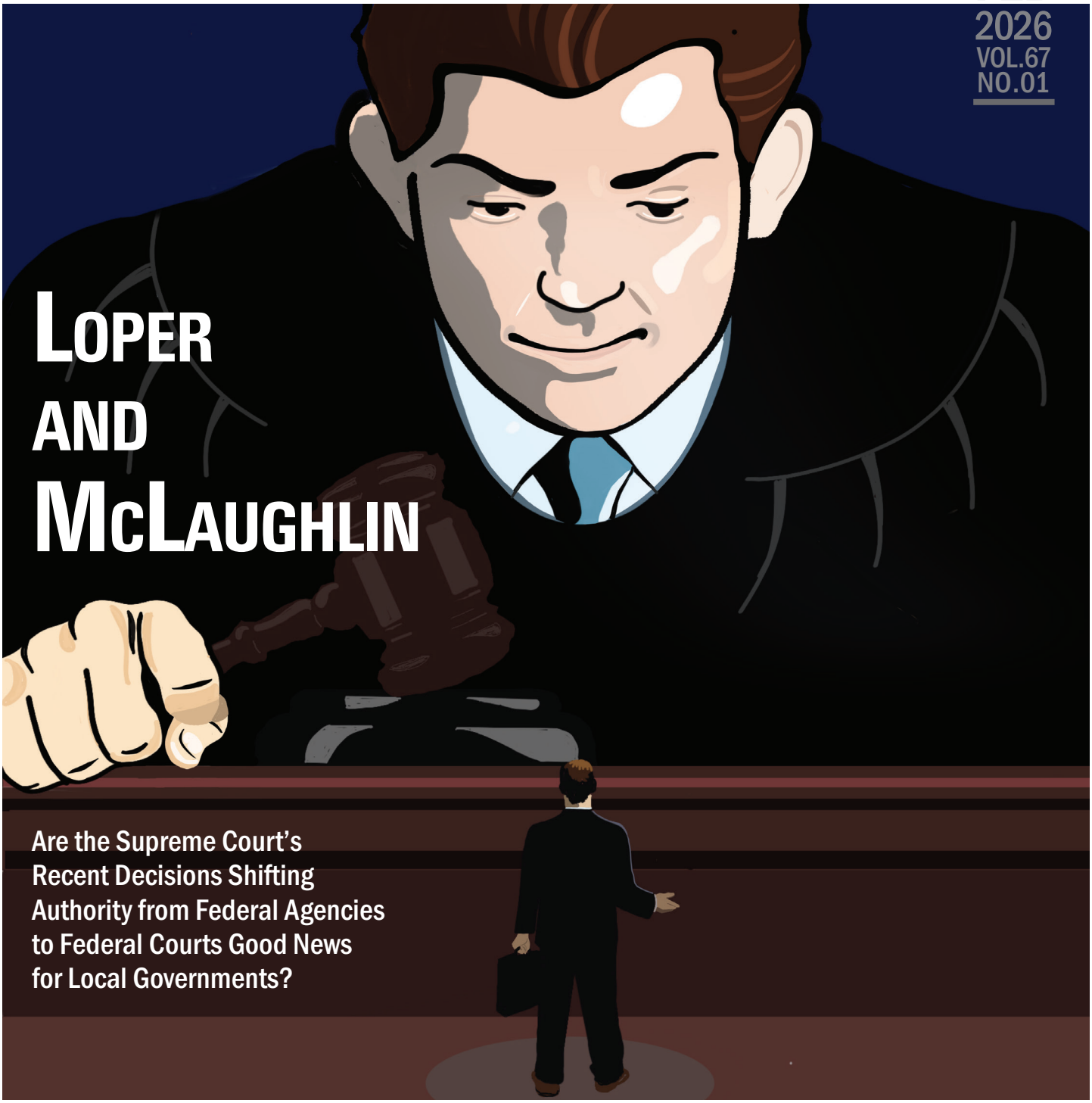
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LOPER AND MCLAUGHLIN

Are the Supreme Court's Recent Decisions Shifting Authority from Federal Agencies to Federal Courts Good News for Local Governments?



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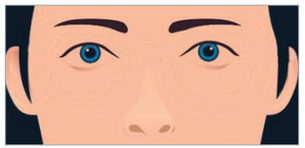
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MOVIE REVIEW

Is That Legal? *Zootopia 2*

Contributed by Darren Shulman

Based on Disney's track record of sequels and live-action remakes, I was surprised by how much I liked *Zootopia 2*. *Zootopia* is a world populated by anthropomorphic animals. The first movie followed an unlikely partnership between a bunny who wanted to be a police officer (Ginnifer Goodwin) and a con artist fox (Jason Bateman). *Zootopia 2* picks up shortly after the events of the first movie and asks: Why are there no reptiles in Zootopia?

Zootopia 2 weaves new concepts into the world established in the first film without feeling like Disney was stretching for an excuse to make a sequel. The film focuses on the same fox and bunny but adds fun new characters (my daughter's favorite was a beaver named Nibbles Maplestick). *Zootopia 2* also incorporates fan-favorite supporting characters from the first movie (e.g., Flash the sloth) without feeling forced. If you liked Zootopia, you will like the sequel (especially if you like animal puns). It does have some peril and threatened violence that could scare younger kids. There is a brief end-credits scene that hints at a possible third movie.

In addition to being a surprisingly enjoyable watch, I am grateful to *Zootopia 2* and the theme song *Zoo* by Shakira (who plays a singing gazelle named … Gazelle) for replacing *K-Pop Demon Hunters* as my daughter's favorite film/soundtrack.

