

## Of Counsel

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## Practice Areas

- Patent, Copyright & Trademark
- Entertainment Transactions
- IP Transactions
- IP Litigation
- Litigation

## Education

- Yale Law School (J.D., 1980) Editor of the *Yale Law Journal*
- Stanford University (A.B., 1977), with distinction and honors

## News

- David Nimmer Named Century City Bar Association's 2010 IP Lawyer of the Year



## David Nimmer

David Nimmer is of counsel to Irell & Manella LLP in Los Angeles, California. He also served as a visiting Professor at University of California, Los Angeles Law School and Distinguished Scholar at the Berkeley Center for Law and Technology. In 2000, he was elected to the American Law Institute.

Prof. Nimmer has been named the 2010 "Intellectual Property Lawyer of the Year" by the Century City Bar Association. He was selected a Southern California "Super Lawyer" by *Los Angeles Magazine* in 2006-2010 and has been named in *The Best Lawyers in America* for over 10 years. The *Los Angeles* and *San Francisco Daily Journals* named Mr. Nimmer one of California's "Top 10 Copyright Lawyers" in 2008.

Prof. Nimmer represents clients in the entertainment, publishing, and high-technology fields. He gave congressional testimony on behalf of the United States Telephone Association in 1997 and the National Association of Broadcasters in 1992, and Parliamentary testimony on behalf of the Combined Newspaper and Magazine Copyright Committee of Australia in Sydney in 1993.

He received an A.B. with distinction and honors in 1977 from Stanford University and his J.D. in 1980 from Yale Law School, where he served as editor of the *Yale Law Journal*.

Prof. Nimmer also served as the Chairman on the Committee on Intellectual Properties Litigation for the American Bar Association from 1989-1992.

## Publications

Since 1985, Prof. Nimmer has updated and revised *Nimmer on Copyright*, the standard reference treatise in the field, first published in 1963 by his late father, Professor Melville B. Nimmer. Routinely cited by domestic foreign courts at all levels in

## David Nimmer (continued)

copyright litigation, cases within the United States have relied on *Nimmer on Copyright* as authority in over 2500 judicial opinions.

He has also contributed to numerous other books, including *Le lisibile et l'illsibe* (2003), *Cases and Materials on Copyright and Other Aspects of Entertainment Litigation* (2002), *Artefacts and Intellectual Property* (2001), *Copinger and Skone James on Copyright* (1991), *OnMultimedia: Technologies for the 21st Century* (1990), *Droit des affaires* (1989), and *International Copyright Law and Practice* (1989 - 1998). An anthology of his articles appears as *Copyright: Sacred Text, Technology, and the DMCA* (2003).

He has also published a series of influential articles on the subject of U.S. and international copyright. In 2003, Kluwer International published an anthology of his articles under the title *Copyright: Sacred Text, Technology and the DMCA*. A roster of his articles includes:

- *Copyright Law and the Restoration of Beauty*, 47 Osgoode Hall L.J. 553 (2010)
- *Access Denied*, 3 Utah L. Rev. 769 (2007)
- *Unwinding Sony*, 95 Cal. L. Rev. 941 (2007) (with Peter Menell)
- *Legal Realism in Action: Indirect Copyright Liability's Continuing Tort Framework and Sony's De Facto Demise*, 55 UCLA L. Rev. 143 (2007) (with Peter Menell)
- *A Modest Proposal to Streamline Fair Use Determinations*, 24 Cardozo Arts & Ent. L.J. 11 (2006)
- *Copyright's 'Staple Article of Commerce' Doctrine: Patently Misguided*, 53 J. Copyright Soc'y 365 (2006) (with Peter Menell)
- *Promises! Promises!*, 119 Harv. L. Rev. F. 74 (2006), <http://www.harvardlawreview.org/forum/issues/119/jan06/nimmer.pdf>
- *Repeat Infringers*, 52 J. Copyright Soc'y 167 (2005)
- *On the Sony Side of the Street*, 34 Sw. U. L. Rev. 205 (2004)
- *The Moral Imperative Against Academic Plagiarism (Without a Moral Right Against Reverse Passing Off)*, 54 DePaul L. Rev. 1 (2004)
- *Codifying Copyright Comprehensibly*, 51 UCLA L. Rev. 1233 (2004)
- *Preexisting Confusion in Copyright's Work For Hire Doctrine*, 50 J. Copyright Soc'y 399 (2003) (with Peter Menell & Diane McGimsey)
- *"Fairest of them All" and Other Fairy Tales of Fair Use*, 66 Law & Contemp. Probs. 263 (2003)
- *Appreciating Legislative History: The Sweet and Sour Spots of the DMCA's Commentary*, 23 Cardozo L. Rev. 909 (2002)

