

Preface

Since this book first appeared in the early 1990s, the field of intellectual property has continuously expanded in scope and influence. In large part, this is because the role of the Internet as a global medium of communication and a device for the digital delivery of information has grown exponentially. It is also a function of the globalization of commerce generally, and the ever more pronounced shift to an information-based economy. One unhappy consequence of this otherwise exciting trend is that intellectual property law has become more complex, more filled with jargon, and consequently more difficult to comprehend and master than ever before. Although this title was comprehensively updated in 1995, the rapid pace of change has now necessitated yet another revision.

Our objective in this new, third edition remains what it was in 1991, at the time the first edition was published, namely “to help make intellectual property law understandable and easily accessible, to demystify it.” Consequently, we have tried to pack as much useful information as possible into a concise and user-friendly format.

As with the prior editions, we have designed the volume as a desk book, to be kept close at hand, not filed away in the library. It is, in other words, a book we hope will be frequently *used*, in situations where a busy lawyer is expected to quickly opine on the phone, in meetings, or in response to the ubiquitous fax and e-mail messages. In those situations—when one does not have time to delve into the case law or a multivolume treatise, and needs to have the memory refreshed on relevant basic legal rules—this book is available.

We continue to hope that our efforts will be useful to a wide potential audience. Our goal has been to provide a resource for the novice attorney and the seasoned expert alike. The book is intended to be useful to non-specialists, such as in-house counsel and general practice litigators who only now and then deal in intellectual property matters. Law students, as well, might find this volume to be a helpful supplementary text alongside the traditional casebook. Indeed, this book may even be valuable to the curious business client who wants to be better informed about intellectual property (and, for that matter, might make an ideal business gift from the intellectual property attorney to such a client). After all, attorney-client communication is always easier if both sides of the conversation use the same terms of art to mean the same thing.

As with the previous editions, the structure of this book generally follows that of the familiar dictionary or encyclopedia format. Each word or term entry is immediately followed by an indication in brackets as to the field or fields of intellectual property into which the concept falls. Each word or term is then defined and explained, followed by references to those sections of the leading treatises in which the matter can be explored further. Most entries also contain references to and quotations from the important cases, legislation, rules, and any other useful sources, such as the Manual of Patent Examining Procedure. Entries for particularly difficult concepts also contain factual examples drawn from the litigated cases. In the definitions and explanations, a word appearing in small capitals indicates that

the word is defined elsewhere in this encyclopedia. An italicized acronym indicates that the entry is listed and defined under its acronym. While the general structure of entries is uniform throughout the encyclopedia, the length and complexity of the entries vary with the difficulty and intricacy of the concepts explained.

In this Third Edition we have updated virtually all entries by adding references to more recent case law and legislation and, where appropriate, cross-references to on-line resources. In addition, we have added new entries for the many new terms that have appeared in Intellectual Property law in the past nine years, with a particular focus on terminology spawned by the Internet and by the legislation that seeks to regulate it. Thus, the user will now find thorough explanations of such terms as the “Digital Millennium Copyright Act,” “Digital Performance Right,” “cybersquatting,” and the “Uniform Dispute Resolution Policy.” Of course, we have also included entries for a variety of new non-Internet terms that have been coined by recent statutory and case law. Examples include entries for “Markman hearing,” “First Inventors Defense Act,” and “business method” patents.

One other change is notable regarding the third edition. This incarnation of the book has been a collaborative project, reflecting the joint labors of J. Thomas McCarthy, who originated this title, and two new colleagues—Professor Roger E. Schechter, of the George Washington University, and David J. Franklyn, of the University of San Francisco.

In sum, we hope that this revised volume will aid its users in the interpretation of cases and statutes, in communication with clients and judges, and in the facilitation of clear expression by all those working in the IP field. If it does so in any small measure, we will have achieved the goals we set for ourselves when we embarked on this project.

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