Table of Contents

Follow this and additional works at: https://via.library.depaul.edu/jatip

Part of the Computer Law Commons, Cultural Heritage Law Commons, Entertainment, Arts, and Sports Law Commons, Intellectual Property Law Commons, Internet Law Commons, and the Science and Technology Law Commons

Recommended Citation

Available at: https://via.library.depaul.edu/jatip/vol28/iss1/1

This Front Matter is brought to you for free and open access by the College of Law at Via Sapientiae. It has been accepted for inclusion in DePaul Journal of Art, Technology & Intellectual Property Law by an authorized editor of Via Sapientiae. For more information, please contact wsulliv6@depaul.edu, c.mcclure@depaul.edu.
DEPAUL JOURNAL OF ART, TECHNOLOGY & INTELLECTUAL PROPERTY LAW

Volume XXVIII Fall 2017 Number 1

SEMINAR ARTICLE

Repurposing Old Drugs for New Uses ......................... Kathryn Brown 1

CASE NOTES AND COMMENTS

Y U No Let Me Share Memes?! –
How Meme Culture Needs a Definitive
Test for Noncommercial Speech ............................... Elizabeth Rocha 37

CASE SUMMARIES

Matal v. Tam,
137 S. Ct. 1744 (2017) ........................................... Elly Goettelman 57

Elliott v. Google, Inc.,
860 F.3d 1151 (9th Cir. 2017) .................................. Kayla Jewell 71

Cite as 28 DePaul J. Art, Tech. & Intell. Prop. L.

Copyright 2018 by DePaul University
All Rights Reserved

Price: $40.00 annual subscription; $20.00 single issue.
Subscriptions are accepted only on a per volume basis, are payable in advance and will be renewed automatically unless notification to the contrary is received in writing. Change of address should be mailed to the Journal at least thirty days before the next issue is to be distributed. Please send the old and new address, including ZIP codes.
Rates for advertising quoted upon request.

Comments and suggestions regarding the content of this publication are invited.

DePaul Journal of Art, Technology & Intellectual Property Law
DePaul University College of Law
25 East Jackson Boulevard
Chicago, Illinois 60604-2287

E-mail: depaul.jatip@gmail.com

Web Site:
http://law.depaul.edu/student-resources/student-activities/journals/Pages/default.aspx

Printed in U.S.A.

Cover Design by
The 2007-2008 Editorial Board
The moral right of the 2007-2008 Editorial Board has been asserted.
DEPAUL JOURNAL OF ART, TECHNOLOGY & INTELLECTUAL PROPERTY LAW

Volume XXVIII  Fall 2017  Number 1

BOARD OF EDITORS

MORGAN DRAKE
Editor in Chief

KRISTY DIESNER
Case Notes And Comments Editor

JOSH SHANCER
Legislative Updates Editor

MARY BESSONE
Lead Articles Editor

VICTORIA CAMPBELL
Case Summaries Editor

STEPHEN CHOI
Business & Technical Productions Editor

SUBARNA BHATTACHARYA
Seminar Editor

WRITING STAFF

ELIZABETH FRACCARO
KAYLA JEWELL
THIBAUT GIRET
ELIZABETH ROCHA
ELLY GOETTELMAN
LOIS WETZEL
JAKE STUMPF

FACULTY ADVISOR

MARGIT LIVINGSTON

Member, National Conference of Law Reviews

iii
DEPAUL UNIVERSITY

GENERAL ADMINISTRATION

A. Gabriel Esteban, Ph.D. ............................................................... President
Marten L. denBoer, Ph.D. ............................................................... Provost
Jeffrey Bethke .............................................................................. Executive Vice President
Rev. Edward R. Udovic, C.M., Ph.D. ............................................ Secretary of the University
Dan Allen, Ph.D. ............................................................................ Vice President for Development
Linda Blakley ................................................................................ Vice President of Public Relations and Communications
Jay Braatz .................................................................................... Vice President for Planning and Presidential Administration
Robert Janis .................................................................................. Vice President for Facilities Operations
David H. Kalsebeck, Ph.D. ............................................................ Sen. V. P. for Enrollment Management & Marketing
Bob McCormick ........................................................................... Senior Vice President for Advancement
Elizabeth F. Ortiz, Ed.D. ............................................................... Vice President for Institutional Diversity and Equity
José D. Padilla, J.D. ...................................................................... Vice President and General Counsel
Sherri Sidler ................................................................................... Controller
Stephanie Smith ........................................................................... Vice President for Human Resources
Gene Zdziarski, Ph.D. ................................................................... Vice President for Student Affairs

