

# BERKELEY CENTER FOR LAW & TECHNOLOGY

BOALT HALL SCHOOL OF LAW, 2004-05

UNIVERSITY OF CALIFORNIA, BERKELEY

The Berkeley Center for Law & Technology (BCLT) is an independent research institute at the UC Berkeley, Boalt Hall School of Law. BCLT oversees Boalt's unparalleled law and technology program, and its four faculty directors – Professors Peter S. Menell, Robert P. Merges, Pamela Samuelson, and Howard Shelanski – teach the core courses and many of the advanced offerings in law and technology at Boalt. In addition, BCLT draws upon affiliated scholars as well as leading practitioners from its sponsoring law firms and technology companies to fill out the advanced curriculum. BCLT organizes conferences on salient issues of law and technology policy and supports a wide range of research and public policy activities.

## 9<sup>TH</sup> ANNUAL DISTINGUISHED SERVICE AWARD HONORING MOZELLE THOMPSON

- BCLT co-sponsored the major policy conference: “**Ideas Into Action: Implementing Reform of the Patent System.**” FTC Commissioner Mozelle Thompson named a Patent Reform Working Group of participating technology industry leaders to follow up on issues examined at the two-day event.
- BCLT, with the support of the Kauffman Foundation, sponsored “**Entrepreneurship and IP,**” a day-long symposium focusing on the development of a research, education and policy agenda regarding the role of intellectual property in supporting new business formation.
- The **Samuelson Law, Technology and Public Policy Clinic** is now entering its fourth year, having pursued a variety of projects including chillingeffect.org, Trade-Related Aspects of Intellectual Property agreements (TRIPs), DRM standards, and many projects in support of the open source community.
- Professor **Howard Shelanski** received the **Rutter Award for Excellence in Teaching** for demonstrating an outstanding commitment to teaching.
- BCLT co-sponsored the **Fourth Annual Intellectual Property Scholars Conference** with Cardozo School of Law, Yeshiva University and DePaul College of Law at DePaul on August 2-3, 2004.
- **Boalt Hall's Saul Lefkowitz Moot Court Team** placed first in the nation at the Lefkowitz Competition in Washington, D.C. The team also won awards for best brief and best oralist team. **The Giles Sutherland Rich Competition Team** won the regionals for the premier general intellectual property competition in the nation, also winning the “best brief” award for the region.
- Deirdre Mulligan, Director of the Samuelson Clinic, was this year's Chair for the **14<sup>th</sup> Conference on Computers, Freedom & Privacy Conference.**
- Boalt Hall's Intellectual Property Law Program remained the **top ranked program in the nation for the seventh consecutive year** according to U.S. News & World Report.
- BCLT sponsored “**Content and Technology Industry Strategies in the Digital Age,**” a roundtable discussion featuring attorneys from leading entertainment firms and the music industry.
- BCLT hosted an **IP Speaker Series** featuring leading IP scholars and entertainment industry practitioners including **attorneys for Jerry Seinfeld and the Lord of the Rings filmmakers.**
- BCLT co-hosted (with the Seoul National University Center for Law & Technology) the three-day conference “**Telecommunication and IP: US and Korean Perspectives**” in Honolulu.
- BCLT welcomed the firms of Davis Polk & Wardwell LLP, Morgan Lewis & Bockius LLP, and Dewey Ballantine to its sponsorship ranks.
- BCLT organized a series of panels on developments in intellectual property law for federal judges under the auspices of The Federal Judicial Center.
- BCLT and BTLJ published the 7<sup>th</sup> **Annual Review of Law & Technology.**
- **Molly Van Houweling**, Assistant Professor at the University of Michigan Law School, will be a visiting professor at Boalt in fall 2004.
- BCLT is planning its **ninth annual conference** (co-sponsored by the Berkeley Technology Law Journal) on **Spyware: The Latest Cyber-Regulatory Challenge.** The conference will be held at the UC Berkeley campus April 1-2, 2005.
- BCLT will host 10 students from **Osaka University** for a lecture on intellectual property at Boalt Hall on September 9, 2004.
- Deirdre Mulligan will present at the **2004 Digital Cultural Institutions Project (DCIP) Workshop** in Santa Clara on October 22-23, 2004.
- BCLT will welcome more than 30 leading IP and technology firms to its **Fall Career Fair** at the International House in Berkeley on November 9, 2004.
- BCLT, the University of Texas School of Law and Stanford University Law School will host the **Fifth Annual Advanced Patent Law Institute** in San Jose on December 2-3, 2004.
- BCLT will co-organize the **Third DRM Conference in Berlin, Germany** sponsored by the University of Dortmund and University of Tuebingen Law School, Germany, in January 2005.
- BCLT will co-sponsor the **Second Annual Telecommunications and IP Conference** with Seoul National University in Hawaii.
- **BCLT's Law & Technology Month** will kick off with a Spring Job Expo on Feb. 2, 2005 and follow with career panels on patent and biotech law, non-patent aspects of intellectual property law (including trademark and copyright law), and entertainment and new media law.
- BCLT will organize the **Sixth Annual IP Retreat for Federal Judges** in Berkeley, on May 25-27, 2005, co-sponsored by the Federal Judicial Center and BCLT. This three-day program will feature an integrated set of lectures by BCLT's Directors and Distinguished Scholars, federal judges and leading intellectual property law practitioners.
- BCLT will co-sponsor the **2005 Society for Economic Research on Copyright Issues (SERCI) Conference** in the spring.
- BCLT will host the the Federal Circuit Bar Association's Horizons Program on Patent Litigation February 18, 2005 in Berkeley.

