

BARTON BEEBE

New York University School of Law
40 Washington Square South
New York, NY 10012
barton.beebe@nyu.edu

EMPLOYMENT

New York University School of Law, New York, NY

John M. Desmarais Professor of Intellectual Property Law, 2013–present
Professor of Law, 2009–2013

Columbia Law School, New York, NY

James S. Carpentier Visiting Professor of Law, Columbia Law School, 2020

Yale Law School, New Haven, CT

Anne Urowsky Visiting Professor of Law, 2011

Stanford Law School, Stanford, CA

Visiting Professor of Law, 2009

Benjamin N. Cardozo School of Law, Yeshiva University, New York, NY

Professor of Law, 2008-2009; *Associate Professor of Law*, 2006–08; *Assistant Professor of Law*, 2003–06

Hon. Denise Cote, United States District Court for the Southern District of New York

Law Clerk, 2002

EDUCATION

Yale Law School, J.D., 2001

Senior Editor, *Yale Law Journal*
Articles Editor, *Yale Journal of Law & the Humanities*

Princeton University, Ph.D. (English), 1998

Whiting Fellow in the Humanities
Deutscher Akademischer Austauschdienst Scholar, Universität Regensburg, Germany

University of Chicago, B.A. with Honors, Phi Beta Kappa, 1992

David Blair McLaughlin Prize 1989 for Essay in Literary Criticism
John Rogers Snowday Prizes 1989 & 1990 for Essays in Literary Criticism
Trinity College, University of Cambridge, 1990–91

PUBLICATIONS

Books

Trademark Law: An Open-Access Casebook (2014–2024), available at www.tmcasbook.org under a Creative Commons BY-NC-SA license

Charting Limits on Trademark Rights (Oxford, 2023) (edited with Haochen Sun)

The Luxury Economy and Intellectual Property: Critical Reflections (Oxford, 2015) (edited with Haochen Sun & Madhavi Sunder)

Trademark Law, Unfair Competition, and Business Torts (Aspen, 2011) (with Thomas Cotter, Mark Lemley, Peter Menell & Robert Merges)

Articles

Automating *Abercrombie*: Machine-Learning Trademark Distinctiveness, 21 *Journal of Empirical Legal Studies* 826 (2024) (with Shivam Adarsh, Elliott Ash, Stefan Bechtold & Jeanne Fromer)

Consumer Uncertainty in Trademark Law, 72 *Emory Law Journal* 489 (2023) (with Roy Germano, Christopher Jon Sprigman & Joel Steckel)

The Future of Trademarks in a Global Multilingual Economy: Evidence and Lessons from the European Union, 112 *The Trademark Reporter* 902 (2022) (with Jeanne C. Fromer)

An Empirical Study of U.S. Copyright Fair Use Opinions Updated, 1978-2019, 9 *NYU Journal of Intellectual Property & Entertainment Law* 1 (2020)

Fake Trademark Specimens: An Empirical Analysis, 120 *Columbia Law Review Forum* 217 (2020) (with Jeanne C. Fromer)

Immoral or Scandalous Marks: An Empirical Analysis, 8 *NYU Journal of Intellectual Property & Entertainment Law* 169 (2019) (with Jeanne C. Fromer)

Testing for Trademark Dilution in Court and the Lab, 86 *University of Chicago Law Review* 611 (2019) (with Roy Germano, Christopher Jon Sprigman & Joel Steckel)

- Reprinted in abridged form in 109 *Trademark Reporter* 955 (2019)

Are We Running Out of Trademarks? An Empirical Study of Trademark Depletion and Congestion, 131 *Harvard Law Review* 945 (2018) (with Jeanne C. Fromer)

The Scope of Strong Marks: Should Trademark Law Protect the Strong More than the Weak?, 92 *New York University Law Review* 1339 (2018) (with Scott Hemphill)

Bleistein, the Problem of Aesthetic Progress, and the Making of American Copyright Law, 117 *Columbia Law Review* 319 (2017)

Intellectual Property Law and the Sumptuary Code, 123 *Harvard Law Review* 809 (2010)

- Translated by Tomoko Nanbu and reprinted in 35 *Intellectual Property Law and Policy Journal* (Hokkaido University) 315 (2011)

An Empirical Study of U.S. Copyright Fair Use Opinions, 1978-2005, 156 *Pennsylvania Law Review* 549 (2008)

- Translated by Iwao Kidokoro and reprinted in 21 *Intellectual Property Law and Policy Journal* (Hokkaido University) 117 (2008)