COLLEGE OF LAW ADMINISTRATION

Jennifer Rosato Perea ................................................................... Dean
Professor of Law
Michael S. Burns .......................................................................... Associate Dean for Student Affairs
Kimberly Campbell ........................................................................ Communications Director
Max N. Helveston .......................................................................... Associate Dean for Academic Affairs & Strategic Initiatives
Professor of Law
Deborah A. LaGioia ................................................................. Assistant Dean for Institutional Effectiveness
Margit Livingston ................................................................. Assoc. Dean for Research & Faculty Professional Development
Director, Center for Animal Law
Allen Moye ................................................................................. Associate Dean for Information Technology and Library Services
Director, Rinn Law Library
Associate Professor of Law
Amanda Noascono ........................................................................ Assistant Dean and Director of Law Admissions
Allison I. Ortlieb ........................................................................... Associate Dean for Academic Operations
Senior Instructor, Legal Writing Instructor
Erika Roditis ................................................................................ Director of Business Administration and Operations
Shannon Schaab ........................................................................... Assistant Dean & Director of Law Career Service
COLLEGE OF LAW FACULTY

Benjamin E. Alba .................................................. Director, Academic Success & Bar Passage
B.S., DePaul University | J.D., Loyola University of Chicago

Sioban Albiol ............................................................... Senior Professional Lecturer and Director, Asylum & Immigration Law Clinic
B.A., University of Texas at Austin | J.D., Loyola University of Chicago

Monu Bedi ............................................................... Professor of Law
A.B., Dartmouth University | J.D., Harvard University
M.Phil., University of Cambridge

Patrick F. Cassidy ................................................. Clinical Adjunct Instructor, Criminal Appeals Clinic
B.A., University of Illinois | J.D., Chicago-Kent College of Law

Emily Cauble .................................................................. Professor of Law
B.A.A., University of Notre Dame | J.D., University of Michigan Law School

Sumi K. Cho .................................................................. Professor of Law
B.A., University of California-Berkeley | J.D., University of California-Berkeley
Ph.D., University of California-Berkeley

Alberto R. Coll ............................................................ Professor of Law
B.A., Princeton University | J.D., University of Virginia
Ph.D., University of Virginia

Michelle Cue ............................................................... Senior Professional Lecturer, Legal Writing
B.A., University of Illinois | J.D., University of Illinois

Wendy Netter Epstein .................................................. Associate Professor of Law
B.A., University of Illinois | J.D., Harvard Law School

Rebecca Feinberg .......................................................... Lecturer in Law
B.A., Yeshiva University | J.D., University of Pennsylvania Law School
M.B.E., University of Pennsylvania Medical School | M.S., Johns Hopkins University

David L. Franklin ....................................................... Associate Professor of Law
B.A., Yale College | J.D., University of Chicago

Jerold A. Friedland ....................................................... Professor of Law
Director, LLM in International Law- International Business, Commercial & Trade law
Director, LL.M in Taxation
Director, Vienna University of Economics Exchange Program

J.D., Brooklyn Law School | LL.M., Georgetown University

Sara Garber ............................................................... Clinical Adjunct Instructor, Civil Rights Clinic
B.A., J.D., University of Illinois

Patty Gerstenblith .......................................................... Distinguished Research Professor of Law
Faculty Director, Center for Art, Museum & Cultural Heritage Law

A.B., Bryn Mawr College | Ph.D., Harvard University
J.D., Northwestern University

Robert Gevirtz ............................................................. Clinical Adjunct Instructor, Misdemeanor Clinic

Andrew Gold ............................................................. Professor of Law
B.A., Dartmouth College | J.D., Duke University

Steven R. Greenberger .................................................. Associate Professor of Law
B.A., University of Illinois | J.D., Yale University

Michael Gryenberg ......................................................... Professor of Law
B.A., Carleton College | J.D., University of Virginia Law School

