

Henry J. Casey Professor of Law
Lewis & Clark Law School, 10015 S.W. Terwilliger Blvd, Portland, OR 97219
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ACADEMIC EMPLOYMENT

NORTHWESTERN SCHOOL OF LAW OF LEWIS & CLARK COLLEGE

Professor of Law, 2007 – present

Interim Dean, 2006 – 2007

Professor of Law, 2004-2006

Associate Professor of Law, 1998-2004

Assistant Professor of Law, 1996-1998

SUBJECTS: Intellectual Property, Copyright, Copyright in Advancing Technologies, International Intellectual Property, Cyberlaw, Art Law, Civil Procedure, Federal Courts, Property Law

SPECIAL ACKNOWLEDGEMENTS:

Appointed Associate Reporter, RESTATEMENT OF LAW, COPYRIGHT
November 2014

Elected to membership in the American Law Institute, 2014

Appointed the *Henry J. Casey Professor of Law*, June 2016

Appointed *Robert E. Jones Professor of Advocacy and Ethics* September
2013

Appointed *Kay Kitagawa and Andy Johnson-Laird IP Faculty Scholar*,
November 2010

Appointed *Jeffrey Bain Faculty Scholar*, May 2008

ADDITIONAL ACADEMIC EMPLOYMENT

Guest Professor, University of San Diego School of Law, Summer Abroad,
Florence, Italy 2006
Course: *International Intellectual Property*

Guest Professor, Sun Yat-Sen University School of Law /Whittier Law School
ZhuHai, China 2004
Course: *International Intellectual Property*

PREVIOUS EMPLOYMENT

Attorney, Bodman, Longley, & Dahling, Detroit, Michigan, 1993-1996
Judicial Law Clerk, Chambers of Honorable Ralph B. Guy, Jr., United
States Court of Appeals for the Sixth Circuit, 1992-1993

EDUCATION

Juris Doctorate, University of Michigan Law School, 1992
Magna Cum Laude
Order of the Coif; *Member* Michigan Law Review
Bachelor of Arts, University of Michigan, 1987,
with High Distinction

BOOKS AND BOOK CONTRIBUTIONS

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, (Ver. 7.0 Semaphore Press 2021) (*with* Joseph Scott Miller)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY (5th Ed. Aspen 2019) (*with* Julie Cohen, Ruth Okediji, and Maureen O'Rourke)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, (Ver. 6.0 Semaphore Press 2018) (*with* Joseph Scott Miller)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, (Ver. 5.0 Semaphore Press 2017) (*with* Joseph Scott Miller)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY (4th Ed. Aspen 2015) (*with* Julie Cohen, Ruth Okediji, and Maureen O'Rourke)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, (Ver. 4.0 Semaphore Press 2015) (*with* Joseph Scott Miller)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, (Ver. 3.0 Semaphore Press 2014) (*with* Joseph Scott Miller)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY (3d Ed. Aspen 2010) (*with* Julie Cohen, Ruth Okediji, and Maureen O'Rourke)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY: CASE AND STATUTORY SUPPLEMENT (Aspen, separate editions published in 2003, 2004, 2005, 2007, 2008, 2009, 2011, 2012, and 2013, 2014, 2016, 2017, 2018) (*with* Julie Cohen, Ruth Okediji, and Maureen O'Rourke)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY: STATUTORY SUPPLEMENT (Aspen) 2002, 2006, 2010, 2015 (*with* Julie Cohen, Ruth Okediji, and Maureen O'Rourke)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, Semaphore Press (Ver. 2.0 Semaphore Press 2010) (*with* Joseph Scott Miller)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, Semaphore Press
(2008) (*with* Joseph Scott Miller)

Understanding the Complexities of Music Copyrights in the United States,
in 1 INTELLECTUAL PROPERTY AND INFORMATION WEALTH, VOLUME 1 (Peter
Yu, ed.), Praeger Publishing (2007)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY (2d Ed. Aspen 2006) (*with*
Julie Cohen, Ruth Okediji, and Maureen O'Rourke)

