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THE LAW OF
INTELLECTUAL
PROPERTY

*Second
Edition*



Wolters Kluwer

Law & Business

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The Law of
**INTELLECTUAL
PROPERTY**

Second Edition

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The Law of
**INTELLECTUAL
PROPERTY**

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For Patricia, Victor, and Gabriel
CAN

For Melissa and Ray
DWB

For Susan, Kate, and David
MJM

PREFACE

Traditionally, intellectual property law has primarily comprised three substantive areas: trademarks, copyrights, and patents, while also including various state law doctrines such as trade secrets, rights of publicity, and rights in ideas. Although these individual areas of the law have always been important to our legal and commercial systems, recent economic and technological developments have increased the relevance, breadth, and complexity of these IP regimes. With these developments in mind, this book is designed to expose students to the intricacies of IP's specialized applications and theoretical perspectives in the context of fundamental principles. Accordingly, the second edition of *The Law of Intellectual Property* continues the mission of the first, concentrating on the traditional areas of IP (with new cases and Comments and some minor reorganization) and presenting them in a doctrinally straightforward and accessible way. We do not mean to suggest that there is no room in our book for intellectual property theory, policy, cutting edge technologies, and substantive issues related to cyberlaw and international aspects of IP. All are present, but they are integrated into principal cases, comments, and problems that focus on the fundamentals.

We believe, first, that preparation for advanced courses begins with a foundation that integrates an introduction of the novel applications into the traditional analytic structure and, second, that detailed analysis of those applications belongs in a specialized course. Thus, our book is designed for a survey course and for those who wish to acquire a broad-based understanding of the fundamentals of intellectual property. This structure also allows students with particular occupational or intellectual interests to use the foundation as a springboard to specialized courses in, for instance, patents, for the technically inclined; copyrights, for those interested in entertainment law or publishing; or trademarks, for those interested in corporate marketing strategies.

Our integrated approach also is illustrated by our incorporation of statutory material into the text. Each case or set of cases in our book is preceded by reference to applicable statutory provisions, tailored to the specific issues raised in the cases. Each set of

substantive law chapters is followed by the relevant statutes, eliminating the need for students to buy a separate statutory supplement and increasing the likelihood that students will read the relevant statutes. Each case is also preceded by a description of the issues to be discussed in the case. As a result of these two design characteristics, students know what rules apply and what they need to know to understand the cases. This structure allows the statutes and case to work together to great pedagogic advantage.

Three other design elements promote learning of the broad foundations of intellectual property law. The first is a series of perspective notes. These are short explorations of intriguing (1) policy perspectives that highlight the goals of the law and help the student understand why the law is the way it is; (2) comparative perspectives that illustrate alternative approaches taken by different countries to suggest different ways in which the balance between exclusive rights and public access may be struck; (3) historical perspectives that place a particular IP doctrine in historical context; and (4) counseling perspectives relating to items an IP attorney may want to consider in counseling clients on a particular issue. The second design element consists of comments following each case that discuss the issues raised in the case, place those issues in the larger context of intellectual property law, and elaborate on how the rules are applied in other contexts. Third, the book is replete with problems based on actual cases to which citation is provided. These problems are intended to test the application of rules to the issues presented in the principal cases. These elements are combined with cases selected and edited so as to be as accessible to students as possible. We have chosen cases with facts students can relate to and, we hope, will find interesting. While this has been a constant focus in our selection of cases in all substantive areas, nowhere is it more important than in the patent law chapters, where we carefully considered the ability of students to understand the innovations discussed in the cases.

The result is a book that is comprehensive and accessible to both students and teachers. It will be appealing to teachers and students who prefer a theory-based approach, a straightforward case method approach, a problem-based approach, or a combination thereof.

Craig Allen Nard
David W. Barnes
Michael J. Madison

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