

VIVA R. MOFFAT
University of Denver Sturm College of Law
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ACADEMIC EXPERIENCE

University of Denver Sturm College of Law

Professor (2014-present)
Associate Professor with tenure (2011-2014)
Assistant Professor (2005-2011)
Visiting Assistant Professor (2004-2005)

Courses: Contracts, Introduction to Intellectual Property, Copyright, Remedies

Current Service & Leadership Roles:

- Intellectual Property & Technology Law Program, Co-Director (Fall 2021-present)
- Faculty Promotion & Tenure Committee (AY 2022-23)
- Examinations, Standing & Readmissions Committee (chair, AY 2022-23)
- Faculty Senate (2019 to present)

Past Service & Leadership Roles include:

- University General Counsel Search Committee (Fall 2021)
- Long Term Contract Conversion Committee (Fall 2021)
- Faculty Executive Committee (2019-2021; chair, AY 2020-21)
- Examinations, Standing & Readmission Committee (chair, AY 2020-21)
- Faculty Appointments Committee (2019-2020)
- Associate Dean of Academic Affairs (January 2014 – December 2018)

EDUCATION

University of Virginia School of Law, J.D., 1996

- Editor-in-Chief, VIRGINIA LAW REVIEW, volume 82

University of Virginia, M.A., American History, 1993

- Master's Thesis: "The Origins of Federal Tort Reform: Administrative Activism and a Common Law Solution"

Stanford University, A.B., with Honors, History and Political Science, 1991

- Honors Thesis: "Railroad Receiverships: Judicial Power in the Late Nineteenth Century"

ACADEMIC WRITING

ARTICLES

The Free Exercise of Copyright Behind Bars, 80 WASHINGTON AND LEE LAW REVIEW __ (forthcoming 2023)

Cannabis, Consumers, and the Trademark Laundering Trap, 63 WILLIAM & MARY LAW REVIEW 1939 (2022) (with Sam Kamin and Tim Maffett)

Human Capital as Intellectual Property? Non-Competes and the Limits of IP Protection, 50 AKRON LAW REVIEW 903 (2016)

Trademark Laundering, Useless Patents, and other IP Challenges for the Marijuana Industry, 73 WASHINGTON AND LEE LAW REVIEW 217 (2016) (with Sam Kamin)

Borrowed Fiction and the Rightful Copyright Position, 32 CARDOZO ARTS & ENTERTAINMENT LAW JOURNAL 839 (2014)

The Copyright/Patent Boundary, 48 UNIVERSITY OF RICHMOND LAW REVIEW 611 (January 2014)

Making Non-Competes Unenforceable, 50 ARIZONA LAW REVIEW 939 (2012)

The Wrong Tool for the Job: The IP Problem with Non-Competition Agreements, 52 WILLIAM & MARY LAW REVIEW 873 (2010)

Regulating Search, 22 HARVARD JOURNAL LAW & TECHNOLOGY 475 (Spring 2009)

Super-Copyright: Contracts, Preemption, and the Structure of Copyright Policymaking, 41 U.C. DAVIS LAW REVIEW 45 (Fall 2007)

Mutant Copyrights and Backdoor Patents: The Problem of Overlapping Intellectual Property Protection, 19 BERKELEY TECHNOLOGY LAW JOURNAL 1473 (Fall 2004)

WORKS IN PROGRESS

Copyright and the University: Toward a Progressive Approach to Faculty Work

SHORTER PIECES

Who to Sue? A Brief Comment on the Cyber Civil Rights Agenda, 87 DENV. U.L. REV. ONLINE 55 (2010)

Guest blogger, Concurring Opinions (<http://www.concurringopinions.com/>), January 2010

Working Together in the Digital World: An Introduction, 84 DENV. U. L. REV. 1 (2006) (with Michael Mireles)

PREVIOUS EXPERIENCE

Kamlet Reichert, LLP, Denver, CO, October 2007 to November 2010

- Special Counsel. Represented clients in intellectual property transactions and litigation matters.