A.B., Princeton University | J.D., Harvard Law School

Susan C. Haddad .......................................................... Clinical Adjunct Instructor, Family Law Clinic
M.A., University of Chicago | J.D., John Marshall Law School

Maria Harrigan ............................................................. Clinical Adjunct Instructor, Criminal Appeals Clinic
J.D. Loyola University of Chicago

Max N. Helveston .......................................................... Associate Dean for Academic Affairs & Strategic Initiatives
Professor of Law
B.A., University of Michigan | J.D., Yale University
Donald H. J. Hermana ................................................................. Professor of Law and Philosophy
A.B., Stanford University | M.A., Northwestern University
J.D., Columbia University | LL.M, Harvard University
Ph.D., Northwestern University | M.A.A.H., Art Institute of Chicago
M.I.A., University of Chicago

Barry Kellman .................................................................................. Professor of Law
B.A., University of Chicago | J.D., Yale University

Robert R. Kwall ........................................................................ Raymond P. Niro Professor of Intellectual Property Law
Founding Director, Center for Intellectual Property Law & Information Technology
A.B., Brown University | J.D., University of Pennsylvania

Julie D. Lawton ............................................................................. Clinical Professor of Law
Director, Housing & Community Development Legal Clinic
B.A., Florida A&M University | J.D., Howard University
L.L.M., Georgetown University

Gil Lenz ........................................................................................... Clinical Adjunct Instructor, Criminal Appeals Clinic
B.A., Trinity University | M.A. University of Illinois at Chicago
J.D., DePaul University

Margit Livingston ................................................................. Associate Dean for Research & Faculty Professional Development
Vincent de Paul Professor of Law
Director, Center for Animal Law
B.A., Augsburg College | M.A., University of Minnesota
J.D., University of Minnesota | LL.M., University of Illinois

Scott F. Main ...................................................................................... Clinical Adjunct Instructor, Criminal Appeals Clinic
A.B., University of Chicago | J.D., Loyola University Chicago

Jody Marcucci .................................................................................. Senior Professional Lecturer, Associate Director LARC
B.A., University of Wisconsin | J.D., DePaul University

Gregory Mark .................................................................................. Professor of Law
B.A., Butler University | M.A., Harvard University
J.D., University of Chicago

Cary Martin Shelby .......................................................................... Professor of Law
B.S., University of Illinois | J.D., Northwestern University

Timothy M. McCarthy ................................................................. Clinical Adjunct Instructor, Technology/Intellectual Property Clinic
B.S., University of Illinois | J.D., University of Houston

Joey Mogul .......................................................................................... Clinical Adjunct Instructor, Civil Rights Clinic
B.S., Oberlin College | J.D., City University of New York School of Law

Mark Moller ....................................................................................... Associate Professor of Law
B.A., Duke University | J.D., University of Chicago
L.L.M., University of Cambridge

Daniel I. Morales ............................................................................ Professor of Law
B.A., Williams College | J.D., Yale Law School

Ralph Morris ....................................................................................... Clinical Adjunct Instructor, Mediation as Advocate Clinic
B.A., Valparaiso | J.D., University of Michigan

Allen Moye ....................................................................................... Associate Dean for Information Technology and Library Services
Director, Rinn Law Library
Associate Professor of Law

B.A., Howard University | J.D., University of Richmond
M.I.S., Catholic University

Allison I. Ortlieb ................................................................. Associate Dean for Academic Operations
Senior Instructor, Legal Writing Instructor
B.A., University of Chicago | J.D., University of Chicago

Bruce L. Ottley .................................................................................. Professor of Law
B.A., University of Missouri-Kansas City | M.A., University of Iowa
J.D., University of Iowa | LL.M., Columbia University

Martha Pagliari .................................................................................. Senior Professional Lecturer, Interim Director, LARC
B.A., University of Notre Dame | J.D., DePaul University

Steven Resnicoff ........................................................................ Professor of Law
Director, Center for Jewish Law and Judaic Studies
B.A., Princeton University | J.D., Yale University
Rabbinic, Beth Medrash Govoha

Zoë Robinson .................................................................................. Professor of Law
B.Mus., Griffith University | B.A., Australian National University
LL.B., Australian National University | J.D., University of Chicago

David Rodriguez ......................... Faculty Director, Third year in Practice & Field Placement Programs
Clinical Instructor, Civil Litigation Clinic
Senior Professional Lecturer

