The purpose of this publication is to suggest clear, precise, and balanced instructions for presentation to juries selected for copyright, trademark, and trade dress lawsuits. These instructions are intended to be impartial, accurate statements of the law, drafted in language that is understandable to the average juror.

This book is divided into three chapters, one for each of the main areas of the law covered by these instructions. Chapter One covers copyright instructions. Subparts cover the rights conferred by a copyright, authorship and ownership of a copyright, scope of copyright protection, copyright infringement, defenses to an infringement claim, damages, the Digital Millennium Copyright Act, and definitions. Contributors to this chapter include:

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Chapter Two covers trademark instructions, including definitions, explanation of how trademark rights are acquired, trademark infringement, defenses to an infringement claim,
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Chapter Three covers trade dress instructions, including definitions, explanation of how trade dress rights are acquired, trade dress infringement, trade dress dilution, defenses to an infringement claim, and damages. Contributors to this chapter include:

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In these instructions we have chosen to use the following naming conventions: “Plaintiff” signifies a copyright, trademark or trade dress owner and may be referred to with the personal pronoun “she,” while “defendant” refers to the alleged infringer and may be referred to with the personal pronoun “he.” We suggest that these terms be modified in most
cases to refer to the parties by name to avoid any ambiguity. In many cases the language of the instruction may need to be modified based on the parties’ contentions and pretrial rulings. The goal is to provide the jury with clear and understandable instruction on how to determine the actual facts at issue.

The authority section of each instruction will provide guidance as to where to begin research on the point of law contained in the instruction. Much of the law set forth in these instructions is based on statutes first and court interpretations of the statutory language second. Care must be taken to ensure that the statutory language underlying the instruction has not changed, nor has the courts’ interpretation of that language. In appropriate instances, where the authority underlying the instruction has changed, that authority must guide revision to these instructions.

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