

Bibliography

- Abrams, Floyd. *The Soul of the First Amendment*. New Haven: Yale University Press, 2017.
- Abramson, Jeffrey. "Full Court Press: Drawing in Media Defenses for Libel and Privacy Cases." *Oregon Law Review* 96 (2017): 19–55.
- ACLU. "ACLU of Maine Sues LePage Over Facebook Censorship." Aug. 8, 2017. <https://www.aclu.org/news/aclu-maine-sues-lepage-over-facebook-censorship>.
- Allen, Adeline A. "Twibel Retweeted: Twitter Libel and the Single Publication Rules." *Journal of High Technology Law* 15 (2014): 63–96.
- Amira, Dan. "The Two Sides of Accused Model-Skank Liskula Cohen." *Intelligencer*, Aug. 21, 2009. https://nymag.com/intelligencer/2009/08/the_two_sides_of_accused_model.html.
- Apple Newsroom. "Apple Inc. and The Beatles' Apple Corps Ltd. Enter into New Agreement." February 5, 2007. <http://www.apple.com/pr/library/2007/02/05apple.html>.
- Beerline, Jennifer Files. "Note: Anti-Dilution Law, New and Improved: The Trademark Dilution Revision Act of 2006." *Berkley Technology Law Journal* 23 (2008): 511–35.
- Brassill, Gillian R., Giulia McDonnell Nieto del Rio, Billy Witz, and David Waldstein. "In Campaign Against Racism, Team Names Get New Scrutiny." *New York Times* (July 12, 2020). <https://www.nytimes.com/2020/07/10/sports/football/washington-redskins-name-change-mascots.html>.
- Brenner, Lee S. and Allison S. Rohrer. "The De Minimis Doctrine: How Much Copying is Too Much?" *Communication Lawyer*, 24 (2006): 9–13.
- Bunker, Matthew D. "Mired in Confusion: Nominative Fair Use in Trademark Law and Freedom of Expression." *Communication Law & Policy* 20 (spring 2015): 191–212.
- Business Wire. "PRSA 'Devastated' that Supreme Court Fails to Clarify 'Free Speech' in Nike Case." June 26, 2003. <https://www.businesswire.com/news/home/20030626005840/en/PRSA-Devastated-Supreme-Court-Fails-Clarify-Free>.

- Calvert, Clay. "Media Mea Culpas and Journalistic Transparency: When News Outlets Publicly Investigate Their Reportage." Paper presented at the annual conference for the Association of Education in Journalism and Mass Communication, Toronto, Canada, August 7–10, 2019.
- Carlisle, Stephen. "DMCA 'Takedown' Notices: Why 'Takedown' should Become 'Take Down and Stay Down' and Why It's good for Everyone." *NOVA Southeastern University*, July 23, 2014. <http://copyright.nova.edu/dmca-takedown-notice/>.
- CBS News. "Stalked." *48 Hours*. February 25, 2017. <https://www.cbsnews.com/news/stalked-48-hours-investigates-pauley-perrette-fights-to-change-stalking-laws/>.
- Chokshi, Niraj. "Chris Farley's Family Settles With Bike Maker Over 'Fat Guy' Brand." *New York Times*, June 7, 2018. <https://www.nytimes.com/2018/06/07/arts/chris-farley-wisconsin-bicycle-fat-guy.html?action=click&module=In%20Other%20News&pgtype=Homepage&action=click&module=Latest&pgtype=Homepage&login=email&auth=login-email>.
- Chow, Kimberly. "The Clash of Law and Ethics." *The News Media & the Law*, Spring 2015. https://www.rcfp.org/wp-content/uploads/2019/01/Spring_2015.pd.
- Chung, Andrew. "F-words and T-shirts: U.S. Supreme Court weighs foul language trademarks." *Reuters* (Apr. 12, 2019). <https://www.reuters.com/article/us-usa-court-profanity-idUSKCN1RO18W>.
- Coca-Cola Company. "The History of the Coca-Cola Contour Bottle." <https://www.coca-colacompany.com/stories/the-story-of-the-coca-cola-bottle>.
