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Tribute to John M. Kernochan

January 11, 2008

Jane C. Ginsburg

Were it not for Jack, I probably would not be teaching at Columbia Law School today. Way back in 1983, Jack, then several years from emeritus status, determined to identify and recruit a prospective intellectual property scholar who would join him in building an IP program for Columbia, and might in the long run succeed him. Jack had read all the articles about copyright published by young scholars and would-be scholars, and then proceeded to contact some of the authors for interviews. The interview led, at least in my case, to an invitation to teach a session of Jack's "Business Torts" class, as the intellectual property survey course was then called.

By this point, I think Jack must have decided to propose me to the Columbia faculty, but he wanted to ensure that my candidacy would be as credible as possible, so he counseled me to write more articles. In addition, knowing that I was going to France to study copyright law with the then-leading professor at the University of Paris—who turned out to be a very good friend of Jack's—he suggested that I translate and revise for the Columbia Journal of Law & the Arts an article that Professor Françon had published in France concerning a dispute between the sculptor Dubuffé and the Renault automobile company. Jack's initiative led not only to a fruitful collaboration with Professor Françon on the English version of that article, but to a long association with international copyright law. A few months after the Journal published the article, Jack urged me to write another article. He was concerned that his Columbia colleagues would not find the Journal article sufficiently probative of scholarly promise because it was largely based on someone else's prior work. This time I should write on my own, and Jack had a topic to propose, a commentary on the then-new 1985 French copyright law.

Jack did prevail on his colleagues to hire me, but he was not done taking my career in hand. Not only did he continue to encourage me to research and write in international copyright law, he also proposed we collaborate on an article on the United States' much-delayed ratification of the Berne Convention. And he brought me into the Association Littéraire et Artistique Internationale (ALAI), of whose American branch he was the founder and president.

Most importantly, whether the topic was domestic or international copyright, Jack always counseled me to keep the interests of authors in sight. Jack sought to advance and vindicate the rights of individual creators; he bristled at the law-and-economics vogue, which he feared would shift the law's emphasis from authors and performers to "best exploiters," that is, to the corporate entities that profit from works of authorship, but do not always share with the creators the proceeds or the power over the works' exploitation. I imagine Jack's spirit would have been cheering on the striking screenwriters in their efforts to obtain a fair share of the

revenues from new media.

Looking back, I cannot imagine a more active or nurturing mentor. Nor one more morally committed to the cause of creativity. It was a great privilege to have been his colleague for the past 20 years.