2004  
DISTINGUISHED SERVICE  
AWARD RECIPIENT  
Mozelle Thompson  
Federal Trade Commission  
OCTOBER 20, 2004



## 2004

### AUGUST

- 2-3<sup>rd</sup>... Fourth Annual Intellectual Property Scholars Conference (DePaul University, Chicago)
- 10<sup>th</sup>... Federal Judges Bankruptcy Conference (Seattle, WA)
- 25<sup>th</sup>... BCLT First Year Orientation Lunch
- 31<sup>st</sup>... Law & Tech Evening Reception Series begins and continues with receptions through the fall

### SEPTEMBER

- 8<sup>th</sup>... IP Speakers Series: Mark Webbink of Red Hat speaks on open source licensing
- 16<sup>th</sup>... BCLT/BTLJ Lunch Series begins and continues through the fall
- 16<sup>th</sup>... IP Speakers Series: Richard Mendelson speaks on the use and misuse of geographic origins for wine
- 21<sup>st</sup>... Federal Judges IP Conference (Seattle, WA)

### OCTOBER

- 20<sup>th</sup>... Annual Distinguished Service Award Dinner in Berkeley honoring Commissioner Mozelle Thompson, FTC (Bancroft Hotel, Berkeley)

### NOVEMBER

- 9<sup>th</sup>... Fall Career Fair (International House, Berkeley)

### DECEMBER

- 2-3<sup>rd</sup>... Fifth Annual Advanced Patent Law Institute (Fairmont Hotel,

## 2005

### JANUARY

- 3-7<sup>th</sup>... Intensive course on U.S. Patent Law at the Swiss Federal Institute of Technology in Zurich organized by Professor Menell
- TBA... BTLJ/BCLT Spring Lunch Series begins and continues with luncheon programs through May
- 13-14<sup>th</sup>... Digital Rights Management Conference, Berlin, Germany
- TBA... BCLT will co-sponsor the Second Annual Telecommunications and IP Conference with Seoul National University in Hawaii

### FEBRUARY

- 2<sup>nd</sup>... Technology Law Job Expo
- 18<sup>th</sup>... BCLT will host the the Federal Circuit Bar Association's Horizons Program on Patent Litigation
- Wednesdays in February... Law & Tech Month Series of weekly panel discussions on IP, patent, trademark, copyright, antitrust, biotechnology, and entertainment and new media practices

### APRIL

- 1-2<sup>nd</sup>... BCLT/BTLJ Conference on Spyware
- TBA... Sixth Annual Berkeley Technology Law Journal Alumni Banquet
- TBA... BCLT Roundtable

### MAY

- 25-27<sup>th</sup>... Three day IP Seminar Retreat for Federal Judges sponsored by BCLT and the Federal Judicial Center