- Coronel, Sheila, Steve Coll and Derek Kravitz. "How Columbia Journalism School conducted this investigation." *Columbia Journalism Review*, April 5, 2015. https://www.cjr.org/investigation/columbia_journalism_school_rolling_stone.php.
- Coronel, Sheila, Steve Coll and Derek Kravitz. "Rolling Stone and UVA: The Columbia Graduate School of Journalism: An anatomy of a journalistic failure." *Rolling Stone*, April 5, 2015. <https://www.rollingstone.com/culture/culture-news/rolling-stone-and-uva-the-columbia-university-graduate-school-of-journalism-report-44930/>
- Denniston, Lyle. "Useful or creative: A look at design protection." *SCOTUSblog*, May 2, 2016. <http://www.scotusblog.com/2016/05/useful-or-creative-a-look-at-design-protection/>.
- Dogan, Stacey L. "Haelan Laboratories v. Topps Chewing Gum: Publicity as a Legal Right." In *Intellectual Property at the Edge: The Contested Contours of IP*, edited by Rochelle C. Dreyfuss and Jane C. Ginsburg, 17-38. Cambridge University Press, 2014.
- Dogan, Stacey. "Stirring the Pot: A Response to Rothman's Right of Publicity." *Columbia Journal of Law and the Arts* 42 (2019): 321–29.
- Dongre, Neal S. "The Right to Control the Use of Your Image and Likeness." *Gorman & Williams*, Nov. 22, 2010. <https://www.gw-law.com/blog/news-publications>.
- Dresser, Michael. "Maryland, ACLU settle lawsuit over deleted comments on Gov. Hogan's Facebook page." *Baltimore Sun*, Apr. 2, 2018. <http://www.baltimoresun.com/news/maryland/politics/bs-md-aclu-hogan-facebook-20180402-story.html>.
- Duff, Anderson. "4 Common Reasons for a Trademark Registration Refusal." *Revision Legal*, June 22, 2017. <https://revisionlegal.com/ip/trademark-registration-refusal/>.

- Eisner, Hal. "People online twist the real story behind photo of woman yelling at boy." *Fox 11*, June 29, 2018. <https://www.foxla.com/news/people-online-twist-the-real-story-behind-photo-of-woman-yelling-at-boy>.
- Findlaw. "Protection of Fictional Characters." July 3, 2017. <https://corporate.findlaw.com/intellectual-property/protection-of-fictional-characters.html>.
- Finkelstein, Mark A., and Michell Stover. "Recent U.S. Case Law Rejects Requirement That Marks Must Be 'Identical' or 'Substantially Similar.'" *INTA Bulletin*, September 1, 2012. <https://www.inta.org/INTABulletin/Pages/TrademarkDilutionRecentUSCaseLawRejectsRequirementThatMarksMustBe%E2%80%9CIdentical%E2%80%9CDor%E2%80%9CSubstantiallySimilar%E2%80%9D.aspx>.
- Godoy-Dalmau, Gabriel, "Substantial Similarity: Kolus Got it Right," *Michigan Business & Entrepreneurial Law Review* 6 (2017): 241–42.
- Grant, Daniel. "Free Speech vs. Infringement in Suit on Alabama Artwork." *New York Times*, January 30, 2012. <https://www.nytimes.com/2012/01/31/sports/ncaafootball/artist-still-fighting-alabama-over-football-paintings.html>.
- Gurfinkel, David M. "The U.S. Trademark Registers: Supplemental vs. Principal." *The International Trademark Association Bulletin*, May 1, 2012. <http://www.inta.org/INTABulletin/Pages/TheUSTrademarkRegistersSupplementalvsPrincipal.aspx>.
- Gurnani, Abhishek K. and Ashish R. Talati. "The World's Most Trusted Article on Puffery: Non-Actionable Puffery or Misleading?" *Update*, November/December 2008. https://amintalati.com/wp-content/uploads/2016/09/2012_aba_panel3_the_worlds_most_trusted-authcheckdam.pdf.