An Empirical Study of the Multifactor Tests for Trademark Infringement, 95 *California Law Review* 1581 (2006)

Search and Persuasion in Trademark Law, 103 *Michigan Law Review* 2020 (2005)

The Semiotic Analysis of Trademark Law, 51 *UCLA Law Review* 621 (2004)

Chapters

The Sensibility of 'Expressive Genericity' and the Rise (and Potential Fall) of *Rogers v. Grimaldi* in American Trademark Law, in *Improving Intellectual Property: A Global Project* (Susy Frankel, Margaret Chon, Graeme B. Dinwoodie, Barbara Lauriat & Jens Schovsbo eds., 2023)

The German Misappropriation Origins of Trademark Antidilution Doctrine: A Translation of the *Odol* Opinion of the Elberfeld Landgericht, in *Transition and Coherence in Intellectual Property Law: Essays in Honor of Annette Kur* (Niklas Bruun, Graeme B. Dinwoodie, Marianne Levin & Ansgar Ohly eds. 2021)

The Problems of Trademark Depletion and Congestion: Some Possible Reforms, in *Research Handbook on Trademark Law Reform* 17 (Graeme B. Dinwoodie and Mark D. Janis, eds., 2021) (with Jeanne C. Fromer)

Empirical Studies of Trademark Law, in *Research Handbook on the Economics of Intellectual Property Law: Volume II. Analytical Methods* (Peter Menell and David Schwartz, eds., 2019)

Design Protection Law, in *The Oxford Handbook of Intellectual Property Law* (Rochelle Dreyfuss & Justine Pilla eds., 2017)

The Suppressed Misappropriation Origins of Trademark Antidilution Law: the Landgericht Elberfeld's *Odol* Decision and Frank Schechter's *The Rational Basis of Trademark Protection*, in *Intellectual Property at the Edge: The Contested Contours of IP* (Rochelle Dreyfuss & Jane Ginsburg eds., 2015)

Canada and United States of America, in *Study on Misappropriation of Signs* 69 (Committee on Development and Intellectual Property, World Intellectual Property Organization, March 14, 2012, CHIP/9/INF/5)

The Semiotic Account of Trademark Doctrine and Trademark Culture, in *Trademark Law and Theory: A Handbook of Contemporary Research* 42 (Graeme B. Dinwoodie & Mark D. Janis eds.) (Edward Elgar Publishers, 2008) (adapted from *The Semiotic Analysis of Trademark Law*, 51 *UCLA Law Review* 621 (2004))

Invited Lectures and Symposium Contributions

Less as More in Intellectual Property Law, 102 *Boston University Law Review Online* 61 (2022)

Intellectual Property Law and Post-Scarcity Society, [2019] *Singapore Journal of Legal Studies* 377 (Inaugural Distinguished Visitor in Intellectual Property Lecture)

What Trademark Law is Learning From the Right of Publicity, 42 *Columbia Journal of Law & the Arts* 389 (2019)

Star Athletica and the Problem of Panaestheticism, 9 *Irvine Law Review* 75 (2019) (Keynote Address)

Shanzhai, Sumptuary Law, and Intellectual Property Law in Contemporary China, 47 *U.C. Davis Law Review* 849 (2014)

Fair Use and Legal Futurism, 24 *Law & Literature* 10 (2013)

Tiffany and Rosetta Stone: Intermediary Liability in U.S. Trade Mark Law, 41 *CIPA Journal* 192 (2012)

Is the Trademark Office a Rubber Stamp?, 48 *Houston Law Review* 752 (2012)

Does Judicial Ideology Affect Copyright Fair Use Outcomes?: Evidence From the Fair Use Case Law, 31 *Columbia Journal of Law & the Arts* 517 (2008)

- Reprinted in *Fair Use* (Audhi Narayana Vavili ed., 2008)

The Continuing Debacle of U.S. Antidilution Law: Evidence from One Year of Trademark Dilution Revision Act Case Law, 24 *Santa Clara Computer & High Technology Law Journal* 449 (2008)

A Defense of the New Federal Trademark Antidilution Law, 17 *Fordham Intellectual Property, Media & Entertainment Law Journal* 1143 (2006)

- Reprinted in *Trademark Dilution: Applications and Implications* (A.V. Narsimha Rao ed., 2008)

Shorter Works

Clearing Up Some Confusion About Dilution: A Reply to Hal Poret, 112 *Trademark Reporter* 684 (2022) (with Roy Germano, Christopher Jon Sprigman, & Joel Steckel)

