

ERIC E. JOHNSON

Associate Professor of Law
University of North Dakota School of Law
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CURRICULUM VITAE

ACADEMIC EMPLOYMENT & AFFILIATIONS

UNIVERSITY OF NORTH DAKOTA SCHOOL OF LAW – 2007 to present

Associate Professor of Law, 2010 to present.

Assistant Professor of Law, 2007 to 2010.

Courses: Torts I; Torts II; Antitrust, Bankruptcy & Consumer Law; Intellectual Property; Entertainment Law; Media & Entertainment Law; Sports Law

Award: Robert Johnson Research Fellow Award, 2011

Service: University committees: Presidential Ad Hoc Committee on Promotions, University Assessment Committee, Higher Learning Commission Steering Committee, Outstanding Faculty Awards Committee (co-chair), CILT Advisory Committee, Chester Fritz Distinguished Professorship Committee.

Law school committees: Technology Committee (chair), Student Affairs Committee, Admissions Committee, Faculty Evaluation Committee, Promotion & Tenure Committee, Curriculum Committee.

Pitched idea and helped lead effort to create cross-country skiing trails on campus, culminating in SKI UND program in Winter 2010 and Winter 2011.

Participation in student activities including: Announcer, Malpractice Bowl (football game between law school and medical school), 2008 to 2011; Auctioneer, Art Auction, 2008 and 2009; Master of Ceremonies, Student Trial Lawyers Association's "Law School's Got Talent" talent show, 2010.

Selected by students as Graduation Banquet speaker, 2010.

STANFORD LAW SCHOOL CENTER FOR INTERNET AND SOCIETY – 2011-2012

Affiliate Scholar

PEPPERDINE UNIVERSITY SCHOOL OF LAW – 2006

Adjunct Professor of Law

Course: Trademarks, Unfair Competition, and Unfair Trade Practices

WHITTIER LAW SCHOOL – 2005 to 2006

Adjunct Professor of Law

Courses: Entertainment Law, Patent Law

HARVARD LAW SCHOOL – 1998 to 2000

Instructor of Legal Reasoning and Argument. In 1999-2000, led one of four teaching sections and helped design course with Professor Charles Nesson.

EDUCATION

HARVARD LAW SCHOOL – J.D., 2000

Honors: Cum Laude

Activities: Board of Student Advisers

The Backbencher (co-founder and editor-in-chief)

Harvard Law Record (humor columnist)

HLS Parody

Volunteer head coach, debate, Cambridge Rindge & Latin (public high school)

UNIVERSITY OF TEXAS AT AUSTIN – B.A., 1994

Major: Plan II Honors Program

Honors: Highest Honors (*Summa Cum Laude*)

Special Honors in Plan II

Phi Beta Kappa

Rhodes Scholarship semi-finalist

Senior thesis, *The Evolved Philosopher*, selected as a model thesis

Willis W. Pratt Endowed Scholarship in Plan II

Activities: *Daily Texan* (humor columnist)

Volunteer assistant coach, debate, Anderson High School

UNIVERSITY OF CALIFORNIA, BERKELEY – Summer language program, 1992

Course: German

NORTHWESTERN UNIVERSITY – B.S.J. candidate, 1990 to 1991

Major: Journalism, Medill School of Journalism

Honors: Dean's List

Activities: *Daily Northwestern* (reporter)

WNUR (news anchor)

Student Senate

UNIVERSITY OF NEVADA, RENO – Non-matriculated studies, 1989 to 1990

Courses: Philosophy, Political Science, Archaeology

NON-ACADEMIC EMPLOYMENT

FOX CABLE NETWORKS Los Angeles, California – 2005 to 2007

In-house counsel. Drafted and negotiated agreements for Fox Sports Net (“FSN”) and Fox College Sports. Deals included talent agreements, programming distribution agreements, product-placement deals, production agreements, telecast rights, home video distribution rights, ad sales, footage license agreements, location agreements, syndication sublicenses under Major League Baseball telecast rights agreements, equipment leasing, trademark assignment and license-back, and a script-packager development deal. Re-designed various forms. Handled various unlitigated disputes. Provided legal advice to producers of “Best Damn Sports Show Period” and other original programming.