COPYRIGHT IN A GLOBAL INFORMATION ECONOMY (Aspen 2002) (*with* Julie
Cohen, Ruth Okediji, and Maureen O'Rourke)

Injunctions, in MICHIGAN CAUSES OF ACTION FORMBOOK, 67-1 (The Institute
of Continuing Legal Education 1996) (*with* Stephen K. Postema)

LAW REVIEW ARTICLES

Copyright Jumps the Shark: The Music Modernization Act, 99 BOSTON
UNIV. L. REV. 2519 (2019)

Selected for inclusion in ENTERTAINMENT, PUBLISHING AND THE ARTS
HANDBOOK (2020) (West Publishing).

Selected for inclusion in LINDEY ON ENTERTAINMENT, PUBLISHING,
AND THE ARTS: AGREEMENTS AND THE LAW (2021)

*Proving Infringement: Burdens of Proof in Copyright Infringement
Litigation*, 23 LEWIS & CLARK L. REV. 621 (2019) (*with* R. Anthony Reese)

Law, Visual Art, and Money, 22 LEWIS & CLARK L. REV. 1335 (2018)

Fixation as Notice in Copyright Law, 96 BOSTON UNIV. L. REV. 939 (2016)

Fair Use: An Affirmative Defense? 90 WASHINGTON LAW REV. 685 (2015)

Selected for inclusion in DEFENSE LAW JOURNAL Vol. 65 No. 3 (2016)
(Lexis/Nexis Publishing)

The Idea of the Casebook: Pedagogy, Prestige, and Trusty Platforms,
WASHINGTON JOURNAL OF LAW, TECHNOLOGY AND THE ARTS VOL. 12 (2015)
(*with* Joseph Scott Miller)

The Dual Narratives in the Landscape of Music Copyright, 52 HOUSTON L.
REV. 537 (2014)

*The Viability of the \$30 Casebook: Intellectual Property, Voluntary
Payment, Open Distribution, and Author Incentives*, 21 JOURNAL OF
INTELLECTUAL PROPERTY LAW 71 (2014)

Abandoning the Orphans: An Open Access Approach to Hostage Works, 27 BERKELEY TECH. L. J. 1431 (2012)

Computer Software-Related Litigation: Discovery and The Overly-Protective Order (co-authored with Andy Johnson-Laird), 6 FEDERAL COURTS L. REV. 1 (2012)

The Bridge and Playful Thunder of Keith Aoki, 91 OREGON L. REV. (2012)

Deterring Abuse of the Copyright Takedown Regime by Taking Misrepresentation Claims Seriously, 46 WAKE FOREST L. REV. 745 (2011)

Renegotiating the Copyright Deal in the Shadow of the “Inalienable” Right to Terminate, 62 FLORIDA L. REV. 1329 (2010)

The Evolving Role of “For Profit” Use in Copyright Law: Lessons from the 1909 Act, 26 SANTA CLARA COMP. & HIGH TECH. L. 255 (2010)

Selected for inclusion in COPYRIGHT LAW VOLUME II: APPLICATION TO CREATIVE INDUSTRIES IN THE 20TH CENTURY (2011) (Brian Fitzgerald and Benedict Atkinson Eds.), published in the Ashgate Library of Essays on Copyright Law

The Pope’s Copyright? Aligning Incentives with Reality by Using Creative Motivation to Shape Copyright Protection, 69 LA. L. REV. 1 (2008)

Selected for inclusion in COPYRIGHT LAW ANTHOLOGY 2009-2010 (Dean Rod Smolla, Ed.)

