

INTELLECTUAL PROPERTY

CASES AND MATERIALS

Third Edition

David Lange
Mary LaFrance
Gary Myers

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INTELLECTUAL PROPERTY

CASES AND MATERIALS

Third Edition

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The authors dedicate this edition to

Tom Blackwell
1961-2002

Gladly wolde he lerne, and gladly teche

*

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Above all, we are grateful to our many students through the years whose suggestions, arguments, comments and advice have added immeasurably to our collective judgment and insight.

*

Preface to the Third Edition

This casebook offers comprehensive coverage of all of the basic doctrinal areas of study and practice in the field of intellectual property. The book provides both breadth and depth of coverage; its flexible structure allows teachers and students the opportunity, within a topic area, to choose whether to focus purely on fundamentals or to probe more deeply into subtopics of special interest. As a result, the casebook has been used successfully to teach survey courses of 3-6 credits as well as specialized courses on individual topics such as trademark or copyright law. Teachers will find our book thorough and detailed, while remaining remarkably “teachable”; and students will find the materials accessible, yet truly rich in learning.

We have been especially pleased at the increasing number of adoptions of our book since we published the first edition a few years ago. With each edition, we have endeavored to provide not only the most up-to-date materials, but to improve the selection and presentation of materials so that they will complement a variety of teaching styles and subject matter emphases. We hope the present edition, which we believe to be our best effort yet, will continue to find favor among our colleagues.

To stimulate critical thinking, we begin with a Prologue that invites students to reflect on the presuppositions they may bring to their study. We move on through an Introduction that sketches the broad outlines of the field in bold strokes. We turn next to unfair competition and trademarks -- the topics most deeply rooted in the common law -- then move on to publicity rights, the law of ideas, and trade secrets. From there we move into the most heavily statutory fields, patent and copyright law, with all of their extraordinary complexity. It is here that the book offers its most flexible coverage options, allowing teachers to choose greater depth of coverage by utilizing the exceptionally rich note materials.

Although we rely heavily on carefully chosen case law as our foundational teaching tool, we encourage students to question the reasoning and conclusions of those cases rather than respond to them with unquestioning acceptance. In addition, with respect to those areas of intellectual property law that are governed in whole or in part by federal statutes, the casebook also seeks to instill in students an appreciation for the primacy of the statutory materials. Many students who enroll in their first intellectual property course will have had limited exposure to statutory interpretation. This text will provide them with a transformative experi-

¹ A word about editing: Cases and materials in the text have been edited not only as required in the authors’ judgment but also to conform to the style approved by West Group. In particular, citations and footnotes are sometimes omitted without specific indication.

ence. Some of our note materials raise statutory interpretation questions that are not explored in the principal cases which the students have read; these questions require the students to engage in a close and thoughtful reading of the statutes themselves rather than rely on the exegesis provided by a published opinion.

This is a demanding casebook, but one which students and teachers tell us is both rewarding and enjoyable. Intellectual property is complex and fast-paced. It can be fascinating, metaphysical, and quite often fun. We hope this edition has captured our enthusiasm.

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