- Haag, Matthew. "Rolling Stone Settles Lawsuit Over Debunked Campus Rape Article." *New York Times*, April 11, 2017. <https://www.nytimes.com/2017/04/11/business/media/rolling-stone-university-virginia-rape-story-settlement.html>.
- Heath, Edward J., and John M. Tanski. "Drawing the Line Between Descriptive and Suggestive Trademarks." *Commercial & Business Litigation* 12 (Fall 2010). <http://www.rc.com/upload/ARTICLE-Drawing-the-Line-Between-Descriptive-and-Suggestive-Trademarks-Heath-Fall-2010.pdf>.
- Hechinger, John. "Team-Color Bud Cans Leave Colleges Flat." *Wall Street Journal*, August 21, 2009. <https://www.wsj.com/articles/SB125081310939148053>.
- Herrman, John, and Charlie Savage. "Trump's Blocking of Twitter Users Is Unconstitutional, Judge Says." *New York Times*, May 23, 2018. <https://www.nytimes.com/2018/05/23/business/media/trump-twitter-block.html>.
- Inesi, Andrew. "A Theory of De Minimis and a Proposal for Its Application in Copyright." *Berkeley Technology Law Journal* 21 (2006): 945–95.
- International Trademark Association. "A Guide to Proper Trademark Use." 2012. http://inta.org/Media/Documents/2012_TMUseMediaInternetPublishing.pdf.
- Jacobs-Meadway, Roberta. "Providing Fame for Trademark Dilution Claims." *Lexis Practice Adviser Journal*, August 25, 2019. <https://www.lexisnexis.com/lexis-practice-advisor/the-journal/b/lpa/posts/proving-fame-for-trademark-dilution-claims>.
- Johnson, Eric E. "Disentangling the Right of Publicity." *Northwestern University Law Review* 111 (2017): 891–943.

- Kluft, David. "A Copyright Fable: Debunking The 'Seven-Second Rule.'" *Foley Hoag, LLP*, August 30, 2017. <http://www.trademarkandcopyrightlawblog.com/2017/08/a-copyright-fable-debunking-the-seven-second-rule/>.
- Leighton, Richard J. "Materiality and Puffing in Lanham Act False Advertising Cases: The Proofs, Presumptions, and Pretext." *Trademark Reporter* 94 (2004): 585–633.
- Lemley, Mark A. "The Modern Lanham Act and the Death of Common Sense." *Yale Law Journal* 108 (1999): 1687–1715.
- Lemley, Mark A., and Mark McKenna. "Irrelevant Confusion." *Stanford Law Review* 62 (2010): 413–54.
- Leval, Pierre N. "Nimmer Lecture: Fair Use Rescued." *UCLA Law Review* 44 (1997): 1449–65.
- Leval, Pierre N. "Toward a Fair Use Standard." *Harvard Law Review* 103 (1990): 1105–36.
- Lewis, Anthony. *Make No Law*. New York: Random House, 1991.
- Lindig, Sarah. "How to Get a Hermès Birkin Bag: It's not as easy as dropping \$20,000." *Harper's Bazaar*, August 26, 2018. <https://www.harpersbazaar.com.au/fashion/how-to-get-an-hermes-birkin-bag-3326>.
- Lippman, Katherine. "The Beginning of the End: Preliminary Results of an Empirical Study of Copyright Substantial Similarity Opinions in the U.S. Circuit Courts." *Michigan State Law Review* (2013): 513–65.
- Mann, Ronald. "Justices worry about 'killing knockoffs with copyright.'" *SCOTUSblog*, November 1, 2016. <http://www.scotusblog.com/2016/11/argument-analysis-justices-worry-about-killing-knockoffs-with-copyright/>.
- McCraw, David E. *Truth in Our Times: Inside the Fight for Press Freedom in the Age of Alternative Facts*. New York: All Point Books, 2019.
- Melvin, Sean. "Case Study of a Coffee War: Using the *Starbucks v. Charbucks* Dispute to Teach Trademark Dilution, Business Ethics, and the Value of Legal Acumen." *Journal of Legal Studies and Education* 29 (2012): 27–57.