B.S., University of Illinois | J.D., University of Michigan

Jennifer Rosato Perea .......................................................... Dean
Professor of Law

B.S., Cornell University | J.D., University of Pennsylvania

Anna Santos Rutschman .................... Jaharis Faculty Fellow in Health Law and Intellectual Property
L.L.M., UCP Law School, Portugal | L.L.M., Duke Law School
S.J.D. Duke Law School

Joshua D. Sarnoff .......................................................... Professor of Law
B.S., Massachusetts Institute of Technology | J.D., Stanford University

Terry Smith .......................................................... Distinguished Research Professor of Law
B.A., Brown University | J.D., New York University

Raia Stoicheva ....................... Clinical Adjunct Instructor/Staff Attorney Asylum & Immigration Law Clinic
B.A., Princeton University | M.A., Harvard University
J.D., Harvard University | Ph.D., Harvard University

Anthony C. Volini .................................................. Senior Professional Lecturer, Associate Director, LARC
B.S., Benedictine University | J.D., Loyola University of Chicago

Mark Weber .......................................................... Vincent de Paul Professor of Law
B.A., Columbia University | J.D., Yale University

Judge Warren D. Wolfson .................. Distinguished Visiting Professor of Law
B.S. University of Illinois at Chicago | LL.B., University of Illinois

vii

Published by Via Sapientiae, 2017
RINN LAW LIBRARY STAFF

Allen Moye ............................................. Associate Dean for Information Technology & Library Services
B.A., Howard University | J.D., University of Richmond
M.L.S., Catholic University

Michael Schiffer ........................................ Associate Director for Computer Services
B.A., University of Chicago | J.D., University of Michigan
M.L.S., Rosary College

Kim Gainey ............................................. Interlibrary Loan, Circulation Assistant
Anne Hudson .......................................... Senior Faculty Research Librarian
Heather Hummons ................................... Head of Access Services
Kristy Luenshen ..................................... Reserves Coordinator/Circulation Assistant
Maria Willner ......................................... Librarian, Legal Research Specialist
B.A., University of Michigan | A.M.L.S., University of Michigan

Lenore Boehm ........................................ Acquisitions Manager
Denise Glynn ........................................ Associate Director for Technical Services & Processing
B.S., Northern Illinois University | M.L.S., Rosary College

Jack Gorman ........................................ Government Documents & Information Librarian

David Labno .......................................... Metadata Assistant III

Daniel Ursini ........................................ Acquisitions Assistant III
ADJUNCT FACULTY

Gwendolyn Alexis
Julie Baratta
Victoria Beatty
Shawn Bersson
Steven Brandstedt
Chalet Braziel
Mary M. Broshanan
Cynthia Brown
Vince Browne
Patrick Bruks
Shannon Burke
John Callahan
Natalie Carlomango
James Clark
Kelli Dudley
Katheryn Dutenhaver
Katherine Faydash
Rebecca Feinberg
David Ganfield
Sara Garber
Robert Gevirtz
Leonard Goodman
Ajay Gupta
Valerie Gutmann Koch
Susan Haddad
Maria Harrigan

Steve Harris
Thomas Hennelly
Lisa Huge
John Hynes
Thomas Judge
Aliza Kaliski
Brent Kidwell
Era Laudermilk
Eric Leafblad
Gilbert Lenz
Steven Levy
Travis Life
Christopher Ligatti
Lisa Lilly
Robert Loeb
Terrence MacCarthy
Alfredo Maldonado
Robert Mauser
Terry Miller
Joey Mogul
Patrick Morley
Ralph Morris
Craig Mousin
John Mulligan
Brian Nach
Takenya Nixon

Ginder Odom
Paul Olszowka
John O’Malley
Christina Pannos
Katherine Polak
Todd Pugh
Timo Rehbock
Ahmed Salim
Gerald Saltarelli
Steven Sandler
Katherine Schostok
Katherine Schweit
Jerome Taylor
Theodore Thomas
Carlota Toledo
James Vanzant
Elizabeth Vastine
Mario Ventrelli
Angelo Vignola
Elizabeth Ward
Torrick Ward
Scott Weingust
Emily Winfield
Destiny Woods
Lori Yokoyama