

## Timothy K. Armstrong

University of Cincinnati College of Law  
Clifton Avenue & Calhoun Street  
P.O. Box 210040  
Cincinnati, Ohio 45221-0040

Telephone (513) 556-0171  
Facsimile (513) 556-1236  
E-mail: [timothy.armstrong@uc.edu](mailto:timothy.armstrong@uc.edu)  
*Info/Law* Weblog: <http://blogs.law.harvard.edu/infolaw/>

### ACADEMIC APPOINTMENTS

- July 2006 – present     **University of Cincinnati College of Law, Cincinnati, Ohio.**  
*Associate Professor of Law*, 2009–present; *Assistant Professor of Law*, 2006–2009. Subjects: Introduction to Intellectual Property Law, Copyright Law, Computer and Internet Law, International Intellectual Property Law, Civil Procedure II.
- Aug. 2005 – July 2006     **Berkman Center for Internet & Society at Harvard Law School, Cambridge, Massachusetts.**  
*Assistant Director, Clinical Program in Cyberlaw*, 2005–2006. Supervised Harvard Law School 2L and 3L students performing clinical course work on intellectual property and technology-related legal issues. Co-taught “Practical Lawyering and Internet-Related Issues” seminar, Fall semester 2005.
- Feb. 2005 – May 2006     **Harvard Extension School, Cambridge, Massachusetts.**  
*Teaching Fellow*, 2005; *Lecturer*, 2006. Co-taught course LSTU E-120, “Internet & Society: The Technologies and Politics of Control,” Spring semester 2006.

### EDUCATION

- Sept. 2004 – May 2005     **Harvard Law School**  
*Master of Laws* awarded June 9, 2005. Thesis Title: “Reconciling Digital Rights Management and Copyright’s Fair Use Exception: Towards ‘Fair-Use Friendly’ DRM.”
- May 1989 – May 1993     **The University of Texas School of Law**  
*Doctor of Jurisprudence, with High Honors* awarded May 22, 1993.
- Academic honors: Chancellors, Order of the Coif, Phi Delta Phi. Top 3% of graduating class (no official rank computed).
  - Dean’s Achievement Awards (highest grades in class): Constitutional Law II—Separation of Powers; Administrative Law; Torts.
  - *Texas International Law Journal*: Managing Editor, 1992–93; Articles & Notes Editor, 1991–92.

- May 1989 – May 1993    **The University of Texas, Lyndon B. Johnson School of Public Affairs**  
*Master of Public Affairs* awarded May 22, 1993. Thesis Title: “Remaking Antitrust: Comparative Competition Policy and Industrial Deconcentration in the World Economy.”
- Sept. 1985 – May 1989    **The University of Texas at Austin**  
*Bachelor of Arts, with Special Honors in Government* awarded May 20, 1989.

## ACADEMIC PUBLICATIONS

- Shrinking the Commons: Termination of Copyright Licenses and Transfers for the Benefit of the Public, 47 *Harvard Journal on Legislation* — (2010, forthcoming).
- Fair Circumvention, 74 *Brooklyn Law Review* 1 (2008).
- Digital Rights Management and the Process of Fair Use, 20 *Harvard Journal of Law & Technology* 49 (2006).
- *Chevron* Deference and Agency Self-Interest, 13 *Cornell Journal of Law and Public Policy* 203 (2004).

## OTHER PUBLICATIONS

- The Berkman Center for Internet & Society at Harvard Law School, *Copyright and Digital Media in a Post-Napster World* (2d ed. 2005), available at <http://cyber.law.harvard.edu/media/wp2005> (co-contributor).
- Judge John Minor Wisdom: Our Friend and Mentor, 20 *Mississippi College Law Review* 239 (2000) (with Michael A.G. Korengold).
- Attorney-Client Privilege When the Client is a Public Official: Litigating the Opening Act of the Impeachment Drama, in American Bar Ass’n Center for Continuing Legal Education and Criminal Justice Section, *White Collar Crime 1999*, at A-1 (1999) (with W. Neil Eggleston).
- Note, Transnational Production Joint Ventures and United States Antitrust Law: Evaluating the Proposed National Cooperative Production Amendments, 28 *Texas International Law Journal* 119 (1993).

