4. Law and entrepreneurship

G. Edward White

‘Law and entrepreneurship’ outlines how from the colonial years through the twentieth century, each of the dominant entrepreneurial ventures that emerged were responses to the changing physical and social features of the expanding American nation. They were made possible by legal innovations, whether in the form of a system for recording land titles, state-private partnerships creating exclusive transportation franchises, the application of patent law to industrial sector inventions, or the licensing of radio and television stations and cable franchises. In the twentieth century, aspiring entrepreneurs in the marketing, communications, and entertainment sectors would continue to rely on law to facilitate their ventures and to set permissible limits of their activities.


Siva Vaidhyanathan

Intellectual property is the most pervasive yet least understood way we regulate expression. Despite its importance to so many aspects of the global economy and daily life, intellectual property policy remains a confusing and arcane subject. Intellectual Property: A Very Short Introduction clarifies both the basic terms and the major conflicts surrounding this area of law, offering an introduction to copyright, patents, trademarks, and other forms of knowledge that are subject to global law and regulation. It illustrates the powers and limits of intellectual property, distilling the complex tangle of laws, policies, and values governing the dissemination of ideas, expressions, inventions, creativity, and data collection in the modern world.

1. How to read Starbucks, or why intellectual property matters more than you think

Siva Vaidhyanathan
Intellectual property is a core function of the cultural elements from which we build meaning and of the commercial ecosystem that fuels so much human activity. Global companies, such as Starbucks and Coca Cola, have mastered both dynamics. Understanding the intellectual property ecosystem demands a full acknowledgment of the justifications for these systems of law and practice and an account of their consequences—both positive and negative. “How to read Starbucks; or why intellectual property matters more than you think” considers the justifications of intellectual property and its globalization and explains the main branches of “intellectual property” law: patent, trademark, copyright, and trade secret law.

3. Rights of property and their regulation
G. Edward White

‘Rights of property and their regulation’ illustrates that the law of property was at the centre of early American society and governance. By the early nineteenth century, two ideas about property were coexisting in property rights cases: firstly, that rights of property were inherent in American citizenship and held against state regulation, and secondly, that the police power of the state could regulate property to promote public health, safety, or morals. The legal history of property rights in America has been shaped by the interplay between these searches for profitable uses of private property and governmental efforts to ensure that an appropriate share of the resulting profits are put to beneficial public use.

Epilogue
G. Edward White

The ‘Epilogue’ concludes that this VSI may be taken as an effort to demonstrate how much of American history can be seen as connected to law and legal institutions. Of all the evidence demonstrating the role of law as a central force in the history of American culture, the most visible has been the status of the legal profession itself. Since the early settlements in colonial British America, a knowledge of law has been associated with governing institutions, politics, and influence in community affairs. The future role of the legal profession in American history is considered. Will the profession retain its position of centrality in American life?
6. The death of privacy?
Raymond Wacks

Privacy is under attack from several quarters. The ‘war on terror’ has amplified this pressure. The Internet, increased surveillance, and sensationalist journalism seriously undermine individuals’ control over their private lives. Many advocates believe that the protection of privacy stands in need of urgent renewal. Has the Internet sounded privacy’s death knell? The rapid advance of information technology, especially the Internet, has generated widespread concern about protection of personal data, with many jurisdictions adopting data protection legislation. Ironically, technology generates both the malady and part of the cure. While the law is rarely an effective tool against the dedicated intruder, advances in protective software, along with fair information practices of the European Directive and laws of several jurisdictions, afford a rational and sound normative framework for the collection, use, and transfer of personal data. Some of these questions—likely to dominate 21st-century discussions of privacy—are considered in this concluding chapter.

2. Copyright, culture, and commerce
Siva Vaidhyanathan

Copyright is the most pervasive cultural regulatory system in the world. In recent decades, copyright law has become stronger, covers more activities, restricts more uses, and lasts longer than ever before. Is the current system the best possible system for the current and future creative environment? And are the benefits of the copyright system justly distributed or do the wealthy and powerful continue to reap the bulk of the rewards for it at the expense of everyone else? “Copyright, commerce, and culture” considers what copyright does, and the four major limits of copyright—expiration, fair use or fair dealing, first sale, and the idea-expression dichotomy.

American Legal History: A Very Short Introduction
G. Edward White

Law has played a central role in American history. From colonial times to the present, law has reflected the changing society in which legal decisions have been made and has played a powerful role in shaping that society, though not always in positive ways. American
Legal History: A Very Short Introduction sheds light on the impact of law on several key social issues: Native American affairs, slavery, business, home life, and criminal and civil offences. The expansion of laws regarding property rights is also considered, as well as the evolution of criminal punishment, the rise of tort law after the Civil War; and the progress in legal education.