

CATHAY Y. N. SMITH
Professor of Law
Chicago-Kent College of Law (IIT)
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PROFESSIONAL HISTORY

Chicago-Kent College of Law (IIT), Chicago, Illinois

Professor (July 2024-present)

Co-Director, Intellectual Property Law Program (July 2024-present)

University of Montana Alexander Blewett III School of Law, Missoula, Montana

Professor (Aug. 2021-July 2024)

Acting Dean, Academic Affairs (Oct. 2021-July 2022)

Associate Professor (Aug. 2018-July 2021)

Assistant Professor (Aug. 2015-July 2018)

Oxford Intellectual Property Research Centre (OIPRC), Faculty of Law

University of Oxford, Oxford, England

Visiting Research Fellow (Sept. 2022-Aug. 2023)

Judge, 20th Annual Oxford International IP Law Moot Competition (March 2023)

New York Law School London Program, London, England

Visiting Professor, International IP (June 2018)

University of Denver Sturm College of Law, Denver, Colorado

The Kenneth R. Whiting Teaching Fellow (Aug. 2014-July 2015)

Katten Muchin Rosenman LLP, Chicago, Illinois

Associate, Trademark & Copyright Litigation (Sept. 2006-Sept. 2012)

EDUCATION

The London School of Economics and Political Science, London, England

MSc. in Law, Anthropology and Society (2013)

Loyola University Chicago School of Law, Chicago, Illinois

J.D. (2006)

- Honors-at-Entrance Scholarship (2003-2006)
- Chicago Intellectual Property Colloquium Fellow (Spring 2006)

Washington and Lee University, Lexington, Virginia

B.S. with Special Attainments in Commerce (2003)

- The W. Baker Hall Scholarship (1999-2003)

LAW REVIEW ARTICLES & ESSAYS

- *The Criminally Complicated Copyright Questions About Trump’s Mugshot*, [76 STANFORD L. REV. ONLINE 135](#) (2024)
- *Rewriting History: Copyright, Free Speech, & Reimagining Classic Works*, [69 VILLANOVA L. REV. 319](#) (2024)
- *Editing Classic Books: A Threat to the Public Domain?*, [109 VIRGINIA L. REV. ONLINE 1](#) (2024)
- *Cancelling Dr. Seuss*, [26 VANDERBILT J. ENTER. & TECH. L. 73](#) (2023)
- *Weaponizing Copyright*, [35 HARVARD J. OF L. & TECH. 193](#) (2022)
- *Copyright & Memes: The Fight for Success Kid*, [110 GEORGETOWN L.J. ONLINE 142](#) (2021) (with Stacey Lantagne)
- *Political Fair Use*, [62 WILLIAM & MARY L. REV. 2003](#) (2021)
- *Copyright Silencing*, [106 CORNELL L. REV. ONLINE 71](#) (2021)
- *Creative Destruction: Copyright’s Fair Use Doctrine and the Moral Right of Integrity*, [47 PEPPERDINE L. REV. 601](#) (2020)
- *Truth, Lies, and Copyright*, [20 NEVADA L. J. 201](#) (2019)
- *Beware the Slender Man: Intellectual Property and Internet Folklore*, [70 FLORIDA L. REV. 601](#) (2018)
- *Squeeze Blood from Turnip®: Abusing Trademark Law’s Morality Provision in the TTAB*, [65 UCLA L. REV. DISC. 88](#) (2017)
- *Oral Tradition and The Kennewick Man*, [126 YALE L.J. F. 216](#) (2016)
- *Community Rights to Public Art*, [90 ST. JOHN’S L. REV. 369](#) (2016)
- *Food Art: Protecting Food Presentation Under U.S. Intellectual Property Law*, [14 JOHN MARSHALL REV. INTELL. PROP. L. 1](#) (2014)
- *Street Art: An Analysis Under U.S. Intellectual Property Law and Intellectual Property’s ‘Negative Space’ Theory*, [24 DEPAUL J. ART, TECH. & IP LAW 259](#) (2014)

BOOK CHAPTERS

- *Copyright in Culinary Presentations*, in [NON-CONVENTIONAL COPYRIGHT: DO NEW AND ATYPICAL WORKS DESERVE PROTECTION?](#), 128-149 (E. Bonadio & N. Lucchi eds.) (2018)