### JUNE

# BCLT COURSES

#### FALL 2005

- Comparative Antitrust.....(H. Shelanski)
- Computer Crimes Seminar.....(M. Malacek and C. Sonderby)
- Entertainment Law & New Media Writing Workshop.....(P. Menell and L. Sobel)
- Intellectual Property Scholarship Seminar.....(P. Menell and R. Merges)
- Intellectual Property Strategy.....(R. Kapoor)
- Intellectual Property Transactions.....(M. Nadan and C. Nadan)
- Introduction to Intellectual Property.....(M. Van Houweling)
- Law, Technology & Public Policy Clinic Seminar.....(P. Menell)

#### SPRING 2005 (TENTATIVE)

- Copyright & Entertainment Law.....(P. Menell & L. Sobel)
- Cyberlaw.....(P. Samuelson)
- Intellectual Property Stories Seminar.....(P. Samuelson)
- Introduction to Intellectual Property.....(P. Menell)
- Law, Technology & Public Policy Clinic.....(D. Mulligan)

# STUDENT ACTIVITIES

Students at Boalt have a unique opportunity to participate in a diverse set of activities and organizations and to explore IP and technology law from a broad spectrum of perspectives. Such activities and organizations include:

- Samuelson Law, Technology & Public Policy Clinic
- Berkeley Technology Law Journal (BTLJ)
- Annual Review of Law and Technology
- Certificate Program
- Externship Program
- Nimmer on Copyright Internship
- boalt.org
- Moot Court Competition
- Sports and Entertainment Law Society
- BCLT/BTLJ Lunch Speaker Series (weekly)
- BCLT/BTLJ Law Firm Receptions (weekly)
- BCLT Fellowship Program
- iL Technology Law Mentor Program
- Chillingeffects.org



# BCIT DIRECTORS

Menell & Merges (with M. Lemley), *Intellectual Property in the New Technological Age* (Aspen Law & Business, 3<sup>rd</sup> ed. 2003) (with Statutory Supplement)

Menell, Merges & Samuelson (with M. Lemley), *Software and Internet Law* (Aspen Law & Business, 2<sup>nd</sup> ed. 2003)



## Peter S. Menell

### IP, SOFTWARE PROTECTION, ENTERTAINMENT, PROPERTY LAW

Professor Menell co-founded the Berkeley Center for Law & Technology in 1995 with Robert Merges and Raymond Ocampo. He has written extensively on intellectual property, property, and environmental law. He founded and supervises the Annual Review of Law and Technology, now entering its eighth year. Professor Menell has organized and lectured at more than two dozen intellectual property education programs for the Federal Judicial Center.

The Rise of Internet Interest Group Politics, 19 Berkeley Technology Law Journal 1 (with A. Burstein and W. DeVries) (2004)

Pre-existing Confusion in Copyright's Work-for-Hire Doctrine, 50 J. Copyright Society 399 (with D. Nimmer & D. McGimsey) (2003)

Envisioning Copyright Law's Digital Future, 46 N.Y. Law School L. Rev. 63 (2003)

Reunifying Property, 46 St. Louis University Law Review 599 (with J. Dwyer) (2002)

Sound Recordings, Works for Hire, and the Termination-of-Transfers Time Bomb, 49 J. Copyright Society 387 (with D. Nimmer) (2001)

Intellectual Property, in N. J. Smelser and Paul B. Baltes (editors) 2001 International Encyclopedia of the Social & Behavioral Sciences. Pergamon, Oxford.

Property Law and Policy: A Comparative Institutional Perspective (2nd Edition forthcoming) (with J. Dwyer and W. Pritchett) (Foundation Press, 1998)

Keynote Speaker, Conference on The Digital Challenge to Copyright Law, Santa Clara University School of Law, January 2004

Developments in Patent, Copyright, and Trademark Law, National Workshop for District Judges, Federal Judicial Center, Philadelphia, Chicago, and Seattle, April-September 2004

Bankruptcy Treatment of Intellectual Property Assets, National Workshop for Bankruptcy Judges, Federal Judicial Center, Seattle, August 2004



## Robert P. Merges

### PATENT, BIOTECHNOLOGY, COMPUTER LAW

Professor Merges is the author of the leading text on patent law and has written numerous articles on the economics of intellectual property, especially as they affect patent law and the biotechnology industries. Professor Merges has worked with government agencies such as the Department of Justice and the Federal Trade Commission on IP-related policy issues and litigation strategy. He has also consulted with leading law firms and companies.