Building a Reliable Semicommons of Creative Works: Enforcement of Creative Commons Licenses and Limited Abandonment of Copyright, 14 GEORGE MASON L. REV. 271 (2007)

Slaying the Leather-Winged Demons in the Night: Copyright Misuse as a Tool for Reforming Copyright Owner Contracting Behavior, 30 OHIO N.U.L. REV. 495 (2004)

Untangling the Web of Music Copyrights, 53 CASE WESTERN RESERVE LAW REVIEW 673 (2003)

Technological Protections in Copyright Law – Is More Legal Protection Needed? in INTERNATIONAL REVIEW OF LAW, COMPUTERS AND TECHNOLOGY (Kenneth V. Russell Ed.) (2002)

The Changing Nature of Derivative Works in the Face of New Technologies, 4 JOURNAL OF SMALL AND EMERGING BUSINESS LAW 57 (2000)

Digitization, Commodification, Criminalization: The Evolution of Criminal Copyright Infringement and the Importance of the Willfulness Requirement, 77 WASHINGTON UNIVERSITY LAW QUARTERLY 835 (1999)

Paying the Piper, 3 JOURNAL OF SMALL AND EMERGING BUSINESS LAW 231 (1999)

Redefining the Market Failure Approach to Fair Use in an Era of Copyright Permission Systems, 5 JOURNAL OF INTELLECTUAL PROPERTY LAW 1 (1997)

OTHER PUBLICATIONS

What Did I Just Buy? Issues in Science and Technology Winter 2018 p. 91 (reviewing Aaron Perzanowski and Jason Schultz, *THE END OF OWNERSHIP: PERSONAL PROPERTY IN THE DIGITAL ECONOMY* (2017))

Contractually Prohibiting Bad Reviews? Copyright Misuse to the Rescue, Maybe, OREGON INTELLECTUAL PROPERTY NEWSLETTER, Vol. 4 No. 2 (2003)

Copyright Year in Review 2002, Published on CD-ROM by American Intellectual Property Lawyers Association (2002)

The Complicated World of Music Copyrights and Webcasting, OREGON INTELLECTUAL PROPERTY NEWSLETTER, Vol. 2 No. 2 (2001)

Labeling for Generic: No Infringement, NATIONAL LAW JOURNAL, May 22, 2000 (with Dr. Lawrence Sung)

Safe Harbors From the Stormy Seas of Copyright Infringement Litigation, OREGON INTELLECTUAL PROPERTY NEWSLETTER, Vol.1 No. 1 (2000)

Collaborative Web-based Course Materials: Bypassing Publishers and Benefitting Students, in LESSONS FROM THE WEB (Jurist Nov. 1999)

Regulation in Cyberspace: A Case Study in SPAM, in LEARNING CYBERLAW IN CYBERSPACE (Aug. 1999)

The Purpose of Copyright, OPEN SPACES (Feb. 1999)

Trademark Basics (1998), Multimedia Lesson distributed by CALI (Winner of the 1997-98 Trautman CALI Lesson Writing Competition)

State Licensing of Out-of-State Wholesale Distributors: An Undue Burden on Interstate Commerce, FOOD, DRUG, COSMETIC, AND MEDICAL DEVICE LAW DIGEST (January 1995) (with Thomas A. Roach)

SELECTED LECTURES AND PRESENTATIONS

Lay Listeners, Sheet Music, & Chord Progressions: The Future of Copyright Infringement Analysis in Music, University of Colorado Law School, March 2020 (panel participant)

What's Up with Music Copyrights? Oregon State Bar Intellectual Property Section Luncheon, Portland, Oregon Nov., 2019

Simple Questions and the Complicated Answers of the Music Modernization Act, Internet Law Scholars Works in Progress, Santa Clara University Law School March 2019

Art and the Law, Lewis & Clark Law School Reunion, Portland Oregon, June 2018

Art and the Law, University Club, Portland Oregon, June 2018

Law, Visual Art, and Money, Chicago-Kent and Loyola Intellectual Property Colloquium, Chicago, February 2018

Law, Money, and Art, Lewis & Clark Law School, Henry J. Casey Endowed Chair Installation Lecture, Portland, Oregon November 2017

Beware of the Art: Property Owner Obligations Under the Visual Artists Rights Act, Oregon State Bar, Real Estate Law Section Luncheon, Portland, Oregon November 2017

The ALI Restatement of Copyright Law – How is it Being Made, Oregon State Bar, IP Section Luncheon, Portland, Oregon September 2017