IRELL & MANELLA LLP Los Angeles, California – 2000 to 2004

Associate in litigation and intellectual-property litigation practices. Clients included Paramount Pictures, MTV Networks, CBS, Touchstone Television, Coats/American, Big Ticket Pictures, Immersion Corporation, and the bankruptcy estate of eToys.com. Matters included claims of patent infringement in the video game industry, trademark infringement, copyright infringement of a television series, breach of a television executive-producer contract, breach of a motion-picture director contract, breach of lease, theft of ideas, antitrust violations, and others. Work included lead or solo drafting of various motions, taking and defending depositions, negotiating settlement, managing associates and staff in large-scale discovery efforts and motion writing, and making oral argument, including a successful demurrer in LA. Superior, Central Civil West.

DEBEVOISE & PLIMPTON New York, N.Y. – 1999

Summer associate in the litigation practice. Clients included the National Football League and Oxygen Media. Advised regarding right of publicity, antitrust, trademark, and design-patent issues. In a pro-bono matter, represented a patient of the Manhattan Psychiatric Center in a New York Supreme Court hearing in which the state sought an order to administer medication over the patient’s objection.

SCHULTE ROTH & ZABEL LLP New York, N.Y. – 1998 and 1999

Summer associate in the litigation and corporate departments. Matters included securities litigation, securities transactional advice, and a pro-bono case regarding land-use issues for New York City parks.

MACFARLANES London, U.K. – 1998

Visiting article clerk in the company, commercial, and banking practice. Matters included a leveraged buy-out and an initial public offering.

CYBERSOURCE CORPORATION Menlo Park, California – 1996

Worked on a consultant-basis with a very early stage internet start-up. Worked in operations eventually spun off as publicly traded beyond.com, a software retailer. Work included designing marketing materials, web-page authoring, and sales to software producers.

WRITING

Law Review Articles

(published articles available from
ericejohnson.com and SSRN)

Intellectual Property and the Incentive Fallacy

__ FLORIDA STATE UNIVERSITY LAW REVIEW __ (forthcoming)
<http://ssrn.com/abstract=1746343>

The NFL, Intellectual Property, and the Conquest of Sports Media

__ NORTH DAKOTA LAW REVIEW __ (forthcoming symposium issue)

Negligence's X Factor

__ CARDOZO LAW REVIEW DE NOVO __ (forthcoming)

Trade Secret Subject Matter

33 HAMLINE LAW REVIEW 545 (2010) (symposium issue)

A Populist Manifesto for Learning the Law

60 JOURNAL OF LEGAL EDUCATION 41 (2010)

Intellectual Property's Need for a Disability Perspective

20 GEORGE MASON UNIVERSITY CIVIL RIGHTS LAW JOURNAL 181 (2010)

The Black-Hole Case: The Injunction Against the End of the World

76 TENNESSEE LAW REVIEW 819 (2009) (lead article)

Rethinking Sharing Licenses for the Entertainment Media

26 CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL 391 (2008)

Calibrating Patent Lifetimes

22 SANTA CLARA COMPUTER & HIGH TECHNOLOGY LAW JOURNAL 269 (2006)

Articles in Progress

The Economics and Sociality of Sharing Intellectual Property

Discusses the economic potential for sharing intellectual property and the social and psychological principles at issue in designing more optimal sharing frameworks.

Extreme Immunity: Ultrahazardous Exemptions from the Rule of Law

An analysis of international law and rule-of-law issues surrounding particle physics research undertaken by an intergovernmental laboratory.

Blogging

Blog Law Blog, April 2010 to present, <http://www.bloglawblog.com>

Sole author. Selected as one of the nation's top 100 law blogs by the ABA Journal in 2011.

Pixelization, January 2008 to present, <http://www.pixelization.org>

Sole author.

PrawfsBlawg, 2008 to present, <http://prawfsblawg.blogs.com/>

Occasional guest author, more than 100 posts.

Casebook

Torts Compendium, Volume One & Volume Two

Published on SSRN for free download.

Volume One: <http://ssrn.com/abstract=1664446>

Volume Two: <http://ssrn.com/abstract=1753786>

Project homepage: http://www.ericjohnson.com/projects/torts_compendium/

Other Writings

“CERN on trial: could a lawsuit shut the LHC down?” comment and analysis, NEW SCIENTIST 24-25 (February 17, 2010)

“Acknowledge What Harvard Law School Owes to Slaves,” opinion, HARVARD LAW RECORD (April 30, 2009)

“Avoid ‘Tropic Thunder,’ a Cruel Comedy,” op-ed, GRAND FORKS HERALD (September 19, 2008)

LINDSTROM'S SUMMARY OF EMPLOYMENT LAW, June Co. Press (author's own imprint) (2000)