## WORKS IN PROGRESS

- “Crowdsourcing and Open Access: Collaborative Techniques for Disseminating Legal Materials and Scholarship.” (tentative title).
- “Everyone’s an Archivist: Rights, Roles, and Access to Knowledge in the Digital Age.” (tentative title).

## PRESENTATIONS

- “You and the Law Reviews: Understanding What Publication Agreements Say About Rights in Your Work.” University of Cincinnati College of Law (Faculty Development Series), May 13, 2009.

- “Can Authors Shrink the Public Domain?: Preliminary Thoughts on the Terminability of Free Software Licenses, Creative Commons Licenses, and Other Grants for the Benefit of the Public.”
  - Open Source and Security Symposium: Dispelling the Myths, May 18, 2009.
  - University of Pittsburgh School of Law (Scholar Exchange Program), Feb. 10, 2009.
- “Crowdsourcing and Open Access.” I have adapted several versions of this presentation for different audiences.
  - Association of American Law Schools (AALS) Annual Meeting, Section Program, Section on Law and Computers, Jan. 9, 2010.
  - Tools for Change: 2009 Conference for Law School Computing, June 19, 2009.
  - Transforming Legal Education: 2008 Conference for Law School Computing, June 20, 2008.
  - University of Cincinnati College of Law (Faculty Development Series), Oct. 12, 2007.
- “Fair Circumvention.” University of Cincinnati College of Law Faculty–Student brownbag lunch, Apr. 2009.
- University of Cincinnati Faculty Technology Workshops
  - “Working More Efficiently with Gmail and Google Documents.” Sept. 12, 2008.

## **RESEARCH SPECIALTIES**

- Copyright and Other Intellectual Property Law
- Computer and Internet Law (particularly focusing on legal issues involving digital media)
- Open Access to Public Records, Government Documents, and Academic Research
- Statutory Interpretation
- Administrative Law

## **PUBLIC AND UNIVERSITY SERVICE**

- Member, Board of Trustees, Cincinnati ArtWorks, 2009–.
- Member, Reaccreditation Self-Assessment Committee, University of Cincinnati College of Law, 2009–2010.
- Member, Decanal Review/Faculty Assessment Committee, University of Cincinnati College of Law, 2008–2009.
- Member, Appointments Committee, University of Cincinnati College of Law, 2008–2009.
- Faculty Senator representing the College of Law in the University of Cincinnati Faculty Senate, 2006–2008.
- Member, Library and Information Technology Committee, University of Cincinnati College of Law, 2006–2008.
- Administrator of the English-language Wikisource project, Dec. 2007–.

**PRACTICE EXPERIENCE**

- Sept. 1994 – Mar. 2005 **Howrey Simon Arnold & White, LLP, Washington, D.C.**  
*Associate*, Antitrust Practice Group, 1994–96; *Associate*, Commercial Litigation Practice Group (concentrating in appellate litigation), 1996–2001; *Special Counsel—Appellate*, Supreme Court and Appellate Litigation Practice Group, 2001–2005. See below for a selection of practice highlights.
- Aug. 1993 – Aug. 1994 **Law Clerk to Judge John Minor Wisdom, U.S. Court of Appeals for the Fifth Circuit, New Orleans, Louisiana.**

