**BCLT RESEARCH**

**Studying the New Patent Law**

Since 2002, BCLT has been a key player in the patent law reform discussion. Through publications, testimony, white papers and conferences, BCLT made significant contributions to the most comprehensive patent legislation in more than half a century, the 2011 America Invents Act (AIA). Shortly after the AIA was signed into law, BCLT hosted the patent law community at a conference where professors and practitioners provided detailed explanations of the law’s changes and discussed their impact on patent prosecution, counseling and litigation. BCLT is now actively involved in several important implementation issues at the United States Patent Office and statutory interpretation issues that will be faced by the courts.

**Investigating Mass Digitization**

In the Fall of 2011, BCLT began a two-year project to investigate legal obstacles faced by libraries and other organizations in their efforts to realize the full potential of present and future digital library initiatives. The Berkeley Digital Library Copyright Project, led by Professor Pamela Samuelson, has examined, among other issues, challenges with respect to orphan works, library privileges, digital lending and metadata ownership. The team is exploring a full range of possible solutions to some or all of these issues, including private ordering solutions, licensing, legislative reform and the application of existing doctrines, such as the United States’ fair use provision.

Over the course of the first year, the project members have engaged with hundreds of law and technology policy makers, librarians and experts in the field. In April 2012, BCLT held a major symposium which advanced innovative new approaches to orphan works and mass digitization and inspired interest from the Copyright Office. Those approaches will be further explored this upcoming year in a series of workshops, and are likely to be tested in the litigation now facing two major digital library initiatives. The Berkeley Digital Library Copyright Project is supported by the Alfred P. Sloan Foundation.

**Breaking New Ground in Privacy Research**

BCLT has developed the premiere privacy program for students and researchers working in this interdisciplinary field. The faculty includes several leading privacy experts with concentrations spanning international and comparative privacy law, online privacy law, consumer privacy law and the law of surveillance. BCLT also works with chief privacy officers at major corporations to formulate best practices.

BCLT recently hosted several events to present its cutting-edge privacy research, including the Berkeley Law Privacy Forum, the Web Privacy Measurement Conference, the Privacy Law Scholars Conference and the 5th Annual BCLT Privacy Lecture. Some of the research presented at these events included a new survey on consumer privacy by Professors Christopher Hoofnagle and Jennifer Urban; the concept of Personally Identifiable Information (PII) 2.0 by Professor Paul Schwartz; a study of corporate privacy management by Professor Kenneth Bamberger; and consequences of the Children’s Online Privacy Protection Act by Professor Jason Schultz.
Forging International Connections

In today's interconnected world, intellectual property, privacy and other technology law issues must be addressed on a global scale. Recognizing this, BCLT has worked collaboratively with international scholars, lawyers, entrepreneurs, public officials and students to discuss and dissect differences in the IP and regulatory regimes of various countries, and to confront important legal issues surrounding the international development of technology law.

A key component of BCLT's international programming is a focus on China. An October 2012 conference with the Renmin University IP Academy of China, in collaboration with Loyola Law School of Los Angeles, will bring together senior policymakers, academics and international practitioners to discuss the latest developments in Chinese IP law and their impact on US and Chinese companies operating in the China market. BCLT has strong working relationships with a number of international universities and organizations, including the Seoul National University Center for Law and Technology, Tel Aviv University; and the Institute for Information Law, University of Amsterdam.

Providing Judicial Education

Since 1998, Professor Peter Menell and BCLT, in conjunction with the Federal Judicial Center (FJC), have organized an annual intellectual property education program for the federal judiciary. These one week training sessions have drawn more than 500 judges from across the country. In addition, Professor Menell has organized numerous advanced programs on patent law, copyright law, trademark law, cyberlaw and the interplay of IP and bankruptcy law for the FJC, as well as intellectual property presentations, panels and symposia for various circuit court and district court conferences. All told, Professor Menell has organized more than 40 education programs for the federal judiciary. Building on this work, he co-authored the Patent Case Management Judicial Guide (with Lynn Pasahow, James Pooley and Matthew Powers); an authoritative treatise on all aspects of patent case management. The Second Edition of the Patent Case Management Judicial Guide (co-authored with Lynn Pasahow, James Pooley, Matthew Powers, Steven Carlson and Jeffrey Homrig) will be published in 2012.

Professor Menell is currently working on analogous projects on copyright and trademark case management, as well as a treatise on patent enforcement at the International Trade Commission.

