

Preface

This book provides tools for learning the fundamentals of intellectual property (IP) law. It is written for law students taking the Intellectual Property survey class—or for anyone else seeking an introduction to IP law. The book covers the four primary areas of IP law: copyright, patent, trademark, and trade secret. Although “intellectual property” is a term for related but distinct areas of the law, basic principles run through all the areas. Students (or lawyers) can prepare to handle IP issues skillfully by learning to focus on these common issues: the subject matter of protection, the steps necessary to secure protection, the scope of protection (and conversely, the right of others to use ideas and works unencumbered by IP claims), the process of licensing, and the remedies for infringement. The final chapter of the book touches on three related areas of law—contract law, the tort of misappropriation, and the right of publicity—and discusses how federal law can preempt state law affecting IP rights.

The text follows the method of the Examples and Explanations series. Each section first gives a short account of the law. It concentrates on the basic rules and concepts. In general, the text does not cover specialized areas, such as the copyright rules governing cable television transmissions or the patent rules on testing of generic pharmaceuticals. To keep things clear and short, such matters are left to more specialized texts.

The examples and explanations that follow the text in each section give substance to the rules and guide students in applying them to other sets of facts. The examples are drawn from many sources: judicial opinions, news reports, student questions, and daily life. The examples provide fact patterns to work with. Learning the law is not merely learning the legal rules. Learning the law means learning to apply those rules to a variety of cases. By working with concrete examples and explanations, active readers will develop that understanding.

The examples can also be used to review the concepts. Readers can work through the examples in a section without rereading the text. Readers can also change the facts in an example and ask whether the result would be different—or ask how the facts would have to change for the result to change in a specific way. For example, where the explanation states that the maker of a movie infringed copyright by copying certain elements from a book, ask what the result would be if the elements copied had been slightly different—or ask how the facts would have to change for there to be no infringement.

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