

Contents

Preface ix

Acknowledgments xiii

PART I

INTELLECTUAL PROPERTY IN AMERICA: THE IDEA AND ITS MERITS

- 1 *Unfair Competition and Trademarks* 3
- 2 *Patents, Copyright, and Neighboring Rights* 34
- 3 *Exclusivity versus Appropriation:
Some Questions and Costs* 65
- 4 *"Exclusive Rights" and the Constitution* 108

PART II

INTELLECTUAL PRODUCTIVITY AND FREEDOM OF EXPRESSION

- 5 *Foreshadowings: International News Service v.
Associated Press* 149
- 6 *Intellectual Productivity and Freedom of Expression:
The Conditions of Their Coexistence* 168

CONTENTS

PART III

THE FIRST AMENDMENT IN AMERICA:
SOME CHAPTERS IN A HISTORY OF DEBATE

- 7 *The Origins of the First Amendment and the Question of
Original Meaning* 195
- 8 *The Sedition Act of 1798 and the First
First Amendment Crisis* 212
- 9 *Justice Holmes and the Arrival of Balancing* 225
- 10 *Justice Black and the Absolute First Amendment* 239

PART IV

THE ABSOLUTE FIRST AMENDMENT REVISITED:
THE AMENDMENT AS A PROHIBITION ON POWER

- 11 *Constitutional Absolutes in a Holmesian World* 263
- 12 *Forward to the Eighteenth Century* 284

PART V

SUMMING UP

- 13 *Intellectual Property in the Image of an
Absolute First Amendment* 305

Notes 327

Bibliographic Note 417

Errata and Apocrypha 419

Index 421