2012-2013 EVENTS

New Developments in Chinese IP Law: Copyright Revisions and Enforcement Challenges
OCTOBER 4, 2012 - BERKELEY, CA

RAND Revisited: Current Developments in the Law of Standards Essential Patents
OCTOBER 26, 2012 - BERKELEY, CA

Advanced Patent Law Institute
DECEMBER 6-7, 2012 - PALO ALTO, CA

The 6th Annual BCLT Privacy Lecture
FEBRUARY 2013 - BERKELEY, CA

Berkeley Law Privacy Forum: Silicon Valley
MARCH 2013 - PALO ALTO, CA

17th Annual BCLT/BTLJ Symposium: Copyright Formalities
APRIL 19-20, 2013 - BERKELEY, CA

Privacy Law Scholars Conference
JUNE 6-7, 2013 - BERKELEY, CA

Intellectual Property Scholars Conference
AUGUST 2013 - CARDozo SCHOOL OF LAW, NY
Robert Barr is the Executive Director of the Berkeley Center for Law and Technology and Lecturer-in-Residence at Berkeley Law. Prior to joining BCLT as Executive Director in 2005, he was the first Vice President of Intellectual Property for Cisco Systems in San Jose, California, where he was responsible for all of the company’s patent prosecution, licensing and litigation. He started Cisco’s patent program in 1994 and built a portfolio of over 5,000 issued and pending patents.

Robert has degrees in Electrical Engineering and Political Science from MIT and a JD cum laude from Boston University School of Law. He was an Adjunct Professor at Hastings College of Law from 1995-1999, where he taught patent prosecution.

Robert has been a prominent patent attorney in Silicon Valley for over 25 years. He started his patent practice at the law firm of Townsend and Townsend. He has also been a partner at Brobeck, Phleger & Harrison LLP and Weil, Gotshal & Manges LLP, where he specialized in patent strategy counseling for clients in the computer, telecommunications and semiconductor industries. He is currently of counsel to the law firm of Gunderson Dettmer Stough Villeneuve Franklin & Hachigian, LLP.

The Daily Journal named him one of the top 25 intellectual property attorneys in California and one of the top 10 in-house intellectual property lawyers in California.
Chris Hoofnagle
privacy, computer crime, online advertising, web privacy measurement

Professor Hoofnagle is Director of Information Privacy Programs for BCLT. His research focuses on the challenges in aligning consumer-privacy preferences with commercial and government uses of personal information. He is involved in cross-campus collaboration concerning internet tracking and the detection of identity theft. With colleagues, Hoofnagle has published a series of reports detailing consumer privacy attitudes. In 2012, he published the Web Privacy Census, an ongoing project that records and analyzes consumer tracking on top websites.

Deirdre Mulligan
information technology law & policy, privacy, security, copyright

Professor Mulligan’s current research agenda focuses on information privacy and security. Current projects include qualitative interviews to understand the institutionalization and management of privacy within corporations in several countries, and empirical work exploring how internet users conceptualize privacy problems. Other areas of research include digital rights management technology and privacy and security issues in sensor networks and visual surveillance systems, and alternative legal strategies to advance network security.

Peter Menell
intellectual property, computer law, entertainment law, property law

Reflecting his training in economics and law, Professor Menell’s research focuses principally on the role and design of intellectual property law with particular emphasis on the digital technology and content industries. His current projects explore the role of notice in developing tangible and intangible resources, patent claim construction, the justifications for and contours of indirect copyright liability and the adaptation of content and digital technology industries to the internet age. During 2012, Professor Menell is one of the inaugural Thomas Alva Edison Visiting Professionals at the United States Patent & Trademark Office.

Pamela Samuelson
copyright, patent, internet and digital media, cyberlaw

Professor Samuelson has recently been developing ideas for copyright reform, including suggestions for construing the proper scope of the derivative work right and proposing guidelines for awarding statutory damages against infringers. She is also working on several papers about intellectual property protection for computer programs, including the SAS v. WPL case, which was recently decided by the European Court of Justice. She has written extensively about the Google Book Search settlement and legislative alternatives to it.
**Law & Technology Faculty**

### Jason Schultz ’00

**cyberlaw, computer law, copyright law, privacy**

Professor Schultz is currently researching consumer protection standards for “tethered” electronic content, such as e-books and apps for the iPhone and other popular mobile devices. Schultz’s work looks to guide courts in the application of more general “exhaustion” doctrines to ensure that consumers who purchase new forms of digital content are assured the same use, privacy, and resale rights that they have traditionally enjoyed in the analog world. Along with Jennifer Urban, he is also developing an outline for a Defective Patent License, which would provide startups and open source/free software projects with additional tools to navigate the patent landscape.