Mastbaum & Moffat, LLP, Denver, CO, March 2001 to October 2007

- Of counsel (2004-2007) and partner (2001-2004)
- Represented and advised clients, including writers, non-profit organizations, and small businesses, concerning intellectual property and other matters

University of Colorado School of Law, Boulder, CO

- Adjunct Professor: Copyright (Spring 2002) and Intro to IP (Fall 2003)

Davis, Graham, & Stubbs, LLP, Denver, CO, May 2000 to March 2001

- Associate

Keker & Van Nest, LLP, San Francisco, CA, November 1997 to December 1999

- Associate
- Litigated trade secret, trademark, and other general commercial matters

U. S. Court of Appeals for the Ninth Circuit, Seattle, WA, August 1996 to August 1997

- Clerk to Judge Robert R. Beezer

ADDITIONAL INFORMATION

Selected Presentations:

Panelist, “The Economics and Incentives of Exclusive Intellectual Property Rights: Do Voids in Trademark and Patent Law Inhibit Participation and Innovation in Cannabis Markets?” Symposium on the Economics and Law of Cannabis Markets, George Mason University Antonin Scalia Law School (online), October 2020

Presenter, “When Copyright is a Civil Right: Prison Art and Prisoner Artists,” Intellectual Property Scholars Conference, DePaul University School of Law, Chicago, Illinois, August 2019

Moderator, “Cultivating Intellectual Property,” Cannabis Law Institute, Denver, Colorado, July 2017

Facilitator, “Designing a Schedule to Maximize Your School’s Goals,” ABA Associate Deans’ Conference, Chicago, Illinois, July 2017

Panelist, “Art, Separability, and the Future of Copyright for Designs,” AALS Annual Meeting, San Francisco, California, January 2017

Moderator, “Managing People, Managing Resources, Managing Teams,” ABA Associate Deans Conference, Minneapolis, Minnesota, June 2016

Small Group Facilitator, “Adaptive Leadership,” Section on Associate Deans for Academic Affairs and Research, AALS Annual Meeting, New York, New York, January 2016

Speaker, “Human Capital as Intellectual Property: IP and IP Policy in the Employment Relationship,” Employment Law Fall Update 2015: Intellectual Property in the Workplace, Colorado Bar Labor & Employment Law Section, Denver, Colorado, October 2015

Speaker, “Marijuana Regulation and Intellectual Property,” National Association of Patent Practitioners Annual Meeting, Denver, Colorado, July 2015 (with Sam Kamin)

Participant & Commentator, Innovation in Content Workshop, University of Colorado Law School, March 2015

Moderator, “Towards a More Purposeful and Collaborative Student Experience,” 2014 Associate Deans’ Conference, University of Colorado Law School, April 2014

Speaker, “Fake IP Cases,” Intellectual Property Scholars Conference, Cardozo Law School, August 2013

Panelist, “Mid-Semester Assessments in First Year Courses,” University of Denver Sturm College of Law, January 2013

Speaker, “Conceptual Separability and the Copyright/Patent Boundary,” Intellectual Property Scholars Conference, Stanford Law School, Stanford, California, August 2012

Speaker, “Unauthorized Sequels,” Law & Society Annual Conference, Honolulu, Hawaii, June 2012

Speaker, “Copyright Terminations: Not Just a Showbiz Problem,” Rocky Mountain IP Institute, Louisville, CO, May 2012

Speaker, “Unauthorized Sequels: Copyright Professor as Reader,” Intellectual Property Scholars Conference, DePaul University School of Law, Chicago, Illinois, August 2011

Conference Fellow, Modest Proposals 4.0, Cardozo Law School, New York, New York, April 2011

Speaker, "Copyright and Trademark Protection for Characters," USC Intellectual Property Institute, Los Angeles, California, March 2011

