

# Joseph Scott Miller

## Curriculum Vitae

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Lewis & Clark Law School  
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Portland, OR 97219  
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SSRN – <http://ssrn.com/author=104702>

## Experience

Professor, Lewis & Clark Law School, June 2002 – Present

*Current Courses* – Patent Law, I.P. Survey, Con Law I (Spring 2011)

*Seminars* – IP Theory, IP Law & Economics

*Future Course* – Administrative Law

*Past Courses* – Property, Copyright, Trademark

Member, Federal Circuit Advisory Council, Jan 2005 – Oct 2010

(Appointed by Chief Judge Paul R. Michel)

Visiting Assoc. Prof., University of Georgia Law School, Aug 2008 – May 2009

Visiting Ass't Professor, Northwestern U. Law School, June 2001 – May 2002

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

Associate, Sidley & Austin

Chicago & DC, Sept 1996 – June 2000

Law Clerk, Judge Paul R. Michel, U.S. Court of Appeals for the Federal Circuit,

Washington, DC, Aug 1994 – Aug 1996

## Education

Northwestern University, Chicago, IL

Juris Doctor, *cum laude*, 1994; Articles Ed., NW. U. 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, Books, and Chapters*

*Joint Defense or Research Joint Venture? Reassessing the Patent-Challenge-Bloc's  
Antitrust Status*, 2011 STANFORD TECH. L. REV. \_\_

*Substance, Procedure, and the Divided Patent Power*, 63 ADMIN. L. REV. \_\_ (2011)

INTELLECTUAL PROPERTY LAW: CASES & MATERIALS (2d ed. 2010), with Lydia Loren

PATENTS (2010) (collection of patent law reprints with an original introduction; part of E Elgar Publishing's *Critical Concepts in Intellectual Property Law* series)

*Hoisting Originality*, 31 CARDOZO L. REV. 451 (2009)

*Level of Skill and Long-felt Need: Notes on a Forgotten Future*, 12 LEWIS & CLARK L. REV. 579 (2008)

*Remixing Obviousness*, 16 TEXAS INTELL. PROP. L.J. 237 (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 AM. U. L. REV. 829 (2005), with James Hilsenteger

*Enhancing Patent Disclosure for Faithful Claim Construction*, 9 LEWIS & CLARK L. REV. 177 (2005)

*Building a Better Bounty: Litigation-Stage Rewards for Defeating Patents*, 19 BERKELEY TECH. L.J. 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

## *Recent Presentations & Testimony*

*Substance, Procedure, and the Divided Patent Power*, Fall 2009 Intellectual Property Workshop Series, Dinwoodey Center for Intellectual Property Studies, George Washington University Law School, Nov 5, 2009

*Patent Office Power: Tafas v. Doll and Next Steps*, Washington State Patent Law Association and Oregon Patent Law Association Annual Joint Meeting, Apr 25, 2009

*Hoisting Originality*, University of Richmond Law School, Intellectual Property Institute's Inaugural Virtual Workshop, Apr 6-14, 2009

*Hoisting Originality*, University of Georgia Law Colloquium, March 30, 2009

*Hoisting Originality*, Chicago Intellectual Property Colloquium, Jan 27, 2009

*Licensing Consequences of MedImmune*, FTC Hearing: The Evolving IP Marketplace, Dec 5, 2008

*Hoisting Originality*, Works in Progress I.P. Conference, Tulane Law School, Oct 3, 2008

*KSR – Nonobviousness, a Year Later*, Utah State Bar I.P. Section, March 14, 2008

*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, 2007

*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

## **Law School Service**

### *Faculty Advisor*

OutLaw - Affinity group for LGBT law students and issues  
IPSO - Affinity group for i.p. law students and issues  
*Lewis & Clark Law Review*

### *Committees*

Colloquium  
Chair, 2009-2011  
Appointments  
Chair, 2007-08  
Member, 2003-04, 2005-06  
Dean Search  
Member, 2006-07  
Budget  
Member, 2004-05