- Mon, Gonzalo E. "Don Henley Settles Right of Publicity Suit with Retailer." *Ad Law Access*, April 17, 2015. <https://www.adlawaccess.com/2015/04/articles/don-henley-settles-right-of-publicity-suit-with-retailer/>.
- Papandrea, Mary-Rose. "Where Intellectual Property and Free Speech Collide." *Boston College Law Review* 50 (2009): 1307–14.
- Peters, Johnathan. "'I also consider myself a First Amendment lawyer,'" *Virginia Sports & Entertainment Law Journal* 18 (2019): 109–26.
- Progoff, Susan, and Alexandra J. Roberts. "The Art of Parody." *New York Law Journal*, January 20, 2009.
- Rabban, David M. "The First Amendment in Its Forgotten Years." *Yale Law Journal* 90 (1981): 514–96.
- Ransom, Rollin. "Nominative Fair Use For TMs: An Idea Whose Time Has Gone." *Law360*, June 16, 2015. <https://www.sidley.com/-/media/publications/law360-nominative-fair-use-for-tmsan-idea-whose-time-has-gone.pdf>.
- Reporters Committee for Freedom of the Press. "Republication in the Internet age." <https://www.rcfp.org/journals/news-media-and-law-summer-2014/republication-internet-age/>.

- Rivkin, Steve. "How Did Apple Computers Get Its Brand Name." *Branding Strategy Insider*, November 17, 2011. <https://www.brandingstrategyinsider.com/2011/11/how-did-apple-computer-get-its-brand-name.html#.XQKg9nspDq1>.
- Rothman, Jennifer E. *The Right of Publicity*. Cambridge: Harvard University Press, 2018.
- Rothman's Road Map to the Right of Publicity. <https://www.rightofpublicityroadmap.com/>.
- Sack, Robert D. "Book of the Times: New York Times v. Sullivan: A First Amendment Battle." *New York Times*, September 23, 1991. <https://www.nytimes.com/1991/09/23/archives/books-of-the-times-times-v-sullivan-a-first-amendment-battle.html?searchResultPosition=1>.
- Samuelson, Pamela. "A Fresh Look at Tests for Nonliteral Copyright Infringement," *Northwestern University Law Review* 107 (2013): 1821–49.
- Sariego, Jose. "High Court won't Take on Lenz DMCA Case—What Now?" *BilzinSumberg*, July 27, 2017. <https://www.bilzin.com/we-think-big/insights/publications/2017/07/high-court-wont-take-on-lenz>.
- Schechter, Frank. "The Rational Basis of Trademark Protection." *Harvard Law Review* 40 (1927): 831.
- Schlackman, Steve. "How to Submit a Copyright Takedown Notice." *Art Law Journal*, January 29, 2014. <https://alj.artpreneur.com/submit-takedown-notice/>.
- Shapira, Ian. "A brief history of the word 'redskin' and how it became a source of controversy." *Washington Post*, May 19, 2016. https://www.washingtonpost.com/local/a-brief-history-of-the-word-redskin-and-how-it-became-a-source-of-controversy/2016/05/19/062cd618-187f-11e6-9e16-2e5a123aac62_story.html.
- Shapira, Ian., and Ann E. Marimow. "Washington Redskins win trademark fight over the team's name." *Washington Post*, June 29, 2017. https://www.washingtonpost.com/local/public-safety/2017/06/29/a26f52f0-5cf6-11e7-9fc6-c7ef4bc58d13_story.html.
- Shapiro, T. Rees. "Key elements of Rolling Stone's U-Va. Gang rape allegations in doubt." *Washington Post*, December 5, 2014. https://www.washingtonpost.com/local/education/u-va-fraternity-to-rebut-claims-of-gang-rape-in-rolling-stone/2014/12/05/5fa5f7d2-7c91-11e4-84d4-7c896b90abdc_story.html?itid=lk_inline_manual_5.
- Simmons, Joshua L., and Miranda D. Means. "Split Personality: Constructing a Coherent Right of Publicity Statute." *Landside*, May 18, 2018. https://www.americanbar.org/groups/intellectual_property_law/publications/landslide/2017-18/may-june/split-personality/.