Destruction, Mutilation, and Attribution: Works of Visual Art and Federal Law, Oregon State Bar, IP Section Luncheon, Portland, Oregon, May 2016

Fixation as Notice in Copyright Law, Notice and Notice Failure in Intellectual Property Law, Boston University School of Law, September, 2015

Fair Use: An Affirmative Defense? Campbell at 21, University of Washington, February 2015

Moral Rights and the Visual Artist (co-presentation with Jim Pallas), Oregon Volunteer Lawyers for the Arts, Portland, Oregon, August 2014

The New Age of New Media Music Licensing, Leveraging Creativity: Arts, Entrepreneurship, and Intellectual Property Law, Indiana University Maurer School of Law, May, 2014

The Shifting Landscape of Music Licensing, ReCalibrating Copyright: Continuity, Contemporary Culture, and Change, University of Houston, May, 2014

Copyright Litigation Reform Through the Plausibility Standard for Pleadings, Works-in-Progress in Intellectual Property, Santa Clara University Law School, February 2014

Altai@21, (roundtable participant) University of California, Berkeley Law School, November 2014

Exhausted by Exhaustion, Oregon State Bar Intellectual Property Section, Portland, Oregon August 2014

Tools Against Trolls (the Patent and Copyright Kind), Navigating the Pitfalls of an Online Business Presence—What Your Clients Need to Know, Portland, Oregon September, 2014

The Viability of the \$30 (or less) Casebook, Intellectual Property in the Snow, Whistler, B.C., April 2013

Open Access Publishing: Your Content, Your Copyright –Use Them Wisely, Lewis and Clark College, April, 2013

The Viability of the \$30 Casebook, Internet Law Scholars Works-in-Progress Conference, Santa Clara University Law School, March 2013

Teaching with Technology, Intellectual Property/Internet and Computer Law Sections AALS Mid-year meeting, San Francisco June, 2012

Alternative Models of Creating and Distributing Educational Materials: Any Role for Copyright Limitations and Exceptions?, The International Copyright System and Access To Education: Challenges, New Access Models and Prospects for New Principles, Max Planck Institute For Intellectual Property and Competition Law, Munich, Germany, May, 2012

Abandoning the Orphans: An Open Access Approach to Hostage Works, Orphan Works & mass Digitization: Obstacles and Opportunities, Univ. California at Berkeley, April, 2012

Orphan Works and Open Access, Works-in-Progress in Intellectual Property, University of Houston, Texas, February 2012

The Future of Higher Education: Myth vs. Reality, panelist, Lewis & Clark College, Portland, Oregon April 2011

Curbing Copyright Owner Abuse of Internet Takedown Notices, University of Oregon Faculty Colloquium, Eugene, Oregon, April 2011

Copyright Principles – Law Reform Project, Conference: 300 Years of Copyright— From the Statute of Anne to Digital Copyright 2010, East China University of Political Science and Law, Shanghai, China November, 2010

Copyright Notice & Takedowns, Conference: Online Smear and Infringement Campaigns: Detecting, Responding, and Brand Protection, Oregon State Bar, Portland, Oregon September, 2010

Digital Distribution: Batteries Not Included, Conference: 36th Annual Intellectual Property Law Summer Institute, Mackinack Island, Michigan July 2010

The Brewing Storm on the Horizon: Terminations of Transfers Under the Copyright Act, The Scholarly Symposia Series, Current Issues in Intellectual Property Law, University of Dayton School of Law, March, 2010

Limiting the Exclusive Rights of Copyright Owners: The 1909 Act's example of Public Performance For Profit, Conference on the 100th Anniversary of the 1909 Copyright Act” hosted jointly by University of California Berkeley School of Law and Santa Clara University School of Law, April, 2009

2008 Update: International Copyright & Trademark Law, conference: Technology Law, Law Seminars International, Seattle, Washington December, 2008

Ten Years Under the Digital Millennium Copyright Act, Conference: The Continuing Evolution of Computer and Internet Law, Oregon State Bar, Portland, Oregon, September, 2008