ADDITIONAL PUBLICATIONS

- *Roald Dahl, Hugh Lofting, & Dr. Seuss: Exploring Copyright Implications of Revising Classic Children’s Works*, [CREATE BLOG](#) (May 5, 2023)
- *From Roald Dahl to Goosebumps, revisions to children’s classics are really about copyright*, [THE CONVERSATION UK](#) (March 7, 2023)
- *Food Plating and Trade Dress: Can a Chef Claim Trademark Protection for a Signature Dish?*, [CARDOZO ART & ENTERTAINMENT LAW JOURNAL BLOG 75](#) (April 16, 2015)
- *“Copyright is for losers©™”*: *Street Art Flourishes in Intellectual Property’s Negative Space*, [CARDOZO ART & ENTERTAINMENT LAW JOURNAL BLOG 49](#) (June 20, 2014)

PRESENTATIONS

August 2024-present

- *Keynote Address: Copyright Law & Politics*, The 34th Annual All Ohio Annual Institute on Intellectual Property (October 8, 2024)
- *Warner Chappell Music, Inc. v. Nealy*, Chicago-Kent College of Law, 15th Annual Supreme Court IP Review (September 27, 2024) (moderator)
- *Copyrighting Nature*, DePaul University College of Law, Advanced IP Seminar (September 18, 2024)
- *Copyrighting Nature*, University of California Berkeley School of Law, Intellectual Property Scholars Conference (IPSC) (August 8, 2024)

August 2023-July 2024

- *The American Flag between Fashion, Heritage, and Law*, Interview with Prof. Felicia Caponigri on A Fashion Law Dinner Part (July 1, 2024)
- *Copyrighting Nature*, Boston University School of Law, International Society for the History and Theory of Intellectual Property (ISHTIP) (June 26-27, 2024) (competitively selected)
- *Copyright & Works of Nature*, Ohio State University Moritz College of Law, Art Law Works-in-Progress Colloquium (May 30-31, 2024)
- *Copyright & Works of Nature*, Suffolk University School of Law, M3 IP Scholars Workshop (May 10-11, 2024)
- *Rewriting History: Copyright, Free Speech, & Reimagining Classic Works*, Chicago IP Colloquium (March 2024) (invited)
- *Copyrighting Nature*, Santa Clara Law School, Work-in-Progress Intellectual Property (WIPIP) (February 2024)
- *Immoral Works & Copyright, reviewing Professor Ned Snow's INTELLECTUAL PROPERTY AND IMMORALITY: AGAINST PROTECTING HARMFUL CREATIONS OF THE MIND*, Texas A&M Journal of Property Law Symposium (October 6, 2023) (invited)

August 2022-July 2023

- *Roald Dahl, Hugh Lofting, & Dr. Seuss: Exploring Copyright Implications of Revising Classic Children's Works*, University of Glasgow CREATE Public Lecture (May 23, 2023)
- *Copyrighting Nature*, University of Miami School of Law, M3 IP Scholars Workshop (May 19, 2023)
- *Cancelling Dr. Seuss (& Editing Roald Dahl)*, University of Oxford, Oxford IP Research Centre Invited Speaker Series at St. Peter's College (May 4, 2023) (invited)
- *Cancelling Dr. Seuss*, Suffolk University School of Law, Works-In-Progress Intellectual Property (February 4, 2023)
- *Cancelling Dr. Seuss*, University of Oxford IP Discussion Group at the Bonavero Institute of Human Rights (Jan. 25, 2023) (invited)
- *Copyright & Fair Use*, Privacy International (London) (Jan. 24, 2023) (invited)

- *Emerging Voices in IP*, AALS IP Section Works-In-Progress Program (Jan. 6, 2023) (organizer)
- *Why Do Law Professors Hate The Metaverse?*, AALS IP Section Main Program (Jan. 6, 2023) (organizer)
- *The Recorded Classroom*, AALS IP Section Pedagogy Program (Jan. 4, 2023) (organizer)
- *Cancelling Dr. Seuss*, Brunel Law School (London) Research Seminar Series (Nov. 28, 2022) (invited)
- *Cancelling Dr. Seuss*, MOSAIC IP Conference: Access for All? The Role of IP in Equity, Power, and Democracy in Challenging Times (Oct. 28, 2022)