Practitioner's Summary of Results Reported in *An Empirical Study of U.S. Fair Use Opinions, 1978-2005*, in *Practising Law Institute, Advanced Seminar on Copyright Law 2008*, at 11, PLI Order No. 14793 (2008)

Reply to Alan Audi, *A Semiotics of Cultural Property Argument*, 14 *International Journal of Cultural Property* 156 (2007)

Parental Initiative in the Age of Signal Bleed, 109 *Yale Law Journal* 627 (1999)

Law's Empire and the Final Frontier: Legalizing the Future in the Early *Corpus Juris Spatialis*, 108 *Yale Law Journal* 1737 (1999)

Congressional Testimony

Statement of Professors Barton Beebe and Jeanne Fromer, New York University School of Law, Before the U.S. Senate, Committee on the Judiciary Subcommittee on Intellectual Property, *Fraudulent Trademarks: How They Undermine the Trademark System and Harm American Consumers and Businesses*, December 3, 2019

Statement of Professors Barton Beebe and Jeanne Fromer, New York University School of Law, Before the U.S. House of Representatives, Committee on the Judiciary Subcommittee on Courts, Intellectual Property, and the Internet, *Counterfeits and Cluttering: Emerging Threats to the Integrity of the Trademark System and the Impact on American Consumers and Businesses*, July 18, 2019

Amicus Briefs

Brief for Professors Barton Beebe and Jeanne Fromer as Amici Curiae Supporting Respondent, *Iancu v. Brunetti*, 139 S. Ct. 2294 (2019) (cited in *Iancu v. Brunetti*, 139 S.Ct 2294, 2230 (2019))

SELECTED LECTURES AND PRESENTATIONS

- 2023 Institut für gewerblichen Rechtsschutz, ETH Zurich, Zurich IP Retreat 2023
- 2022 David L. Lange Lecture in Intellectual Property, Duke Law School
- 2021 Sir Hugh Laddie Lecture, University College London
- 2019 Inaugural Distinguished Visitor in Intellectual Property Lecture, Faculty of Law, National University of Singapore
50th Anniversary Distinguished Lecture Series, University of Hong Kong Faculty of Law
- 2017 Keynote Address, Intellectual Property Law Annual Conference: The Discursive Turn in Copyright, UC Irvine School of Law
- 2016 Conference of the Society for Institutional & Organizational Economics, Sciences Po, Paris
ISTHIP Workshop, University of Glasgow
- 2015 Goethe-Universität Frankfurt am Main - Exzellenzcluster Normative Ordnungen
Towards an Ethics of Copying, Zentrum für interdisziplinäre Forschung, Universität Bielefeld

- IPR University Center, Hanken School of Economics, Helsinki
- 2014 Oxford IP Conversazione, University of Oxford Faculty of Law
McCarthy Institute Trademark Roundtable, Rhodes House, University of Oxford
Ninth Annual Intellectual Property Lecture, University of Cambridge
- 2013 IPR University Center, University of Helsinki
Humanities in the European Research Area, University of Amsterdam
- 2012 Law and Information Technology Workshop, Faculty of Law, Tel Aviv University
Fourth Annual ISHTIP Workshop, London School of Economics
Keynote, Charting the New Frontiers of Intellectual Property Protection of Luxury Goods
Conference, University of Hong Kong Faculty of Law
Institute of Brand and Innovation Law, University College, London
- 2011 Centre d'Études Internationales de la Propriété Intellectuelle, Université de Strasbourg
- 2010 Trademark Law Institute, Vrije Universiteit Amsterdam
Keynote, Multi-Agential Governance and the Idea of Intellectual Property: Between Market
and Other Social Values Conference, Hokkaido University School of Law
Pitt Law Distinguished Intellectual Property Law Lecture, University of Pittsburgh School of
Law
Advanced Intellectual Property Law Seminar, Harvard Law School
- 2009 ETH Zurich Workshop & Lecture Series in Law & Economics
European Policy for Intellectual Property Workshop on Trade Marks and Trade Mark Data
McCarthy Institute Distinguished Lecture, University of San Francisco School of Law
Innovation Law & Theory Workshop, University of Toronto Faculty of Law
- 2008 Léger Robic Richard Seminar Series in Intellectual Property, Faculty of Law, McGill
University
- 2007 London School of Economics and Political Science
- 2006 NALSAR University of Law, Hyderabad
- 2005- Dai-Ni Tokyo Bar Association, Tokyo
International Business Law Institute, Tokyo
Omiya Law School, Omiya, Japan
Stanford/Yale Junior Faculty Forum (2003, 2005)
Center for Media and Communication Studies, Central European University, Budapest
Conference on Media and the Protection of Children, Fundação Luso-Americana, Lisbon

