterization of the work is completely unconvincing." The court held that because the book ridiculed Simpson and the murder case, rather than the original work or its author, it is not a true parody eligible for the fair use defense. "The stanzas have no critical bearing on the substance or style of The Cat in the Hat. [The defendants] merely use the Cat's stove-pipe hat, the narrator (Dr. Juice), and the title (The Cat NOT in the Hat!) to get attention or maybe even to avoid the drudgery in working up something fresh," O'Scannlain opined.

This decision is significant because it has clarified a coherent standard in copyright law for determining whether a potentially infringing work is a fair use parody. **A parodist must ridicule the original composition or author in order for fair use to apply.** Therefore, one hoping to use the parodist's fair use defense must realize that the legal definition of a parody in copyright and trademark law is narrower than the general understanding of the term.