August 2021-July 2022

- *Weaponizing Copyright*, Willamette University College of Law Faculty Colloquium (Nov. 10, 2021) (invited)
- *Copyright & Memes*, Willamette University College of Law, Guest Lecture in Internet & Social Media Law Seminar (Oct. 28, 2021) (invited)
- *Creativity & Culture*, IPSC (Aug. 12, 2021) (moderator)

August 2020-July 2021

- *Laney Griner v. Steve King: Copyright, Memes, and Fair Use*, Montana IP Law Section Exploration Series Lecture (June 2021) (with Stacey Lantagne)
- *Response to Prof. Kali Murray's "IP as Liberation,"* Law Review Annual Lecture, St. Thomas School of Law (April 12, 2021) (invited)
- *Weaponizing Copyright*, Interview with Prof. Brian Frye on Ipse Dixit (March 30, 2021)
- *Weaponizing Copyright*, WIPIP (February 12, 2021)
- *Food Fight!, Evil Twin Debate* between Professors Cathay Smith and Ann Bartow, AALS (Jan. 6, 2021) (invited)
- *Street Art & the Law*, AALS Section on Art Law (Jan. 5, 2021) (invited)
- *Expanding Innovation in the Rocky Mountain West*, Conversation with the USPTO (Nov. 19, 2020)
- *IP and Political Campaigns*, IP Law Association of Chicago (Nov. 17, 2020) (invited)
- *Weaponizing Copyright*, Rocky Mountain Junior Scholar's Conference (Nov. 6, 2020)
- *Weaponizing Copyright*, IP MOSAIC Conference (Oct. 31, 2020)
- *Copyright Silencing*, University of San Diego Law School, Guest Lecture in Corporate Innovation and Legal Policy Seminar (Oct. 14, 2020) (invited)
- *Political Fair Use*, Interview with Prof. Saurabh Vishnubhakat on Ipse Dixit (Sept. 17, 2020) (invited)

August 2019-July 2020

- *Fair Use & the Right of Integrity*, Interview with Prof. Brian Frye on Ipse Dixit (May 8, 2020) (invited)
- *Indigenous IP*, IP Day in Montana, University of Montana Blewett School of Law (April 17, 2020) (organizer) (cancelled due to Covid)
- *Political Fair Use*, University of Oklahoma College of Law, Faculty Lecture Series (March 5, 2020) (invited)
- *Political Fair Use*, Santa Clara Law, WIPIP (Feb. 7, 2020)

- *Political Fair Use*, BYU IP Colloquium (Nov. 14, 2019) (invited)
- *Moral Rights Debate*, BYU Copyright & Trademark Symposium, Issues Facing Modern Media Industries (Oct. 10-11, 2019) (invited)
- *Balancing Author's Dignity with Free Expression*, Center for Civil and Human Rights at the Gonzaga University School of Law, Furthering Social Justice in the Age of Intellectual Property (Sept. 20, 2019) (invited)
- *Political Fair Use*, DePaul University School of Law, IPSC (Aug. 9, 2019)

August 2018-July 2019

- *Political Fair Use*, George Washington University Law School, JIPSA (May 29, 2019)
- *Authorship Agreements with Prof. Cathay Smith*, Blewett School of Law Pop-up Faculty Development Workshop (May 7, 2019)
- *Litigating IP*, IP Day in Montana, University of Montana Blewett School of Law (April 11, 2019) (organizer)
- *Creative Destruction: Copyright's Fair Use Doctrine and the Moral Right of Integrity*, George Washington University Law School, IP Speaker Series (March 27, 2019) (invited)
- *Collaborative Authorship in a Network Society*, Santa Clara School of Law, Internet Work-in-Progress (March 2, 2019)
- *Nonconventional Copyright*, Columbia Law School, IP Speaker Series at the Kernochan Center for Law, Media and the Arts (February 5, 2019) (invited)
- *Truth, Lies, and Copyright*, William and Mary Law School Junior Intellectual Property Scholars Workshop (January 24-26, 2019)
- *Women in the Law*, University of Montana, Women's Law Caucus and Montana Trial Lawyers Association Panel (October 11, 2018) (moderator) (invited)
- *Creative Mutilation: Fair Use in VARA*, University of California Berkeley School of Law, Intellectual Property Scholars Conference (August 10, 2018)