Spoilers below

The patent to Zootopia's design, the basis for the City's different ecosystems that allow all the animals to live there, is a key plot device. The following is an analysis of how U.S. patent law would impact the plot of *Zootopia* 2.

Could the design for Zootopia's city structure be patented? Zootopia's areas are designed to accommodate animals from different climates. For example, one area churns out snow for cold-weather animals while another creates a rainforest climate. A patent can cover "any new and useful process, machine, manufacture, or composition of any matter, or any new and useful improvement thereof."[1] A city design that manufactures weather for different sections and accommodates anthropomorphic animals of various sizes living together would likely qualify as a new and useful process/machine and therefore be patentable.

Would the patent get granted? To get a patent, an invention needs to meet four conditions: 1) able to be used 2) a clear description of how to make and use the invention 3) new or "novel" 4) not obvious.[2] Zootopia's existence supports the first two conditions (it was made and is being used). The movies pose no

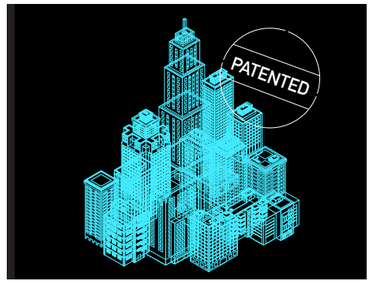


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contention that the design was obvious or had been done before. I therefore conclude that the design for Zootopia would likely be granted.

Does the patent do what the plot needs it to do? A patent gives the inventor the right to exclude others from making, using, offering for sale, or selling an invention.[3] What is granted is not a right to make, use, or offer to sell, but rather the right to stop *others* from doing so.[4] The movie doesn't involve someone trying to build a city using patented technology, so I'm not sure the patent plot device would work legally.

Can a patent be misplaced? Most of the story revolves around tracking down a missing patent. Unlike (apparently) in Zootopia, patents are kept by the US Patent and Trademark Office, which has a web-based search application.[5] As a result, this plot device would not work in the real world. The office's website advises "[p]lan on spending hours learning the search process, searching, and evaluating results."[6] It's possible a bunny and fox wouldn't have the attention span to do that, so a race through Zootopia might have been a better option for them (and a movie about spending hours on a computer searching for patents would probably not be box office gold).

Where would Judy Hopps file a patent suit? While misplacing a patent is unlikely, disputes over who actually owns a patent are common.[7] Patent protection is governed by federal law, so federal courts have exclusive jurisdiction over patent infringement claims.[8]

In contrast, if the case concerns who *owns* the patent, it would not be a patent law issue, and the case could be filed in state court. Ownership "is a question of who owns legal title to the subject matter claimed in a patent, patents having the attributes of personal property."[9] Therefore, a dispute about patent ownership is not a question of federal patent law.[10] As a result, if Zootopia has an analogous court system, the case could be filed in state court (Supurrior Court? Common Fleas Court?) instead of Furdural Court.[11]

Aside from perhaps me, no one is going to see *Zootopia* 2 to critique its depiction of the patent system. Still, this little bit of knowledge can either make you look incredibly smart or entirely tedious.

Zootopia 2: A

Daughter's Score 6-7+ (I'm not sure how the six-seven craze translates to movie scores, but she confirmed this means it's better than *K-Pop Demon Hunters*) ML

Darren Shulman is the city attorney for Upper Arlington, Ohio. A graduate of Northwestern University and Harvard Law School, Darren previously served as the City Attorney for Delaware Ohio, Associate Legal Counsel for the Ohio Department of Administrative Services, and as an Assistant Prosecuting Attorney for the Montgomery County Prosecutor's Office. When Darren was the Delaware City Attorney, he co-hosted a movie review show called Through the Lens on local radio, which is now a podcast. Writing movie reviews through a legal lens allows Darren to combine his love of movies with his profession.

Notes

1. 35 U.S.C. § 101
2. U.S. Patent and Trademark Office, "Patent Essentials," https://www.uspto.gov/patents/basics/essentials#questions
3. 35 U.S.C. § 154(a)(1)
4. *See* Maltezos v. AT&T Corp., 6. F. App'x 850, 852 (Fed. Cir. 2001)(dispute over AT&T's Public Phone 2000, which sounds both awesome and fake at the same time).
5. U.S. Patent and Trademark Office, "Patent Public Search," https://www.uspto.gov/patents/search/patent-public-search
6. U.S. Patent and Trademark Office, "Patent Search Strategy," https://www.uspto.gov/patents/search/patent-search-strategy
7. These patent cases are so painful to read that they reaffirm my decision to practice municipal law, but if you want to read some, *see* SiOnyx LLC v. Hamamatsu Photonics K.K., 981 F.3d 1339, 1343 (Fed. Cir. 2020)(dispute over ownership of US and foreign patents related to process for creating black silicon by irradiating a silicon surface with ultra-short laser pulses.); Doukas v. Ballard, 825 F. Supp. 2d 377, 382 (E.D.N.Y. 2011)(dispute over ownership of patent for "a system for remote data acquisition and centralized processing and storage").
8. Patent: Overview, Practical Law Practice Note Overview 8-509-4160
9. Beech Aircraft Corp. v. EDO Corp., 990 F.2d 1237, 1248 (Fed.Cir.1993)
10. E.I. Du Pont de Nemours & Co. v. Okuley, 344 F.3d 578, 582 (6th Cir.2003). *see also* 8 Donald S. Chisum, Chisum on Patents § 21.02 ("[A] dispute over title or ownership in a patent traditionally arises under state property law, even though resolution of the ownership issue may affect the validity of the patent.")
11. If anyone from Disney is reading this and likes these animal puns, I'm available to help on Zootopia 3.