

**Interview with Professor Stephen McJohn, Suffolk University Law School
Conducted by JHTL Staff Member Matthew Grady, February 2004**

Professor Stephen McJohn is the author of *Intellectual Property: Examples and Explanations*, Aspen Publishers, Inc., 2003, ISBN 0-7355-2719-9, \$39.95, pp. 398.

Professor McJohn, who is the proposed audience for your book?

Good question, I wrote the book because I knew that intellectual property in general is an increasingly important area in the law. There aren't a lot of books that provide a broad overview. Now a lot more schools [are] offering IP survey courses. So in general my intended audience was a student in an intellectual property survey course. But I also tried to write it in such a way that somebody who [was] interested in intellectual property could just pick up the book and read.

How does your book compare with other student texts on IP law? Your book is more broadly based, is that correct?

That's just it. I tried to write it for the student taking the IP survey course or somebody trying to get an intro to intellectual property. There are treatises out there now that cover [the] intellectual property [subjects] at a much more detailed level. There are a lot of good books on intellectual property, but most of them are specialized. For instance, there are a lot of good books on copyright trademark, and patent but they aren't nuts and bolts. My book takes a general approach, bringing in the common themes that lend themselves to comparing and contrasting. I focus on the basics and by keeping things at [that level] the book tries to help you understand intellectual property.

How did you develop your examples and explanations?

[For] a lot of them I used cases, I also tried to look at the advances sheets and things like that. Oftentimes I just try to take things based on the interesting cases and try to streamline the facts. Otherwise, I look at the rule and try to think of a fact pattern for that situation. It is kind of tricky to come up with an example that is not too convoluted, but also gives a nice example of the law.

Did personal experience did that play a role in the examples and explanations?

It did some in that I have taught the course a couple times so I have a sense of the examples that drive [the law] home. It was only a few years ago that I got interested in intellectual property law. That gives me a sense of what [students have to cope with] in learning intellectual property.

How did you first get interested in the field of intellectual property?

I was a computer software developer. I went to law school. Then I worked in the finance department in a firm. When I started teaching I did not pay much attention to software law or intellectual property law for a long time. While I was [at Suffolk University] teaching commercial law I realized, I actually know a lot about IP from my previous life and outside interest. It is an area of that is of increasing importance. And arguably more interesting than commercial law, so that it what I write on now and what I read.

What do you account for the greater student interest in intellectual property in recent years?

It is just demand on the part of clients. I can see at firms people used to be just litigators or copyright attorneys are now billed as IP litigators or IP deal-makers. That is because they started doing IP work because that is what their clients needed.

Did the dot.com boom play a role?

Yes, in part. Everything is moving in that direction ...twenty years ago patent law was a more specialized area, copyright as well. Now software sales are generate enormous revenue, and other copyright related sales and licensing are a large huge part of the modern economy. IP law itself has expanded, copyright applies more broadly. People are simply using more IP law, for better or for worse. With the ability to put most commodities in digital form copyright becomes incredibly valuable, thus important to corporations.

Could you tell our readers a little about your other writings in the field?

I have done some things in commercial law, but now I mainly write on IP. What ever is my interest for that year, artificial intelligence, copyright and the first amendment, software, and other subjects. It is one of the great advantages of being a lawyer is that you can switch your area of interest all the time, especially with intellectual property because it covers such a broad spectrum.

What courses do you teach at Suffolk University Law School? I took a look at the course you taught last semester. Commercial Paper, are you still dabbling?

Yes.

You are also teaching Intellectual Property thesis, Trademark Law Team, Intellectual property, and Law Review.

Yes, I am one of the advisors. It is fantastic, they do everything. I have a nice mix of big classes and classes where you work with students on a one on one basis, things like the thesis and the team. The thesis students are great because they go out and find interesting things to work on. It actually helps me with my examples.

Are there any courses that I missed?

I think you covered them all. In the future I think I would like to do more IP law.

What has been your experience teaching in the Suffolk intellectual property concentration?

It is a challenge because students definitely come to it at different levels of interest and experience. At Suffolk a lot of people are patent agents. They'll be taking the IP courses. We have lots of people with technical backgrounds who go into it for that reason. And then you have lots of people who are interested in IP and have non-technical backgrounds the sort of people you find in the survey course. All those people are sitting in the same class. Sometimes it is not so clear who your intended audience is, because they all know a lot about different things. At the same time it is also very helpful as they bring their experience into the classroom.

What are our favorite intellectual property works, what would you recommend?

Something that students could do, that I didn't, is look at law review articles. Law review articles give you a good sense of what is cutting edge in the field and what people are grappling with. I think that gives you a real perspective that you do not get in classes. In classes you first have to cover the basics and you have to cover the established law. There are obviously a lot of ambiguities that you do not touch on. As a student you want to know; what is the answer, the rule. As a lawyer you want to know where the uncertainties are and what things you have to watch out for and avoid. I recommend students try to keep on law review articles and outside sources, the problem is, students rarely have the free time.

What do you see as the hot-button issues in intellectual property?

Certainly the DMCA qualifies, both in the substantive provisions, the anti-circumvention provisions and the procedural, the subpoena provisions. That [copyright owners] get to give subpoenas though the ISPs, that is controversial. It is a very interesting story to follow, and an interesting conflict to see play out. It does make you wonder about the strategy involved. Also, I think the Linux and the open source issues are very interesting, and I'm dying to see how that plays out. You want to ask, if you have anything SCO why don't you show it? But they haven't shown anything yet, and still they are very adamant about it.

Do you have any insight to share on the future of intellectual property?

I do not think anybody knows, there are a lot of guesses. You have a lot of academic [work] like the Lessig books, but anybody who tries to predict the future has a tough job.

Should I put that down as recommended reading ?

Definitely; CODE¹ and the Future of Ideas² by Lawrence Lessig. I don't think anybody in any area really knows what the future holds or what our actions now will have on the future but it gets you interested in the important issues.

Have you received any feedback about your book?

I have receive pretty nice feedback actually. My publisher tells me my book is off to a good start in terms of a lot of people getting it. Its is nice when you are used to writing laws review articles that just sort of disappear out there. They have a limited readership at best . It is kind of nice that the whole purpose of your book is that people use it. I will probably do another edition at some point

Any other writings?

I just finished one on the copyright extension on the constitutionality of the copyright extension.

¹ LAWRENCE LESSIG, CODE (Basic Books 1999).

² LAWRENCE LESSIG, THE FUTURE OF IDEAS (Vintage 2002).