TEACHING

- Podell Distinguished Teaching Award, NYU School of Law, 2020
Best Professor Award, Cardozo Law School, 2008

Courses

Trademark Law: Fall 2001–06, 2008–09, 2012–2014, 2016–24
Theories of Intellectual Property Law: 2016
Trademark Law Seminar: 2001, 2004–2006
Advanced Trademark Law: Spring 2012–15, 2018–19, 2021–23
Copyright Law: 2001, 2003–08, 2010, 2015
Copyright Law Seminar: 2001
Survey of Intellectual Property Law: 2011, 2013, 2021
Intellectual Property Law and Globalization Seminar: 2006–08
International Intellectual Property Law: 2014
Innovation Law Colloquium: 2010, 2011, 2018–19

INTERNATIONAL APPOINTMENTS AND TEACHING

Visiting Faculty Fellow, NYU Global Research Institute – Berlin, 2015, 2022, 2023
Visiting Fellow, Merton College, University of Oxford, 2016
Instructor, Centre d'Études Internationales de la Propriété Intellectuelle, Université de Strasbourg,
Spring 2013, Spring 2014
Instructor, Hanken School of Economics, Helsinki, 2013–15
Visiting Professor, Faculty of Law, Hebrew University, Jerusalem, Fall 2014
Instructor, State Intellectual Property Office, People's Republic of China, Summer 2007
Visiting Professor, Munich Intellectual Property Law Center, Summer 2006

SERVICE

Co-Director, Engelberg Center on Innovation Law & Policy
Co-Director, Competition, Innovation, and Information Law LL.M. Program
Appointments Committee, 2006–08; Academic Personnel Committee 2012–13; 2024 (Fall)
Chair, Academic Careers Program, 2018–19
Lawyering Steering Committee, 2011–12, 2013–14
Adjunct Review Committee, 2009–10, 2016–22, Chair 2022–23

PROFESSIONAL ACTIVITIES

Special Master, *Louis Vuitton Malletier v. Dooney & Bourke, Inc.*, No. 04 Civ. 2990 (SAS) (S.D.N.Y.)
(5/2007-6/2007) (with Prof. Daniel J. Capra), Report and Recommendation of the Special Masters
included in *Louis Vuitton Malletier v. Dooney & Bourke, Inc.*, 525 F.Supp.2d 558 (S.D.N.Y. 2007)

OTHER POSITIONS HELD

Debevoise & Plimpton, New York, NY, Summer Associate, 1999
Katz, Friedman, Schur & Eagle, Chicago, IL, Law Clerk, 1998
Coudert Brothers, New York, NY, Legal Assistant, 1995-1996
Department of English, Princeton University, Preceptor, 1994-1995

JUDICIAL AND ADMINISTRATIVE CITATIONS

Consumer Uncertainty in Trademark Law, 72 *Emory Law Journal* 489 (2023)

- *BBK Tobacco & Foods LLP v. Cent. Coast Agric. Inc.*, No. 19 Civ. 05216, __ F. Supp. 3d. __, 2022 WL 2820144, at *7 (D. Ariz. July 19, 2022) (citing working paper version of article)

Trademark Law: An Open-Source Casebook (2014-2024)

- *Paleteria La Michoacana, Inc. v. Productos Lacteos Tocumbo S.A. De C.V.*, 743 F. App'x 457, 462 (D.C. Cir. 2018)

Bleistein, the Problem of Aesthetic Progress, and the Making of American Copyright Law, 117 *Columbia Law Review* 319 (2017)

- *We Shall Overcome Found. v. The Richmond Org., Inc.*, No. 16 Civ. 2725, 2017 WL 3981311, at *11 (S.D.N.Y. Sept. 8, 2017)

Intellectual Property Law and the Sumptuary Code, 123 *Harvard Law Review* 809 (2010)

- *Gen. Motors Co. v. Urban Gorilla, LLC*, No. 06 Civ. 00133, 2010 WL 5395065, at *9 & *16 (D. Utah Dec. 27, 2010)

An Empirical Study of U.S. Copyright Fair Use Opinions, 1978-2005, 156 *Pennsylvania Law Review* 549 (2008)