The Pope's Copyright? Hoiser Distinguished Intellectual Property Visitor, DePaul University School of Law, January 2008

Remedies Revolution, Symposium: The Future of Copyright, University of South Carolina College of Law, October, 2007

Terms of Use and Liabilities for User Generated Content, Computer and Internet Law: Changes and Challenges to an Evolving Practice, Oregon State Bar, Portland, Oregon September, 2007

Aligning Incentives with Reality: Using Motivation for Creation to Shape the Scope of Copyright Protection, Seventh Annual Intellectual Property Scholars Conference, DePaul Law School, August, 2007

Factoring in Motivation for Creation to Shape the Scope of Copyright Protection, University of Michigan Intellectual Property Symposium Series, January 2007

Creative Commons: Licenses, Abandonments and a Semicommons of Creative Works, 33rd annual Research Conference on Communication, Information and Internet policy, George Mason University School of Law, September, 2005

The Past, Present, and Future of Intellectual Property Licensing, Oregon State Bar conference, Portland, Oregon, October, 2005

The Role of Collective Rights Organizations in the Information Age, W(h)ither the Middleman: The Role and Future of Intermediaries in the Information Age, Michigan State University, April 2005.

Protecting Privacy on the Internet: Part I Federal Causes of Action, Computer and Internet Law Section, Oregon State Bar, January 2005

Intellectual Property and the WTO, ZhuHai, China, June 2004

Making Copyright Law Work for You, Visual Resource Association Annual Meeting, March, 2004

Who Owns What? Structuring Title to Employee-Generated Intellectual Property, Lewis & Clark Business Law Institute, Portland, Oregon, March, 2004

Slaying the Leather-Winged Demons in the Night: The Copyright Misuse Doctrine as the Appropriate Response to Overreaching Licensing Agreements in the Digital Age, Dean's Lecture Series, Ohio Northern University College of Law, Ada, Ohio, February, 2004

Balancing Anonymity and Responsibility in Cyberspace when Speech and Property Collide, Pacific Intellectual Property Scholars (PIPS) Roundtable, Newport, Oregon, October 2003

Copyright in the Digital World, Intellectual Property Today, Oregon State Bar conference, Portland, Oregon, March, 2003

Copyright and Common Law, Models of Regulation for the New Economy, University of Colorado, Boulder, Colorado, February 2003 (commentator)

Market Failure in the Music Industry, Faculty Colloquium, University of Colorado, Boulder, Colorado, January 2003

Untangling the Web of Music Copyrights, Copyright in the Digital Age: Reflections on Tasini and Beyond. Case Western Reserve University School of Law, Cleveland, Ohio, November 2002

Identifying Common Trends, Rights and Responsibilities over Genetic Resources: The Role of the Public Domain in Producing International Public Goods, Lewis & Clark Law School, Portland, Oregon, November, 2002

Copyright Year in Review, American Intellectual Property Lawyers Association Annual Meeting, Washington, D.C. October 2002.

The Tangled Web of Music Copyrights, Annual Computer Law Conference, Oregon State Bar, October 2002

Deciding ICANN Domain Name Dispute Resolution: Questioning Delegation, Fairness, and Consent, Seventh Annual Business Law Forum, Lewis and Clark Law School, October 2001 (moderator)

Copyright and the First Amendment, Oregon State Bar Annual Convention, Seaside, Oregon September, 2001

Domain Names and Trademarks, A Dangerous Brew, Oregon Women Lawyers, Annual Conference, Portland, Oregon, May 2001

A Path of Less Progress? International Intellectual Property Protection in the Technological Age, Corporate Counsel Section and International Law Section of Oregon State Bar, Portland, Oregon, May 2001

Technological Protections in Copyright Law – Is More Legal Protection Needed? British and Irish Law, Education and Technology Association (BILETA), Sixteenth Annual Conference, University of Edinburgh, Scotland, April 2001

Copyright and Trademark Basics for the Cyberlawyer, Cyberlawyering Phi Delta Phi Conference, Portland, Oregon, March 2001

Domain Name Litigation and Arbitration, Fourth Annual Intellectual Property Conference, Portland Oregon, February 2001

Anonymity, Intellectual Property and the Internet, Arizona State University College of Law, Faculty Seminar, January 2001

Convergence in the Digital Delivery of Audio and Video, Commerce in the Digital Age, Portland Oregon, November 2000.

