

2018

The Honorable Pierre N. Leval Presents Annual Mervis Lecture in Intellectual Property

William & Mary Law School



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By Staff

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The Honorable Pierre N. Leval, U.S. Court of Appeals for the Second Circuit, delivered the 2017-18 Mervis Lecture in Intellectual Property on April 3 at William & Mary Law School.

In her introductory remarks, Professor Laura A. Heymann highlighted Judge Leval's influence in shaping fair use doctrine in copyright law, starting with "Toward a Fair Use Standard," his 1990 article in the *Harvard Law Review*, which introduced the idea of the "transformative" nature of the defendant's use. The concept was embraced by the U.S. Supreme Court in its 1994 decision in *Campbell v. Acuff-Rose, Music, Inc.*, and has been a mainstay of fair use analysis ever since.

Judge Leval's lecture, titled "Adventures in Fair Use," traced the development of fair use jurisprudence, focusing in particular on the Second Circuit's 2015 opinion in *Authors Guild v. Google, Inc.*, in which the court held that the copying involved in the creation of the Google Books search engine constituted fair use. The opinion was authored by Judge Leval.

Alex Houstoun J.D. '19, who attended the lecture and had the opportunity to discuss the *Authors Guild* opinion with Judge Leval beforehand, remarked, "I don't think it really hit me until hearing Judge Leval speak what a major role he has had in the history and development of copyright law and just how lucky we were to be treated to his personal analysis."

A native of New York, Judge Leval received his B.A. from Harvard College in 1959 and his J.D. *magna cum laude* in 1963 from Harvard Law School, where he served as Note Editor of the *Harvard Law Review*.

Judge Leval served in the U.S. Army in 1959. He was a law clerk for the Hon. Henry J. Friendly of the U.S. Court of Appeals for the Second Circuit from 1963 until 1964. He thereafter served as an Assistant United States Attorney in the Southern District of New York from 1964 until 1968 and as Chief Appellate Attorney from 1967 to 1968. From 1969 until 1975, Judge Leval was in private law practice as an associate and then



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a partner in the New York firm of Cleary, Gottlieb, Steen & Hamilton. He joined the New York County District Attorney's Office in 1975, where he served first as First Assistant District Attorney and subsequently as Chief Assistant District Attorney. In 1977, he was appointed to the United States District Court for the Southern District of New York.

Judge Leval is a member of the Adjunct Faculty of the New York University School of Law. He was awarded the Hillmon Memorial Fellowship by the University of Wisconsin in 1988; the Donald R. Brace Memorial Lectureship by the Copyright Society of the U.S.A. in 1989; the Fowler Harper Memorial Fellowship by Yale Law School in 1992; the Melville Nimmer Lectureship by UCLA Law School in 1997; the Learned Hand Medal of the Federal Bar Council in 1997; and the University of Connecticut School of Law's Intellectual Property Keynote Lectureship for 2001. He assumed Senior Judge status in 2002.

About the Mervis Lectureship

The Stanley H. Mervis Lectureship in Intellectual Property was created in memory of Stanley Mervis in 2003 by his family and friends. Mr. Mervis, a member of the William & Mary Law School Class of 1950, was patent counsel for Polaroid Corporation for most of his career and was actively involved in important patent and intellectual property issues.

About William & Mary Law School

Thomas Jefferson founded William & Mary Law School in 1779 to train leaders for the new nation. Now in its third century, America's oldest law school continues its historic mission of educating citizen lawyers who are prepared both to lead and to serve.