

Joseph Scott Miller

Curriculum Vitae

Associate Professor
Lewis & Clark Law School
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Experience

Associate Professor, Lewis & Clark Law School, June 2002 – Present
Courses – Patent Law, I.P. Survey, Property, Interpretation

Visiting Assistant Professor, Northwestern University Law School, June 2001 – May 2002
Courses – Patent Law, Copyright Law

Attorney, Antitrust Div'n, U.S. Dep't of Justice, July 2000 – May 2001

Sidley & Austin (now Sidley Austin LLP)
Associate, Washington, DC, May 1999 – June 2000
Associate, Chicago, IL, Sept 1996 – May 1999

Law clerk, Judge Paul R. Michel, U.S. Court of Appeals for the Federal Circuit, Washington, DC, Aug 1994 – Aug 1996

Professional Associations

Member, Federal Circuit Advisory Council, January 2005 - Present
Appointed by Chief Judge Michel

Education

Northwestern University, Chicago, IL
Juris Doctor, *cum laude*, 1994
Articles Editor, *Northwestern University Law Review*

Northwestern University, Evanston, IL
Master of Science in Social Psychology, 1991

St. John's College, Annapolis, MD
Bachelor of Arts in Liberal Arts, 1989
Graduated first in the class

Publications & Presentations

Articles & Book Chapters

Level of Skill and Long-felt Need: Notes on a Forgotten Future, 12 LEWIS & CLARK L. REV. __ (forthcoming 2008)

Remixing Obviousness, 16 TEXAS INTELL. PROP. L.J. __ (forthcoming 2007)

Standard Setting, Patents, and Access Lock-In: RAND Licensing and the Theory of the Firm, 40 INDIANA L. REV. 351 (2007)

Patent Ships Sail an Antitrust Sea, 30 SEATTLE U. L. REV. 395 (2007)

Nonobviousness: Looking Back and Looking Ahead, in 2 INTELLECTUAL PROPERTY & INFORMATION WEALTH: ISSUES & PRACTICES IN THE DIGITAL AGE 1 (Peter Yu ed., 2007)

Foreword: Why Open Access to Scholarship Matters, 10 LEWIS & CLARK L. REV. 733 (2006)

The Proven Key: Roles and Rules for Dictionaries at the Patent Office and the Courts, 54 AMERICAN UNIVERSITY LAW REVIEW 829 (2005), with James Hilsenteger

Enhancing Patent Disclosure for Faithful Claim Construction, 9 LEWIS & CLARK LAW REVIEW 177 (2005)

Building a Better Bounty: Litigation-Stage Rewards for Defeating Patents, 19 BEREKELEY TECHNOLOGY LAW JOURNAL 667 (2004)

This Bitter Has Some Sweet: Potential Antitrust Enforcement Benefits from Patent Law's Procedural Rules, 70 ANTITRUST L.J. 875 (2003)

Allchin's Folly: Exploding Some Myths About Open Source Software, 20 CARDOZO ARTS & ENT. L.J. 491 (2002)

The Expert as Educator, in EXPERT WITNESSES IN CHILD ABUSE CASES (Ceci & Hembrooke eds., 1998), with Ronald J. Allen

Muddy Waters: Infringement Analysis After Markman and Warner-Jenkinson, 7 FED. CIR. B.J. 227 (1997), with Clyde Willian

The Expert as Educator: Enhancing the Rationality of Verdicts in Child Sex Abuse Prosecutions, 1 PSYCHOL., PUB. POL'Y, & L. 323 (1995), with Ronald J. Allen

The Common Law Theory of Experts: Deference or Education?, 87 NW. U. L. REV. 1131 (1993), with Ronald J. Allen

Shorter Works

IP Policy as Governance Structure: A Fresh Look at the RAND Promise, in THE STANDARDS EDGE: GOLDEN MEAN (2006)

Another Fall, Another Festo, OREGON INTELLECTUAL PROPERTY NEWSLETTER, Winter 2003, at 11.

The Historical Roots of Patent Prosecution Laches, OREGON INTELLECTUAL PROPERTY NEWSLETTER, Spring 2002, at 8.

Presentations & Testimony

Patent Power with Distributors and End-users, Oregon Patent Law Association Annual Meeting, Dec 19, 2007

What if Joe Meigs Had Written §103?, 13th Annual Business Law Forum, Lewis & Clark Law School: “Nonobviousness—The Shape of Things to Come,” Oct 5-6, 2007

Remixing Obviousness, 7th Annual Intellectual Property Scholars Conference, DePaul University College of Law, Aug 9, 2004

KSR & Microsoft: Two Recent Supreme Court Decisions, with John Vandenberg, Oregon State Bar Computer & Internet Law Section, May 24, 2007

KSR and the Shifting Patent Landscape, Center for Financial Research & Analysis, May 24, 2007 (national 50-minute conference call)

Panelist, *The Supreme Court’s Opinion in KSR Changes the Patent Landscape*, ALI-ABA National Teleseminar, May 10, 2007

Panelist, *The Supreme Court’s New Interest in Patent Cases and the Federal Circuit*, ALI-ABA National Teleseminar, Apr 25, 2007