## David Nimmer (continued)

- *Sound Recordings, Works for Hire, and the Termination-of-Transfers Time Bomb*, 49 J. Copyright Soc'y 387 (2001) (with Peter Menell)
- *Back From the Future: A Proleptic Review of the Digital Millennium Copyright Act*, 16 Berkeley Tech. L.J. 855 (2001)
- *Copyright in the Dead Sea Scrolls: Authorship and Originality*, 38 Hous. L. Rev. 1 (2001)
- *Ignoring the Public, Part I: On the Absurd Complexity of the Digital Audio Transmission Right*, 7 UCLA Ent. L. Rev. 189 (2000)
- *A Riff on Fair Use in the Digital Millennium Copyright Act*, 148 U. Pa. L. Rev. 673 (2000)
- *Puzzles of the Digital Millennium Copyright Act*, 46 J. Copyright Soc'y 401 (1999)
- *The Metamorphosis of Contract Into Expand*, 87 Cal. L. Rev. 17 (1999)
- *Aus Der Neuen Welt*, 93 NW. U. L. Rev. (1998)
- *Time and Space*, 38 IDEA 501 (1998)
- *Adams and Bits: Of Jewish Kings and Copyrights*, 71 S. Cal. L. Rev. 219 (1998)
- *An Odyssey Through Copyright's Vicarious Defenses*, 73 N.Y.U.L. Rev. 162 (1998)
- *A Tale of Two Treaties*, 22 Colum.-VLA J.L. & Arts 1 (1997)
- *Are We Running Through the Jungle Now or Is the Old Man Still Stuck Down the Road?* 39 Wm. & Mary L. Rev. 65 (1997) (with Paul Marcus)
- *Brains and Other Paraphernalia of the Digital Age*, 10 Harv. J.L. & Tech. 1 (1996)
- *Abend's Stepchild*, 43 J. Copyright Soc'y 139 (1996)
- *The End of Copyright*, 48 Vand. L. Rev. 1385 (1995)
- *GATT's Entertainment: Before and NAFTA*, 15 Loy. L.A. Ent. L.J. 133 (1995)
- *A Structured Approach to Analyzing the Substantial Similarity of Computer Software in Copyright Infringement Cases*, 20 Ariz. St. L.J. 625 (1988) (with Richard Bernacchi and Gary Frischling)
- *Corcovado: Renewal's Second Coming or False Messiah?*, 1 UCLA Ent. L. Rev. 127 (1994)
- *Nation, Duration, Violation, Harmonization: An International Copyright Proposal for the United States*, 55 Law & Contemp. Probs. 211 (1992)
- *Refracting the Window's Light: Stewart v. Abend in Myth and in Fact*, 39 J. Copyright Soc'y 18 (1991)
- *The Impact of Berne on United States Copyright Law*, 8 Cardozo Arts & Enter. L.J. 27 (1989)
- *Copyright Ownership by the Marital Community: Evaluating Worth*, 36 UCLA L. Rev. 383 (1988)

## David Nimmer (continued)

- *The Double Jeopardy Clause as a Bar to Reintroducing Evidence*, 89 Yale L.J. 962 (1980)

### Seminars & Speeches

- Prof. Nimmer lectures widely in the copyright arena. He has lectured around the world — at MILIA in Cannes, ALAI in Tel Aviv, LUISS in Rome, IMPRIMATUR in London, and the Copyright Society of Japan in Tokyo, and regularly to bar organizations in California and throughout the U.S.

### Bar & Court Admissions

- 1980, California
- U.S. District Court, Central and Northern Districts of California
- U.S. Court of Appeals, Second, Fifth, Ninth, Tenth, Eleventh, and Federal Circuits
- U.S. Supreme Court