August 2017-July 2018

- *Fair Use in VARA*, Northwestern University School of Law Junior Intellectual Property Scholars Workshop (July 25-26, 2018)
- *How Can IP Support Place-based Innovation?*, University of Montana InnovateUM (April 25, 2018) (invited)
- *Protecting Your Innovations*, IP Day in Montana, University of Montana Blewett School of Law (April 12, 2018) (organizer)
- *Emerging IP Issues in Indian Country*, University of Montana Blewett School of Law (April 11, 2018) (moderator)
- *Writing IP with Cathay Smith*, Tulane Law School Guest Lecture Series (October 3, 2017) (invited)
- *Star Athletica v. Varsity Brands*, Chicago-Kent College of Law, 8th Annual Supreme Court IP Review (September 26, 2017) (invited)
- *Defining the Boundaries of Factual Estoppel in Copyright Law*, Cardozo Law School, Intellectual Property Scholars Conference (August 11, 2017)

August 2016-July 2017

- *Factual Estoppel*, Gonzaga University School of Law, Junior IP Scholars Workshop (June 2-3, 2017)
- *Inaugural IP Day in Montana*, University of Montana Blewett School of Law (March 16, 2017) (organizer)
- *Investigating IP in Internet Folklore*, Case Western Reserve University School of Law, Who Owns Tradition? Reconceptualizing the Protection of Indigenous and Traditional Knowledge, Spangenberg Centre on Law, Technology and the Arts (Nov. 11, 2016) (invited)
- *The Making of a Monster*, LSU Law Center, By Any Other's Name: A Conference on Law, Authorship and Appropriation (Oct. 29, 2016)
- *Art & Intellectual Property*, Montana Art Gallery Directors Association (MAGDA) Annual Conference, Chico Hot Springs (Oct. 13, 2016) (invited)
- *Intellectual Property in Internet Folklore*, Stanford Law School, Intellectual Property Scholars Conference (Aug. 11, 2016)

July 2016 & prior

- *Trademarks, and Copyrights, and Patents, Oh My!*, IP Workshop at the Blackstone LaunchPad at the University of Montana (April 12, 2016) (invited)
- *The Making of a Monster: Investigating Intellectual Property in Internet Folklore*, University of Washington School of Law, Works-In-Progress Intellectual Property (WIPIP) (Feb. 18, 2016)
- *Community Rights to Public Art*, Marquette Law School, First Annual Mosaic Conference: Diverse Voices in Intellectual Property Law (Nov. 14-15, 2014)
- *Food Art and Intellectual Property Law*, The John Marshall Law School Review of Intellectual Property 6th Annual Symposium, Art Meets Law: The Intersection of Art and Intellectual Property (Oct. 24, 2014)
- *Immoral Trademarks*, American University Washington College of Law, 2014 Trademark Works in Progress (Oct. 10-11, 2014)

SELECTED MEDIA INTERVIEWS & QUOTES

- [The American Flag between Fashion, Heritage, and Law](#), A Fashion Law Dinner Party Podcast (July 1, 2024)
- [Flight Over NFL Star's Statue Hinges On Who Holds Copyright](#), Law 360 (March 20, 2024)
- [Revived Fortnight Dance Suit Explores Rare Us of Copyright Law](#), Bloomberg Law (Nov. 13, 2023)
- [Warhol Ruling Vague About How It Tightens Copyright Fair Use](#), Bloomberg Law (May 19, 2023)
- [Idaho state Rep. Heather Scott held a Confederate flag for a photo and shared it online — her husband just didn't want us to do the same](#), Inlander (March 16, 2023)
- ['Goosebumps' Author Accuses Publisher of Unsanctioned Edits to His Beloved Children's Series](#), The New York Sun (March 8, 2023)