“Reporter's Privilege” (co-author), COMMUNICATIONS LAW 1999, Practising Law Institute, 580 PLI/Pat 27 (1999)

“Reporter's Privilege—Recent Developments 1998-1999” (co-author), COMMUNICATIONS LAW 1999, Practising Law Institute, 580 PLI/Pat 7 (1999)

PRESENTATIONS

- Intellectual Property and the Incentive Fallacy*, 2011 Intellectual Property Scholars Conference, DePaul University College of Law, Chicago, Illinois, August 12, 2011.
- Moderator, Panel Discussion, Owners and Agents in Professional Sports, North Dakota Law Review Sports Law Symposium, Grand Forks, North Dakota, April 8, 2011.
- Sports, Photography, Television and Intellectual Property*, North Dakota Law Review Sports Law Symposium, Grand Forks, North Dakota, April 8, 2011.
- International Ultrahazards*, poster at the 10th Annual Graduate School Scholarly Forum, University of North Dakota, Grand Forks, North Dakota, March 8-9, 2011.
http://eejlaw.com/posters/ultrahazardous_immunity_poster.html.
- Debater, Debate on Constitutional Interpretation, Originalism vs. Living Constitutionalism (versus Lee J. Strang), University of North Dakota School of Law, Grand Forks, North Dakota, March 8, 2011.
- The Internet and the Central Fallacy of the Economic Theory of Intellectual Property*, Internet Law Work-in-Progress Series, High Tech Law Institute at Santa Clara University School of Law, Santa Clara, California, March 5, 2011.
- Hiding the Ball*, poster at AALS Annual Meeting, Section on Disability Law, San Francisco, January 5-8, 2011. http://eejlaw.com/posters/hiding_the_ball_poster.html.
- The Economics and Sociality of Sharing Copyrighted Works*, 2010 Central States Law Schools Association Annual Conference, University of North Dakota, Grand Forks, September 25, 2010.
- Signaling Intent to Share Intellectual Property*, 2010 Intellectual Property Scholars Conference, University of California, Berkeley, August 12-13, 2010.
- The Covert Life of Trade Secrets*, in *The Evolution of Trade Secret Law: Reflecting on 30 Years of the Uniform Trade Secrets Act*, Hamline Law Review Symposium, St. Paul, Minnesota, April 16, 2010.
- Moderator, Cap and Trade Panel Discussion, University of North Dakota School of Law, Grand Forks, North Dakota, April 6, 2010.
- International Super Torts: The End of the World and the Rule of Law*, workshop presentation, Washburn University School of Law, Topeka, Kansas, April 5, 2010.
- Intellectual Property in the Digital Age*, Harvardwood Salon Series, Harvardwood, Los Angeles, California, March 17, 2010.
- Rethinking Sharing and Copyrighted Works: Konomark and Copysquare*, Munger, Tolles & Olson LLP, Los Angeles, California, March 17, 2010.

Konomark and Copysquare: New Approaches to Sharing and Copyright, Intellectual Property Colloquium, Whittier Law School's Center for Intellectual Property Law, Costa Mesa, California, March 16, 2010.

Konomark and Copysquare: Ways of Sharing Media Workparts, Audio Techniques, undergraduate class, Dodge College of Film and Media Arts, Chapman University, Orange, California, March 15, 2010.

Konomark and Copysquare: Ways of Sharing Media Workparts, Fundamentals of Audio Design, graduate class, Dodge College of Film and Media Arts, Chapman University, Orange, California, March 15, 2010.

Intellectual Property & Disability, poster at AALS Annual Meeting, Section on Disability Law, New Orleans, January 7-10, 2010.
http://eejlaw.com/posters/intellectual_property_and_disability_poster.html.

The Wypadki: Facilitating a Class-wide Group Outline, poster at AALS Annual Meeting, Section on Teaching Methods, New Orleans, Louisiana January 7-10, 2010.
http://eejlaw.com/posters/wypadki_poster.html.

Copysquare: Rethinking Sharing Licenses in the Entertainment Media
New York, N.Y., September 25, 2008. Held at Cardozo Law School, sponsored by the Squadron Program in Law, Media and Society and the Cardozo Arts & Entertainment Law Journal; featured presenter; with panelists Professor James Grimmelmann, Fred Benenson, and Professor Jonathan Askin.