Specialized Supply Firms, Property Rights and Firm Boundaries, 13 Industrial and Corporate Change 451-475 (with Ashish Arora) (2004)

A New Dynamism in the Public Domain, 71 U. Chi. L. Rev. 183-203 (2004)

Compulsory Licensing vs. the Three "Golden Oldies": Property Rights, Contracts, and Markets, Cato Institute, Cato Policy Analysis No. 508, Jan. 15, 2004

The Uninvited Guest: Patents on Wall Street, Federal Reserve Bank of Atlanta Economic Review, Fourth Quarter 2003, Volume 88, Number 4

"Institutions for Intellectual Property Exchange: The Case of Patent Pools," in Intellectual Products: Novel Claims to Protection and Their Boundaries (Oxford Univ. Press, 2001) (Rochelle Dreyfuss, ed.)

One Hundred Years of Solitude: Intellectual Property Law, 1900-2000, 88 Cal. L. Rev. 2187 (2000)

Foundations of Intellectual Property (with Prof. Jane Ginsburg, Columbia Law School) (Foundation Press, 2004)

Patent Law and Policy: Cases and Materials, 3rd Ed. (with John Duffy) (2001)

"Patent Trends: The Federal Circuit and Beyond," invited guest lecture at intellectual property litigation group retreat for the national law firm of Heller, Ehrman, White and McAuliffe, Aptos, California, June, 2004

Guest Lecturer, E-Commerce Seminar, Stanford Law School, March, 2004

"Strategic Investments in the Public Domain," University of Chicago Intellectual Property Conference, June, 2003



## Pamela Samuelson

### CYBERLAW, COMPUTER LAW, COPYRIGHT LAW

Professor Samuelson continues to be active in writing and speaking about how the law should be adapted to respond appropriately to the challenges of advances in digital technology. She serves as an Advisor to the Samuelson Technology Law and Public Policy Clinic, and sits on the Board of Directors for the Electronic Frontier Foundation, Public Knowledge, and the Open Source Applica-

Should Economics Play A Role in Copyright Law and Policy?, 1 U. Ottawa L. & Tech. J. (forthcoming 2004)

Intellectual Property Arbitrage: How Foreign Rules Can Affect Domestic Protections, 71 Chi. L. Rev. 223 (2004)

The Constitutional Law of Intellectual Property After Eldred v. Ashcroft, 50 J. Cop. Off. Socy 547 (2003)

Why Reform the U.S. Patent System?, 47 Comm. ACM 19 (June 2004)

What's At Stake in MGM v. Grokster?, 47 Comm. ACM 15 (Feb. 2004)

Unsolicited Communications as Trespass?, 46 Comm. ACM 15 (Oct. 2003)

Preserving the Positive Functions of the Public Domain for Science, 2 Data Science J. 192 (2003)

Gifford Lecture at the University of Hawaii Law School

McCarthy Lecture at the University of San Francisco Law School

Distinguished Visitor Lecture, Microsoft Corp.

Named one of the top 100 lawyers in California

Principal author of an amicus curiae brief on behalf of 40 intellectual property professors submitted to the 9<sup>th</sup> Circuit Court of Appeals in MGM v. Grokster



## Howard Shelanski

### TELECOMMUNICATIONS, ANTITRUST LAW

Professor Shelanski's research focuses on telecommunications law, regulation and antitrust. During the 1999-2000 academic year, he was on leave to serve as Chief Economist of the Federal Communications Commission. During the 1998-99 academic year, he served as a senior economist to the President's Council of

Competition and Deployment of New Technology in U.S. Telecommunications, U. Chi. Legal F. 85 (2000)

Antitrust Divestiture in Network Industries, 68 U. Chi. L. Rev. 1 (with G. Sidak) (2001)

Competition and Regulation in Broadband Communications, Crandall and Allaman, eds., Broadband (Brookings, 2002)

"From Sector-Specific Regulation to Antitrust Law for U.S. Telecommunications: The Prospects for Transition," 26 Telecommunications Policy 335 (2002)

Merger Remedies in American And European Union

Competition Law, (Co-edited with Francois Leveque) Edward Elgar (2003)

"Transaction-Level Determinants of Transfer Pricing Policy: Evidence from the High Technology Sector," forthcoming, Indust. And Corp. Change, Fall, 2004.

(With Michael Katz) "Merger Policy and Innovation: Must Enforcement Change to Account for Technological Change?" NBER Working Paper, August, 2004.