- [From Roald Dahl to Goosebumps, revisions to children's classics are really about copyright – a legal expert explains](#), Irish News (March 7, 2023)
- [Copyright, Free Speech Clash in Dispute Over Cameron Boyce’s Final Film](#), Copyright Lately (March 6, 2023)
- [Supreme Court Hears Arguments in Warhol Copyright Case](#), Hyperallergic (Oct. 12, 2022)
- [A Free-Speech Case Tangles a Tech Billionaire, Twitter Troll](#), Bloomberg Law (June 21, 2022)
- [We’re Gonna Rock Down to . . . Copyright Protection: The Unauthorized Use of Popular Music in Political Campaigns During the Social Media Era](#), NYSB (Feb. 16, 2022)
- [Weaponizing Copyright?](#), The National Law Review (Sept. 28, 2021)
- [Is Tumblr About to Get All of Its Creators Sued](#), Slate.com (Aug. 12, 2021)
- [Inside Tumblr’s Latest Meltdown](#), ICYMI, a Slate Podcast (Aug. 11, 2021)
- [A Response to “Weaponizing Copyright” by Cathay Y. N. Smith](#), The Illusion of More (May 25, 2021)
- [Is Rachel Dolezal Using Copyright to Erase History?](#), Copyright Lately (May 21, 2021)
- [Cathay Smith on Weaponizing Copyright](#), Ipse Dixit Podcast (March 30, 2021)
- [The Mural of the Story: Give Credit Where It’s Due](#), Denver Westword (Jan. 4, 2021)
- [Cathay Smith on Political Fair Use](#), Ipse Dixit Podcast (Sept. 17, 2020)
- [VARA Protection for Spontaneous Protest Art](#), Art & Cultural Heritage Law Newsletter (Summer 2020)
- [No, California Law Review, Food Plating Does Not Deserve Copyright Protection](#), TechDirt (June 5, 2020)
- [Cathay Smith on Fair Use & the Right of Integrity](#), Ipse Dixit Podcast (May 8, 2020).
- [One of Daniel Hurst’s Paintings was separated into 88 Spots, Which Were Then Sold Individually](#), The Fashion Blog (April 30, 2020).
- [The fight for the Phillie Phanatic: Who owns the essence of an iconic mascot?](#), The Score (March 4, 2020).
- [Marlon Blackwell Says Saracen Casino Design Was Hijacked](#), Arkansas Business (Feb. 3, 2020).
- [Twitter Yanks Trump Nickelback Meme Video in Copyright Spat](#), Bloomberg Law (Oct. 3, 2019).
- [Still Standing?: The Sometimes Rocky World of Public Art](#), JDSupra (May 28, 2019).
- [A record-setting \\$40.1m sale of an Assyrian relief at Christie’s raises red flags](#), The Art Newspaper (Nov. 2, 2018).
- [New study claims Slender Man is in the commons, argues assertion of trademark rights ‘chills creativity’](#), World Trademark Review (Sept. 18, 2017).

SELECTED PUBLISHED CASES

- *Kinbook LLC v. Microsoft Corp.*, 866 F.Supp.2d 453 (E.D.Pa. 2012) (aff’d 2013 WL 116516 (3d Cir. 2013))
- *James Braddock v. Angelina Jolie*, 103 U.S.P.Q.2d 1344 (N.D.Ill. 2012)
- *PODS Enterprises v. ABF Freight System, Inc.*, 100 U.S.P.Q.2d 1708 (M.D.Fla. 2011)
- *Facebook Inc. v. Various Inc.*, 99 U.S.P.Q.2d 1300 (N.D.Cal. 2011)

- *Arcadia Group Brands Ltd. v. Studio Moderna SA*, 99 U.S.P.Q.2d 1134 (T.T.A.B. 2011)
- *Penthouse Digital Media Productions, Inc. v. Cloudstreet Inc.*, 98 U.S.P.Q.2d 1496 (T.T.A.B 2010)
- *Roxbury Entertainment v. Penthouse Media Group, Inc.*, 669 F.Supp.2d 1170 (C.D.Cal. 2009) and 91 U.S.P.Q.2d 1173 (C.D.Cal. 2009)
- *Bausch & Lomb Incorporated v. Karl Storz GmbH & Co. KG*, 87 U.S.P.Q.2d 1526 (T.T.A.B. 2008)

SERVICE

Chair, AALS IP Section (2022)

Chair-Elect, AALS IP Section (2021)

Executive Committee Member, AALS IP Section (2020)

(Inaugural Founding) Member, IP Law Section of the State Bar of Montana (2016-present)

Board of Directors, Missoula Art Museum (MAM), Missoula, MT (2017-2023)

Elected Member, Public Art Committee, City of Missoula, MT (2016-2019)

BAR ADMISSIONS

Illinois

Colorado

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Third Circuit

U.S. District Court for the Northern District of Illinois

U.S. District Court for the Central District of Illinois

Languages

English

Taiwanese Chinese