**ANNOTATIONS AND COMMENTS**

The Eleventh Circuit’s general test for substantial similarity is the “lay observer” or “ordinary observer” test, and it applies to works that can be seen or heard. *See Oravec v. Sunny Isles Luxury Ventures, L.C*., 527 F.3d 1218, 1224 n.5 (11th Cir. 2008); *Bateman v. Mnemonics Inc.*,37 U.S.P.Q.2d 1225 (11th Cir. 1995), *vacated in part, reversed in part and remanded,* 38 U.S.P.Q.2d 1225 (11th Cir. 1996); *Original Appalachian Artworks, Inc. v. Toy Loft, Inc*., 684 F.2d 821, 829 (11th Cir. 1982).