"Competition Policy for Mobile Broadband Networks," forthcoming, J. Telecom. & High Tech. Law (2004)

"The Policy Limits of Markets: Antitrust Law as Mass-Media Regulation," Working paper (2004)

## SPONSORING FIRMS

### BENEFACTORS

Cooley Godward LLP  
Farella Braun + Martel LLP  
Fenwick & West LLP  
Gray Cary Ware & Freidenrich LLP  
Heller Ehrman White & McAuliffe LLP  
Latham & Watkins LLP  
Morrison & Foerster LLP  
Skadden, Arps, Slate, Meagher & Flom LLP  
Weil, Gotshal & Manges LLP  
Wilson Sonsini Goodrich & Rosati

### MEMBERS

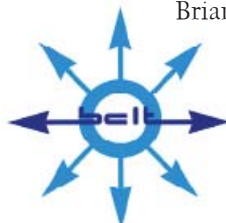
Alschuler Grossman Stein & Kahan LLP  
Bingham McCutchen LLP  
Covington & Burling  
Davis Polk & Wardwell  
Day Casebeer Madrid & Batchelder LLP  
Finnegan, Henderson, Farabow, Garrett & Dunner LLP  
Fish & Richardson P.C.  
Gibson, Dunn & Crutcher LLP  
Kirkland & Ellis  
Knobbe, Martens, Olson & Bear LLP  
Mayer, Brown, Rowe & Maw LLP  
McDermott, Will & Emery  
Milbank, Tweed, Hadley & McCloy LLP  
Morgan, Lewis & Bockius LLP  
O'Melveny & Myers LLP  
Orrick, Herrington & Sutcliffe LLP  
Pillsbury Winthrop LLP  
Townsend and Townsend and Crew LLP

### PATRONS

Baker & McKenzie  
Dewey Ballantine LLP  
Fish & Neave  
Howrey Simon Arnold & White LLP  
Keker & Van Nest LLP  
Kenyon & Kenyon  
Manatt, Phelps & Phillips LLP  
Munger Tolles & Olson LLP  
Van Pelt & Yi LLP



UNIVERSITY OF CALIFORNIA, BERKELEY



BERKELEY CENTER FOR LAW & TECHNOLOGY



BOALT HALL SCHOOL OF LAW

## AFFILIATED PROGRAMS

Berkeley Technology Law Journal, Boalt Hall  
boalt.org, Boalt Hall  
Berkeley Roundtable on the International Economy  
(BRIE), UC Berkeley  
Haas School of Business, UC Berkeley  
Institute of Management, Innovation & Organization,  
Haas School of Business, UC Berkeley  
Management of Technology Program, Haas School  
of Business, UC Berkeley  
School of Information Management and Systems (SIMS),  
UC Berkeley  
Seoul National University Center for Law and  
Technology (SNU CLT)  
Sports and Entertainment Law Society, Boalt Hall  
Swiss Federal Institute of Technology (Eidgenössische Tech-  
nische Hochschule Zürich)

## AFFILIATED FACULTY & SCHOLARS

Sally M. Abel (BCLT)  
Stephen R. Barnett (Boalt Hall)  
Robert Blackburn (Distinguished Scholar, BCLT)  
Robert Berring '74 (Law, SIMS)  
Karen Boyd '96 (BCLT)  
Aaron Edlin (Law, Economics)  
Joseph Farrell (Economics)  
Richard J. Gilbert (Business, Economics)  
Bronwyn H. Hall (Economics)  
Thomas Jorde (Boalt Hall)  
Jenny Lanjouw (Agriculture and Resource Economics)  
Michael L. Katz (Business, Economics)  
Rahul Kapoor (BCLT)  
David Mowery (Business)  
Deirdre Mulligan (BCLT)  
David Nimmer (Distinguished Scholar, BCLT)  
Raymond Ocampo (BCLT)  
Laura Quilter (Boalt Hall)  
Daniel Rubinfeld (Boalt Hall)  
AnnaLee Saxenian (City and Regional Planning)  
Suzanne Scotchmer (Economics, Public Policy)  
Carl Shapiro (Business, Economics)  
Lon Sobel (Distinguished Scholar, BCLT)  
David Teece (Business)  
Hal R. Varian (SIMS, Business, Economics)  
Oliver Williamson (Business, Economics)  
Brian Wright (Agriculture and Resource Economics)