What If Joe Meigs Had Written the Nonobviousness Statute?, 4th Annual IP & Communications Law Program Symposium: “What Ifs and Other Alternative IP & Cyberlaw Stories,” Michigan State University Law School, March 30, 2007

Putting the Law (Back) in Patent Law: Some Thoughts on the Supreme Court’s MedImmune Decision, Washington State Patent Law Association, Seattle, WA, March 21, 2007

Nonobviousness, Situationism, and the Banality of Invention, 7th Annual CIPLIT Symposium: “Patents & Progress: Reflections in the Midst of Change,” DePaul University Law School, March 16, 2007

Changing Patent Law, AeA Technology & IP Committee Meeting: “How the Changing Patent Landscape Will Affect Your Business,” Portland, OR, March 14, 2007

Nonobviousness, Situationism, and the Banality of Invention, Patent Law: Recent Developments & Proposals for Reform (co-sponsored by Berkeley Center for Law & Technology and High Tech Law Institute), Santa Clara Law School, Oct 27, 2006

Nonobviousness, Situationism, and the Banality of Invention, Boston IP Colloquium Series, Boston College Law School, Oct 16, 2006

Putting the Law (Back) in “Patent Law”: The Supreme Court’s October 2005 Term, Oregon Patent Law Association, Portland, OR, June 29, 2006

Panelist, *Willfulness After Knorr-Bremse*, Judicial Conference of the U.S. Court of Appeals for the Federal Circuit, Washington, DC, May 19, 2006

Panelist, *Creative Commons/Fair Use Considerations*, Third Pacific Northwest Arts & Entertainment Law Symposium (Washington State Bar Ass’n), Vancouver, WA, May 11, 2006

Panelist, *Patents & Competition: Are We Moving in the Right Direction?*, At the Intersection of Antitrust and Intellectual Property Law: Looking Both Ways to Avoid a Collision, Seattle University Law School, Apr 7, 2006

The Federal Circuit Year in Review 2005, Washington State Patent Law Association, Jan 18, 2006

Panelist, *Balancing Act: Managing Intellectual Property Rights in Standardization*, Standardization: Unifier or Divider? (cosponsored by UC Berkeley’s Center for Law & Technology, UW’s Shidler Center for Law, Commerce & Technology, Sun Microsystems, Microsoft), Dec 5-7, 2005

Standard Setting, Patents, and Access Lock-In: RAND Licensing and the Theory of the Firm, Pacific I.P. Scholars’ Roundtable, Oct 28, 2005

Standard Setting, Patents, and Access Lock-In: RAND Licensing and the Theory of the Firm, 33rd Annual TPRC Research Conference on Communication, Information, and Internet Policy, George Mason University Law School, Sept 23-25, 2005

Panelist, *Roundtable: Patent Analysis as a Part of Antitrust Enforcement*, The Berkeley Conference on Antitrust in the Technology Economy (co-sponsored by the ABA's Antitrust and I.P. Sections and Berkeley's Competition Policy Center), June 9-10, 2005

Renewing the Patent Document, Fall 2004 Intellectual Property Scholarship Seminar, University of California at Berkeley School of Law, Nov 18, 2004

The Proven Key: Roles & Rules for Dictionaries at the Patent Office and the Courts, 4th Annual Intellectual Property Scholars Conference, DePaul University College of Law, Aug 2, 2004

The Proven Key: Roles & Rules for Dictionaries at the Patent Office and the Courts, Spring 2004 Intellectual Property Workshop Series, Dinwoodey Center for Intellectual Property Studies, George Washington University Law School, March 25, 2004

Who Owns What? Structuring Title to Employee-Generated Intellectual Property, with Prof. Lydia Loren, Issues & Updates for the Oregon Business Lawyer, Oregon Law Institute CLE, March 5, 2004

Building a Better Bounty: Litigation-Stage Rewards for Defeating Patents, Pacific Intellectual Property Scholars' Roundtable, Oct 10, 2003

Building a Better Bounty: Litigation-Stage Rewards for Defeating Patents, 3rd Annual Intellectual Property Scholars Conference, University of California at Berkeley School of Law, Aug 8-9, 2003

Leaving the Chancellor's Shadow: A Reasonable Royalty Rule for Technical Standards Patents, Oregon State Bar I.P. Section, July 23, 2003

Patent Prosecution Client Conflicts, Practical Issues in Intellectual Property, Oregon State Bar I.P. Section, Apr 17, 2003

The Legal Opinion Behind Your Marketplace Statements About Patent Rights: Can Accused Infringers Compel Disclosure?, 5th Annual Lewis & Clark Law School I.P. Conference, Oregon Law Institute Seminar, Feb 5, 2003

Equivalent Infringement: Festo, J&J, and Beyond, Oregon Law Institute Seminar, Sept 20, 2002

This Bitter Has Some Sweet: Antitrust Enforcement Benefits from Patent Law's Procedural Rules, USDOJ / FTC Joint Hearings on Competition and I.P. Law and Policy in the Knowledge-Based Economy, May 14, 2002