Copysquare and Konomark: New Ways to Be Friendly With Your Intellectual Property
Sapporo, Japan, July 30, 2008. Academic Research Programme, First Interdisciplinary Research Workshop on Free Culture, iSummit '08.

PROJECTS

KONOMARK

The Konomark project introduces a standardized symbol and name to be used by the owners of copyrighted works displayed on the internet to signal the owners' general willingness to license the marked works to others without compensation. Have posted more than 10,000 photos on Flickr to support the project. Website:
<http://www.konomark.org>.

MUSEUM OF INTELLECTUAL PROPERTY

This project involves displaying tangible artifacts from leading cases that define the law of copyright, patent, trademark, and other IP fields. The collection contains more than 100 physical artifacts. Most of the artifacts are on display at the University of North Dakota Thormodsgard Law Library. Website: <http://www.museumofintellectualproperty.org>.

ONLINE COMPENDIUMS OF TEACHING MATERIALS

Online collections of materials for intellectual property and for media and entertainment law. Materials include actual contracts, demand letters, various litigation pleadings, and judicial opinions. Compendium of Materials for Media & Entertainment Law available at: http://www.eejlaw.com/media_and_entertainment_law_compendium.html.
Compendium of Materials for Intellectual Property available at:
http://www.eejlaw.com/intellectual_property_compendium.html

WYPADKIS

Wypadkis are collaborative class outlines which are enabled by wiki software. The wypadkis help students learn from one another and leave, as a residue, a learning resource available to the public. Links from <http://www.eejlaw.com/wypadki/>.

MEDIA APPEARANCES AND PRESS COVERAGE

“The 5th Annual ABA Journal Blawg 100”

Molly McDonough, Sarah Randag, & Lee Rawles, *ABA Journal*, December 2011, p. 29,
http://www.abajournal.com/magazine/article/the_5th_annual_aba_journal_blawg_100/

“Legal Blogging, Ethics and First Amendment Rights”

hosted by Bob Ambrogi. *Lawyer2Lawyer* podcast on the Legal Talk Network, October 27, 2011, <http://legaltalknetwork.com/podcasts/lawyer-2-lawyer/2011/10/legal-blogging-ethics-and-first-amendment-rights/>

“Righthaven says it might have to file for bankruptcy”

Steve Green, *Vegas Inc.*, September 9, 2011,
<http://www.vegasinc.com/news/2011/sep/09/righthaven-says-it-might-have-file-bankruptcy/>

“Law Reviews and ‘Cite Pimping’”

Christopher Shea, Wall Street Journal Ideas Market, July 18, 2011,
<http://blogs.wsj.com/ideas-market/2011/07/18/law-reviews-and-cite-pimping/>

“Roundup: Righthaven faces PR problem in suit against N.C. man”

Steve Green, *Las Vegas Sun*, February 28, 2011,
<http://www.lasvegassun.com/blogs/business-notebook/2011/feb/28/roundup-righthaven-faces-pr-problem-suit-against-n/>

“New round of Righthaven suits over ‘TSA pat-down’ photo prompts surprise”

Steve Green, *Las Vegas Sun*, February 8, 2011,
<http://www.lasvegassun.com/news/2011/feb/08/new-round-righthaven-suits-over-tsa-pat-down-photo/>

this WEEK in LAW with Denise Howell “Episode 96: Come Together Y’all”

The TWiT Netcast Network, January 28, 2011, <http://twit.tv/twi196>

“On Parallel Tracks – University of North Dakota brings cross country skiing to higher education,” Lou Dzierzak, *Cross Country Skier*, January-February 2011

