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PREFACE

ON THE BIRTH OF A LAW JOURNAL

Kenneth A. Manaster*

The birth of a law journal is a major event in the life of a law school. When the new arrival is the school's second law review, its creation is in some ways easier, and in some ways more complex, than the inauguration of a school's first journal. Such has been the advent of the Santa Clara Computer and High-Technology Law Journal. Efforts leading to this first issue have taken over one and a half years, but a successful delivery is now at hand.

One of the most striking aspects of the genesis of this Journal is that it was the students' own idea. The founding editors formulated the proposal in mid-1983, and then shepherded it carefully and forcefully over many hurdles. It is heartwarming to a law professor to find a group of students desiring, even demanding, the academic challenge of producing a new law review. The founders, as well as the other student editors, fully realized that this difficult venture held the promise of enhancing their legal education.

In producing this first issue, the editors have delved into subtle new legal questions, ranging from ownership of intellectual property in employee inventions to the use of trade secret law in protecting computer software to an international comparison of copyright law as applied to computer programs. They have more finely honed their skills in legal analysis, writing, and research, and also in practical matters of entrepreneurship. Through all of this, their legal education has been enriched. The primary, educational objectives of the School of Law are well served by this added learning experience for our students. This in itself is a sufficient *raison d'etre* for the Journal.

There are, however, important added reasons for the University's commitment to publish this Journal. The University of Santa Clara is located in the center of the center of a technological revolution; the Santa Clara Valley is known widely as "Silicon Valley," a label arising from the concentration of semiconductor industries

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here. We at Santa Clara are living in the midst of a tremendous proliferation of high technology research and manufacturing facilities. Their products are working vast changes in the lives of Americans and the people of other nations.

These developments raise new legal questions in need of thoughtful analysis and resolution. Corporations, research institutions, and government agencies in Silicon Valley have called for increasingly sophisticated legal expertise to meet this need. Established Santa Clara Valley attorneys have responded skillfully and have been joined by new law firms concentrating on these questions. Many recent graduates of the School of Law have joined in these new areas of private practice, while others have entered the corporate counsel staffs of high technology companies.

In response to these trends, the School of Law has initiated a variety of programs, in addition to this new publication. Some of these programs are intended to prepare our students for the distinctive kinds of legal work being done in our community and in similar areas of high technology industry. Expanded curricular offerings are at the heart of this effort, now including courses in computer law, legal protection of software, the law of trade secrets, venture capital formation, copyright law, patents, and legal aspects of start-up business projects. Other Santa Clara programs, such as the annual Computer Law Conference, are aimed primarily at the sharing of ideas and information among practicing lawyers. Happily, this new Journal promises to be both a strong educational vehicle for Santa Clara students and a valuable working tool for lawyers already grappling with the role of the legal system in relation to modern technology.

The Journal will not aim to serve solely the legal community of the Santa Clara area. What happens in law and technology in Silicon Valley is seldom just local in impact. The Journal too is intended to be read and used widely. The diverse and far-flung list of charter subscribers already suggests that it will be. The range of its authors and subjects also will be national, and even international, as this first issue demonstrates. The Journal's vision will be broad in order that it may be useful to lawyers, judges, government officials, scholars, and students throughout this country and overseas.

Beyond these practical goals, the Journal should serve a more fundamental function. As an academic institution, a university law school has a responsibility to advance understanding of ways in which the legal system promotes or hinders the improvement of society. Lawyers play a critical role in effecting social changes result-
ing from widespread usage of computers and other new technologies. Lawyers thus can facilitate or impede the contributions these changes might make to the well-being of humanity. By committing some of its resources to the thoughtful examination of these social impacts — through this Journal and other Law School programs — the University serves a goal of informing and enlightening which is far broader, both conceptually and geographically, than the practical uses this Journal also offers to the profession.

It is unusual for an issue of an American law review, especially an inaugural issue, to present no articles by American law professors. This conspicuous absence in the Journal's first issue makes sense. This area of law — an area we occasionally refer to, with some trepidation, as "high-tech law" — is still new and in a very fluid state. Doctrines are being developed rapidly by practitioners and by judges now resolving novel disputes. Relatively few law professors currently claim great expertise on the kinds of issues the Journal will address. Accordingly, the editors have made the sensible, initial choice to draw heavily upon the wisdom of practitioners. That wisdom will be distilled through the traditional, albeit tedious, law review process of critical student editing under general faculty supervision. This will ensure that the Journal's practical strengths are matched with the highest academic standards. Scholars' contributions increasingly should become available as these legal issues mature. Future Journal editors then will be challenged anew to select both their orientation and their authors.

Finally, as with other contemporary births, it can be said here too that many members of the family have attended the birth of this Journal. This includes the active support and encouragement not only of the sibling Santa Clara Law Review, but also of the faculty, the Student Bar Association, the Dean of the Law School, the President and Academic Vice-President of the University, numerous alumni, and many other interested attorneys. Of course, the hardest work of all has been the students' burden. They have discharged their chosen responsibility admirably. They give us reason to be hopeful that the "family's" high expectations will be met for this newest academic offspring of Santa Clara and that the Santa Clara Computer and High-Technology Law Journal will have a long and constructive span of years.