Speaker, "Copyright for Law Professors," Faculty Development Series, University of Denver Sturm College of Law, Denver, Colorado, February 24, 2010

Presenter, "Secondary Liability for Cyber Civil Rights Claims," Cyber Civil Rights Symposium, University of Denver Sturm College of Law, Denver, Colorado, November 20, 2009

Participant, Silicon Flatirons Roundtable, "Google, ISPs, and Other Online Intermediaries: Power, Responsibility, and Regulation." Denver, Colorado, November 19, 2009

Facilitator, Copyright Society & Colorado Bar Association screening and discussion of "Copyright Criminals," University of Denver Sturm College of Law, Denver, Colorado, November 16, 2009

Speaker, "Facebook and You(tube): The Risks of Online Social Networking," University of Denver Faculty Speaker Series, Denver, Colorado, March 2009

Presenter: "Regulating Search," Intellectual Property Scholars Colloquium, Stanford Law School, Stanford, California, August 2008

Presenter, "Fair Use and Standard Form Contracts in the Digital Age," Stanford-Berkeley Intellectual Property Scholars Colloquium, Boalt Hall School of Law, University of California, Berkeley, August 2006.

Moderator: "Industry Perspectives on Digital Rights Management," at the Cable Center Summit on Intellectual Property and Digital Media, *From Creator to Consumer: Working Together in the Digital World*, Denver, Colorado, May 2006

Panelist: "Issues Faced by Women in Law: Relating to Clients and Colleagues, Navigating the System and Balancing it All," University of Denver College of Law, Denver, Colorado, March 2005.

Presenter: "The Problem of Overlapping Intellectual Property Protection," presented at the University of San Diego Law School Faculty Colloquia Series (October 25, 2004), the University of Denver Sturm College of Law (November 15, 2004), Seton Hall University School of Law (November 17, 2004), St. John's University School of Law (November 19, 2004), and the University of Cincinnati College of Law (November 30, 2004)

Commentator: "Heartbeat of a Nation: Intellectual and Cultural Property in Indian Country," University of Denver College of Law, September 22, 2004

Selected Media Appearances:

Interview regarding copyright preemption case, September 21, 2022, Bloomberg.com (<https://news.bloomberglaw.com/ip-law/google-lyric-scraping-fight-with-genius-primed-for-supreme-court>)

Interview regarding copyright suit against tattoo artist, June 17, 2022, Bloomberg.com (<https://www.bloomberg.com/news/articles/2022-06-17/miles-davis-tattoo-suit-pits-copyright-against-body-autonomy>)

Interview regarding biker club's trademark dispute, January 11, 2019, New York Times (<https://www.nytimes.com/2019/01/11/us/mongols-biker-gang-logo.html>)

Interview regarding high school trademark dispute, June 18, 2015, The Denver Post (http://www.denverpost.com/news/ci_28340131/john-adams-naming-battle-ignites-between-colorado-and-california-schools)

Interview regarding medical marijuana trademark dispute, September 2013, Colorado Public Radio, Denver, Colorado

Interview regarding Pinterest and copyright issues, March 2012, Channel7 News, Denver, Colorado

Interviews regarding SOPA/PIPA debate, January 2012, Channel 9 News, Denver, Colorado

Interview regarding Shepard Fairey case and fair use, April 2009, Channel 9 News, Denver, Colorado

Interview regarding intellectual property law practice in Denver, October 13, 2008, DENVER BUSINESS JOURNAL (copy available upon request)

Memberships and Bar Admissions:

- Member, ABA Associate Deans Conference Planning Committee (2015 to 2018)
- Member, Executive Committee for the AALS Law & Computers Section (2009-2011)
- Member, Colorado Bar Association IP Section Advisory Board (various terms)
- Colorado and California (inactive) Bar Associations
- Admitted in the District of Colorado, the United States Court of Appeals for the Tenth Circuit, and the Northern District of California
- Raven Society (honor society at the University of Virginia)