- *Bell v. Eagle Mountain Saginaw Indep. Sch. Dist.*, 27 F.4th 313 (5th Cir. 2022)
- *Levingston v. Earle*, No. 12 Civ. 08165, 2014 WL 1246369, at *2 (D. Ariz. Mar. 26, 2014)
- *Sony BMG Music Entm't v. Tenenbaum*, 672 F. Supp. 2d 217, 221 (D. Mass. 2009)
- *Peteski Prods., Inc. v. Rothman*, 264 F. Supp. 3d 731, 739 (E.D. Tex. 2017)

The Semiotic Account of Trademark Doctrine and Trademark Culture, in *Trademark Law and Theory: A Handbook of Contemporary Research* 42 (Graeme B. Dinwoodie & Mark D. Janis eds.) (Edward Elgar Publishers, 2008)

- *In Re Fuhu Holdings, Inc.*, No. 85326591, 2013 WL 5407252, at *5 (T.T.A.B., Apr. 19, 2013)

A Defense of the New Federal Trademark Antidilution Law, 17 *Fordham Intellectual Property, Media & Entertainment Law Journal* 1143 (2006)

- *S&P Global Inc. v. S&P Data LLC*, No. 20 Civ. 701, 2022 WL 3098096, at *13 (D. Del. Aug. 4, 2022)
- *Shippitsa Ltd. v. Slack*, No. 18 Civ. 1036, 2019 WL 3304890, at *10 (N.D. Tex. July 23, 2019)
- *Int'l Info. Sys. Sec. Certification Consortium, Inc. v. Sec. Univ., LLC*, No. 10 Civ. 01238, 2014 WL 3891287, at *10 (D. Conn. Aug. 7, 2014)
- *USA Nutraceuticals Grp., Inc. v. Musclepharm Corp.*, No. 11 Civ. 80960, 2012 WL 13019035, at *3 (S.D. Fla. May 17, 2012)
- *Am. Mensa, Ltd. v. Inpharmatica, Ltd.*, No. 07 Civ. 3283, 2008 WL 11363280, at *10 (D. Md. Nov. 6, 2008)
- *Emerald City Mgmt., LLC v. Kahn*, No. 14 Civ. 358, 2016 WL 98751, at *11 (E.D. Tex. Jan. 8, 2016)
- *Bd. of Regents, Univ. of Texas Sys. ex rel. Univ. of Texas at Austin v. KST Elec., Ltd.*, 550 F. Supp. 2d 657, 679 (W.D. Tex. 2008)

- *Research in Motion Ltd. v. Defining Presence Mktg. Grp., Inc. & Axel Ltd. Co.*, 102 U.S.P.Q.2d 1187, 1197 (T.T.A.B. 2012) (precedential)
- *Nat'l Pork Bd. & Nat'l Pork Producers Council v. Supreme Lobster & Seafood Co.*, 96 U.S.P.Q.2d 1479, 1497 (T.T.A.B. 2010) (precedential)

An Empirical Study of the Multifactor Tests for Trademark Infringement, 95 *California Law Review* 1581 (2006)

- *Illinois Tool Works Inc. v. J-B Weld Company, LLC*, 19 Civ. 01434, 2019 WL 6765761, at *13 (D. Conn. Dec. 12, 2019)
- *Oriental Fin. Grp., Inc. v. Cooperativa de Ahorro y Crédito Oriental*, 832 F.3d 15, 26 (1st Cir. 2016)
- *Uber Promotions, Inc. v. Uber Techs., Inc.*, 162 F. Supp. 3d 1253, 1265 (N.D. Fla. 2016)

Brief for Professors Barton Beebe and Jeanne Fromer as Amici Curiae Supporting Respondent, *Iancu v. Brunetti*, 139 S. Ct. 2294 (2019)

- *Iancu v. Brunetti*, 139 S. Ct. 2294, 2230 (2019)

Statement of Professors Barton Beebe and Jeanne Fromer, New York University School of Law, Before the U.S. House of Representatives, Committee on the Judiciary Subcommittee on Courts, Intellectual Property, and the Internet, *Counterfeits and Cluttering: Emerging Threats to the Integrity of the Trademark System and the Impact on American Consumers and Businesses*, July 18, 2019

- *Home It, Inc. v. Wupin Wen*, No. 19 Civ. 7070, 2020 WL 353098, at *6 (E.D.N.Y. Jan. 21, 2020)