<http://viewer.zmags.com/publication/542f0be6#/542f0be6/32>

- this WEEK in LAW with Denise Howell “Episode 92: Time Traveling Patent Trolls”
The TWiT Netcast Network, December 23, 2010, <http://twit.tv/twil92>
- this WEEK in LAW with Denise Howell “Episode 86: Buying Congress On The Cheap”
The TWiT Netcast Network, November 12, 2010, <http://twit.tv/twil86>
- “Free speech group fights lawsuits vs. news sharers”
Cristina Silva, Associated Press, September 30, 2010,
http://www.forbes.com/feeds/ap/2010/09/30/technology-us-righthaven-copyright-lawsuits_7976187.html
- “Report: Arkansas Democrat-Gazette Owner Taps Righthaven For Copyright Enforcement”
Wendy Davis, *MediaPost*, August 31, 2010
https://www.mediapost.com/publications/?fa=Articles.showArticle&art_aid=134780
- “Are Newspaper Copyright Lawsuits Fair Enforcement or ‘Legal Extortion?’”
Adam Hochberg, *Poynter*, August 30, 2010
<http://www.poynter.org/latest-news/making-sense-of-news/105309/are-newspaper-copyright-lawsuits-fair-enforcement-or-legal-extortion/>
- “Website operators use new defenses to fight R-J copyright suits”
Steve Green, *Las Vegas Sun*, August 18, 2010
<http://www.lasvegassun.com/news/2010/aug/18/website-operators-use-new-defenses-fight-r-j-copyr/>
- “Blogger Sued By Copyright Troll Argues He Had ‘Implied License’”
Wendy Davis, *MediaPost News*, *Online Media Daily*, August 18, 2010
http://www.mediapost.com/publications/?fa=Articles.showArticle&art_aid=133992
- “Mr. Know-It-All: Hunting Small Fossils, Sharing YouTube Revenue, Rattling Out the Boss”
Brendan I. Koerner, *Wired* magazine, August 2010, p. 36
http://www.wired.com/magazine/2010/07/st_kia_fossils/
- “The Swamp and the Swamp Creature: Is the Law Too Complex?”
Ashby Jones, *Wall Street Journal Law Blog*, July 29, 2010. <http://blogs.wsj.com/law/2010/07/29/the-swamp-and-the-swamp-creature-is-the-law-too-complex/>
- “When Can You Sue a Filmmaker for Defamation? A real-life soldier says The Hurt Locker is based on his life and makes him look bad, too.”
Brian Palmer, *Slate.com*, Explainer, March 4, 2010. <http://www.slate.com/id/2246906>
- “Report: New legal solutions needed for experiments like CERN’s”
Radio interview of Eric E. Johnson by Alex Helmick, *World Radio Switzerland*,
February 26, 2010. <http://www.worldradio.ch/wrs/news/switzerland/new-legal-solutions-needed-for-experiments-like-ce.shtml?18077>
- “Schwarze Löcher: Ob sie wissen, was sie tun?”
Marcel Hänggi, *WOZ Die Wochenzeitung* (Swiss news weekly in German), February 18,
2010. <http://www.woz.ch/artikel/2010/nr07/wissen/18950.html>

“On the trails at UND”

James R. Johnson, *Grand Forks Herald*, February 10, 2010.

“Law and the end of the world”

Edwin Cartlidge, *Physics World* magazine, February 2010

<http://physicsworld.com/cws/article/indepth/41564>

“Atom Smasher Exposes Hole in Earth’s Defenses”

Kevin Hassett, *Bloomberg*, January 11, 2010

<http://www.bloomberg.com/apps/news?pid=newsarchive&sid=acnHtIDcdERA>

“A Lawyer’s View of the Risk of Black Hole Catastrophe at the LHC”

Lisa Zyga, *PsyOrg.com*, January 22, 2010

“The Case of the Collider and the Great Black Hole”

MIT Technology Review, physics arXiv blog, January 5, 2010

<http://www.technologyreview.com/blog/arxiv/24611/>

COMMUNITY SERVICE ACTIVITIES

THE ARC UPPER VALLEY Grand Forks, ND – 2007 to present

Member of the board of directors of this non-profit organization that serves persons with intellectual disabilities.

INNER CIRCLE FOSTER CARE AND ADOPTION SERVICES Los Angeles – 2004 to 2007

Drafted multiple grant applications. Helped redecorate parent-child visitation rooms.

PROFESSIONAL SERVICE

AALS SECTION ON INTERNET AND COMPUTER LAW – 2011–2013

Member of Executive Committee.

BAR ADMISSIONS

State Bar of California

United States Court of Appeals for the Federal Circuit

United States District Court, Northern District of California

MISCELLANEOUS

Inventor. "Portable Lateral-Support Headrest," U.S. Pat. No. 6,942,297, issued September 13, 2005. Sole inventor, application prosecuted *pro se*.

Stand-up comic. Have performed across the country, including the Reno Hilton's "Comedy Comedy" club in Reno, Nevada, the New York Comedy Club in Manhattan, the Icehouse in Pasadena, California, the Ontario Improv, in Ontario, California and many others.

Radio personality. Held various on-air positions as disc jockey and talk-show host at Reno, Nevada radio stations KOH (newstalk), KLKT FM (adult contemporary), KWNZ FM (hit music), KHIT FM (country), and KIRS (newstalk).