- Sloan, Jason E. "An Overview of the Elements of a Copyright Infringement Cause of Action—Part II: Improper Appropriation." *American Bar Association*, August 27, 2013. https://www.americanbar.org/groups/young_lawyers/publications/the_101_201_practice_series/part_2_elements_of_a_copyright/.
- Thomas, Lilsa M. "Creating and Protecting Rights in Personal Names." *INTA Bulletin* (July 15, 2011). <http://www.inta.org/INTABulletin/Pages/CreatingandProtectingRightsinPersonalNames.aspx>.

- Treleven, Ed. "Chris Farley's family and Trek Bicycle settle lawsuit over Farley name." *Wisconsin State Journal*, June 7, 2018. https://madison.com/wsj/news/local/courts/chris-farley-s-family-and-trek-bicycle-settle-lawsuit-over/article_7ab33619-7627-5090-a2c2-1b4cfef22d95.html.
- Tushnet, Rebecca. "Make Me Walk, Make Me Talk, Do Whatever You Please: Barbie and Exceptions." In *Intellectual Property at the Edge: The Contested Contours of IP*, edited by Rochelle C. Dreyfuss and Jane C. Ginsburg, 405–440. Cambridge University Press, 2014.
- Tushnet, Rebecca. "Running the Gamut from A to B: Federal Trademark and False Advertising Law." *University of Pennsylvania Law Review* 159 (2011): 1305–84.
- U.S. Copyright Office. "Compendium of U.S. Copyright Office Practices." 2017. <https://www.copyright.gov/comp3/docs/compendium.pdf>.
- U.S. Copyright Office. "Works Made for Hire." <https://www.copyright.gov/circs/circ09.pdf>.
- U.S. Copyright Office. "Works Not Protected by Copyright." <https://www.copyright.gov/circs/circ33.pdf>.
- United States Patent and Trademark Office. "Trademark Examination Guides." <https://www.uspto.gov/trademark/guides-and-manuals/trademark-examination-guides>.
- United States Patent and Trademark Office. "Trademark Manual of Examining Procedure." October 2018. <https://tmep.uspto.gov/RDMS/TMEP/current>.
- Upcounsel. "Fanciful Trademark." <https://www.upcounsel.com/fanciful-trademark>.
- Upcounsel. "Generic Trademark: Everything You Need to Know." <https://www.upcounsel.com/generic-trademark>.
- Vick, Kevin L., and Jean-Paul Jassy. "Why a Federal Right of Publicity Statute is Necessary." *Communication Lawyer* 28 (August 2011): 14–19.
- Volokh, Eugene. "Freedom of Speech and the Right of Publicity." *Houston Law Review* 40 (2003): 903–30.
- Weber, Bruck. "M. Roland Nachman, Lawyer in Times v. Sullivan Libel Case, Dies at 91." *New York Times*, December 4, 2015. <https://www.nytimes.com/2015/12/05/us/m-roland-nachman-lawyer-in-times-v-sullivan-libel-case-dies-at-91.html>
- Werde, Bill. "Barbie's Manufacturer Is Ordered to Pay \$1.8 Million in Legal Fees to Artist." *New York Times*, June 28, 2004. <https://www.nytimes.com/2004/06/28/us/barbie-s-manufacturer-is-ordered-to-pay-1.8-million-in-legal-fees-to-artist.html>.
- Whitmore, Nancy J. "Facing the Fear: A Free Market Approach for Economic Expression." *Communication Law & Policy* 17 (2012): 21–65.
- Wyman, Bill. "5 takeaways from the *Rolling Stone* defamation verdict." *Columbia Journalism Review*, November 29, 2016. https://www.cjr.org/analysis/rolling_stone_verdict_defamation_case.php.
- Yen, Alfred C. "Eldred, the First Amendment, and Aggressive Copyright Claims." *Houston Law Review* 40 (2003): 673–95.
- Zimmerman, Diane Leenheer. "Money as a Thumb on the Constitutional Scale." *Boston College Law Review* 50 (2009): 1503–24.