

Intellectual Property

A Survey of the Law

Intellectual Property

A Survey of the Law

SECOND EDITION

Ned Snow

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Preface to the Second Edition

The Second Edition reflects excellent input from several professors and students. Thank you! As a result of that input, and in conjunction with recent changes in the law, I have revised the casebook as follows:

First sale doctrine in trademark and patent—The trademark and patent chapters (Chapter 7, Part A.1 and Chapter 20, Part A) now include sections devoted to the first sale doctrine, which coincides with copyright's coverage. These sections include the *Beltronics* case (trademark) and the *Lexmark* case (patent).

Consumer confusion factors in trademark—The factors that suggest consumer confusion are set forth in the trademark acquisition section with a case (*Coach Services*) that illustrates their application in that context (Chapter 2, Part C). And as in the prior edition, those factors are also covered in the trademark infringement section.

Domain names in trademark—A brief section now covers trademark disputes surrounding domain names, including the ACPA and the UDRP (Chapter 6, Part F).

Removal of KP Permanent—The trademark section on descriptive fair use no longer includes the *KP Permanent* case (Chapter 7, Part A.2). That case is covered in a note after the *Car-Freshner* case.

Right of privacy—The Chapter covering state remedies now includes the right of privacy (and the *Pavesich* case) in conjunction with its explanation of the right of publicity (Chapter 8, Part B).

Useful article in copyright—The Supreme Court's recent *Star Athletica* decision replaces two former cases, and the explanatory text for the useful article doctrine has been revised accordingly (Chapter 10, Part C).

DMCA in copyright—A brief section now outlines the DMCA's safe-harbor provisions relating to ISP immunity (Chapter 13, Part C), including the *Viacom* case.

Design patents—At the end of the patent section, there is a brief discussion on design patents (Chapter 20, Part B.2), including the Supreme Court's recent *Sam-sung v. Apple* decision.

Practice exam questions—Three exam questions appear at the back of the book (with model answers in the Teacher’s Manual). Also, the answers to the short questions following each chapter are now located at the back of the book.

Corrections and revisions for clarity—Several (indeed, many!) typographical errors are now corrected. Several explanations of law are rephrased. Additional examples appear (especially in the section on doctrine of equivalents). Charts now illustrate novelty concepts relating to the AIA and pre-AIA provisions. Cases continue to be heavily edited for readability; they are not precisely accurate or comprehensive.

Updated notes—Several notes after the cases reflect developments in the case law.

Preface

Many of my students—even the best and brightest—have struggled to understand intellectual-property casebooks. The casebooks, they complain, are just too dense and too nuanced. Thus began this project. I sought to create a casebook that explained the fundamentals of intellectual property in a way that would be accessible to students, and at the same time, would provoke thoughtful analysis and discussion. I interviewed students and conducted anonymous surveys. What worked and what did not? The answers quickly became apparent. Students wanted understandable prose, with a strong emphasis on key concepts and terminology. They wanted lots of examples with explanations. They wanted the questions that followed a case to focus on what to take away from the case. They wanted a few additional questions that went beyond the case, but not a lot of extraneous notes. They wanted a reader-friendly format (font and space on the page). They wanted concise summaries at the end of each chapter. And more than anything—they wanted the law upfront and clearly stated.

My efforts culminated in this casebook. It is by no means a book for everyone. It is by no means perfect. Yet for those seeking an accessible starting point for understanding intellectual property, I am hopeful that this book will serve that end.

Best regards,

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