**PRACTICE HIGHLIGHTS**

- **White House Attorney-Client Privilege and Related Litigation.** Represented the Office of the President of the United States in litigation involving the assertion of official privileges against grand jury subpoenas issued by Office of Independent Counsel during Monica Lewinsky investigation, *In re Grand Jury Proceedings*, 5 F. Supp. 2d 21 (D.D.C.), *cert. before judgment denied*, 524 U.S. 912, *aff'd in part sub nom. In re Lindsey*, 158 F.3d 1263 (D.C. Cir.), *cert. denied*, 525 U.S. 996 (1998) (principal author of multiple briefs including numerous district court memoranda, two major court of appeals briefs and numerous lesser appellate memoranda, brief in opposition to certiorari before judgment, and petition for certiorari); and in ancillary proceedings involving media access to the ongoing privilege litigation, *In re Motions of Dow Jones & Co.*, 142 F.3d 496 (D.C. Cir.), *cert. denied*, 525 U.S. 820 (1998) (principal author of two court of appeals briefs and brief in opposition to certiorari).
- **Administrative Law and Regulatory Practice.** Represented financial institutions in dispute with government agency involving extent of deference owed to agency's interpretation of statute it administered. *Bank of America NT & SA v. Riley*, 940 F. Supp. 348 (D.D.C. 1996), *aff'd mem.*, 132 F.3d 1480 (D.C. Cir. 1997) (co-author of summary judgment memoranda in district court and principal author of court of appeals brief); *Student Loan Finance Corp. v. Paige* (D.D.C. No. 00-2660) (principal author of summary judgment memoranda in district court). Substantial experience also in antitrust and trade regulatory matters, both as plaintiff's and defense counsel, e.g., *Systemcare, Inc. v. Wang Labs. Corp.*, 117 F.3d 1137 (10th Cir. 1997) (en banc) (co-author of appeal brief); *Bon-Ton Stores, Inc. v. May Dept Stores Co.*, 881 F. Supp. 860 (W.D.N.Y. 1994) (co-author of numerous pleadings on behalf of prevailing plaintiff in attempted monopolization case); *John Labatt Ltd. v. Anheuser-Busch, Inc.*, 519 U.S. 1109 (1997), *denying cert. to* 89 F.3d 1339 (8th Cir. 1996) (principal author of opposition to certiorari in Lanham Act trademark case).
- **Criminal Law Practice.** *Swidler & Berlin v. United States*, 524 U.S. 399 (1998) (attorney-client privilege survives client's death) (co-author of *amicus* brief). Represented defendant on appeal in complex criminal proceedings involving rico charges arising from insurance fraud scheme. *United States v. Stewart*, 185 F.3d 112 (3d Cir.), *cert. denied*, 528 U.S. 1063 (1999) (co-author of court of appeals brief and principal author of petition for certiorari). Appointed by federal court of appeals to brief constitutional issue of first impression, *United States v. McCain*, 261 F.3d 494 (3d Cir.) (table), *cert. denied*, 534 U.S. 897 (2001).
- **Disability Rights Litigation.** *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999) (Americans With Disabilities Act (ADA) forbids unnecessary institutionalization) (principal author of *amicus* brief); *Tennessee v. Lane*, 541 U.S. 509 (2004) (Title II of ADA validly abrogates State's Eleventh Amendment immunity from suit) (co-author of *amicus* brief).

- **Death Penalty Litigation.** Represented state capital inmate on direct appeal raising issue whether conviction validly could be based solely on purported unsigned “confession” disputed by, and never adopted by, defendant. *Cherrix v. Virginia*, 528 U.S. 873 (1999), *denying cert. to* 513 S.E.2d 642 (Va. 1999). Represented state capital inmate during state and federal habeas corpus proceedings, principally involving prosecution’s racially discriminatory exercise of peremptory challenges, failure to supply defense with assistance of qualified psychiatrist, service on trial jury of persons unconstitutionally predisposed to return sentence of death, and ineffective assistance of counsel. *Hightower v. Schofield*, 365 F.3d 1008 (11th Cir. 2004).
- **Labor Arbitration Practice.** Serve on an ongoing basis as an appellate arbitrator for international labor organization, involving review of written pleadings, conducting arbitral hearings, and rendering written decisions in internal union disciplinary matters. Work requires interpreting and applying federal labor statutes and regulations as well as union’s internal constitutions and codes of conduct and body of precedent established in prior arbitral proceedings.

#### **BAR MEMBERSHIPS**

- Texas (1993), inactive
- District of Columbia (1994)
- United States District Court for the District of Columbia
- United States Courts of Appeals for the Third, Fourth, Fifth, Sixth, Federal, and D.C. Circuits
- Supreme Court of the United States