Recreating the Line Through Technology, Rethinking the Line: The Canada-U.S. Border, Vancouver, British Columbia, October, 2000

Commencing Infringement Litigation in Cyberspace and Leaving the Constitution Behind, Constitutional Law Conference, Portland, Oregon September, 2000

Using Technology in Teaching, AALS New Law Teachers Conference, Washington D.C., July, 2000

U.S. Copyright Law on a World Stage, Computer and Internet Law Meeting, Portland, Oregon, March, 2000

The New Age of Cybersquatting, Portland, Oregon, March, 2000

Who Controls Data in the 21st Century? AALS Annual Meeting, Washington D.C., January, 2000 (moderator)

Congressional Responses to Technological Challenges in Copyright Law, Annual Computer Law Conference, Oregon State Bar, Portland Oregon, November, 1999.

The Changing Nature of Derivative Works in the Face of New Technologies, Business Law Forum: Intellectual Property in the New Millennium -- Keeping Pace With Change, Lewis and Clark Law School, October, 1999.

Copyright in Cyberspace, Annual CALI conference, July, 1999.

Copyright Law in the Digital Age, Lewis and Clark Alumni Day, April, 1999.

What the Future Holds, Lawyering in the Electronic Age, Oregon Women's Lawyers Association, September, 1998

The Purpose of Copyright, Lewis and Clark Board of Trustees, May, 1998

LEWIS & CLARK LAW SCHOOL COMMITTEE SERVICE

Admissions Strategy Committee, *Co-Chair* 2012-2013

Budget Committee, *Chair* 2019-2020, 2018-2019, 2017-2018, 2015-2016, 2014-2015, 2008-2009, 2007-2008, 2005-2006, 2004-2005 and 2003-2004 academic years, *Member* 1997-1998, 1998-1999, 2009-2011, 2013-2014 academic years

Clinic Committee, *Member* 2012-2013

Lewis & Clark College of Arts and Sciences, Dean Search Committee, *Member* 2010-2011

Faculty Recruiting, *Co-Chair* 2011-2012; *Chair* 2001-2002, *Member* 1999-2001

Judicial Clerkship Committee, *Chair* 2007-2009, *Member* 2009-2011

Faculty Scholarship Committee, *Member* 2004-2005, 2003-2004

Business Law Committee, *Member* 1999-present

Faculty Representative to Board of Trustees, 2007-2008

Lewis & Clark College Vice President and CFO search committee, *Member* 2005

Lewis & Clark College Planning Task Force, *Member* 2005-2006

NATIONAL AND STATE ORGANIZATION APPOINTMENTS

Associate Reporter, RESTATEMENT OF LAW, COPYRIGHT, American Law Institute, November 2014-Present

President, Oregon Volunteer Lawyers for the Arts, June 2013-present

Chair, Association of American Law Schools (AALS) Internet and Computer Law Section, Jan. 2011 – Jan. 2012

Project Participant, Copyright Principles Project, Berkeley Center for Law and Technology, 2007-2010

Editorial Board, JOURNAL OF THE COPYRIGHT SOCIETY OF THE UNITED STATES, 2009- present

Board Member, ECourts Task Force, Oregon State Bar, 2008 – 2017

Board Member, Citizens Crime Commission – Portland Oregon, 2006 – 2008

Board Member, Association of American Law Schools (AALS), Law and Computers Section, 2005

Executive Committee Member, Computer & Internet Law Section, Oregon State Bar, 2003-2009

Executive Committee Member, Intellectual Property Section, Oregon State Bar, 1999-2003, 2011-2013