**Recent Publications**

- Protecting Open Innovation: A New Approach to Patent Threats, Transaction Costs, and Tactical Disarmament
- The Unending Search for the Optimal Infringement Filter
  - *112 Colum. L. Rev. Sidelbars* 85 (with Sonia Kayali) (2012)
- Why Parents Help Their Children Lie to Facebook about Age
  - *16 First Monday, Number 11-7* (November 2011)

### Paul M. Schwartz

**privacy, data security, cyberlaw, intellectual property**

Professor Schwartz’s scholarship focuses on how the law has sought to regulate and shape information technology, as well as the impact of information technology on law and democracy. At present, he is engaged in several different research projects, including research into comparative privacy developments in the U.S. and the European Union as well as into privacy and security in the Cloud. He has just published a paper with Daniel J. Solove examining the concept of Personally Identifiable Information (PII), which is one of the most central concepts in privacy law.

**Recent Publications**

- The PII Problem: Privacy and a New Concept of Personally Identifiable Information
- Privacy Law Fundamentals
  - *International Association of Privacy Professionals* (2011)
- Regulating Governmental Data Mining in the United States and Germany: Constitutional Courts, the State, and New Technology
  - *52 Wakeham & Mary Law Review* 351 (November 2011)

### Talha Syed

**pharmaceutical patents, intellectual property, regulatory law & policy, normative legal theory**


**Recent Publications**

  - (forthcoming)
- Infection: The Health Crisis in the Developing World and What We Should Do About It

### Jennifer Urban ’00

**copyright, intellectual property, privacy, licensing, emerging artists, patents**

Professor Urban co-directs the Samuelson Law, Technology & Public Policy Clinic. She is presently working on a paper with Jason Schultz that sets out a novel patent licensing scheme for practitioners of “open” innovation strategies, a paper that applies the fair use doctrine to libraries’ uses of orphan works and a series of empirical studies of consumer understandings and attitudes toward privacy in mobile and web applications. In the Clinic, she is working on copyright limitations and exceptions for emerging artists and cultural repositories and privacy in the cloud and “smart” ecosystems, such as networked electricity grids.

**Recent Publications**

- How Fair Use Can Help Solve the Orphan Works Problem
- Protecting Open Innovation: A New Approach to Patent Threats, Transaction Costs, and Tactical Disarmament
- Mobile Phones and Privacy
  - *UC Berkeley Public Law Research Paper*, No. 2103405
  - (with Chris Hoofnagle and Su Li) (July 2013)
Patrick Goold is the 2012-13 BCLT Microsoft Fellow. He is in the final stages of completing his PhD in Law from the International Max Planck Research School for Competition and Innovation, Germany. His research interests include competition law, IP law, public international law and legal theory. He completed his undergraduate studies at Newcastle University and an LLM program at Cornell University.

Kathryn Hashimoto is the 2010-12 BCLT Copyright Research Fellow. She graduated from the University of San Francisco School of Law in 2010. While in law school, she interned at the Electronic Frontier Foundation and with EFF Legal Director Cindy Cohn co-authored “The Case for Book Privacy Parity: Google Books and the Shift from Offline to Online Reading” (2010) for the Harvard Law & Policy Review Online.

Michael Mattioli, the 2011-12 BCLT Microsoft Fellow, will join the faculty of Indiana University Maurer School of Law in Fall 2012 where he will teach contracts and a variety of IP courses. Michael’s scholarship, which focuses on communities of innovation, has been published in the Columbia Law Review and the Northwestern University Law Review. Prior to joining BCLT, Michael was the 2010-11 Postdoctoral Fellow in Law, Economics, and Technology at the University of Michigan Law School. Michael graduated from Penn Law School in 2007.

Jonas Anderson, the 2009-11 BCLT Microsoft Fellow, is currently Assistant Professor of Law at American University, Washington College of Law where he teaches courses in patent law, trade secret law and real property. Prior to coming to Berkeley, Jonas clerked for the Honorable Alan D. Lourie on the U.S. Court of Appeals for the Federal Circuit. He graduated from Harvard Law School in 2006.

Aaron Perzanowski, the 2008-09 BCLT Microsoft Fellow, is currently teaching at Wayne State University Law School. Aaron’s research is in the areas of copyright, trademark and telecommunications law; it examines the influence of law and technology on the creation and exchange of information. Aaron graduated from Berkeley Law in 2006.

Stuart Graham, the 2007-09 BCLT Kaufman Foundation Fellow in Social Science and the Law, currently serves as the Chief Economist for the U.S. Patent and Trademark Office. Stuart has written on companies’ intellectual property and litigation strategies, patenting by hi-tech startups and entrepreneurs, and comparisons of the US and European patent systems. He is currently on leave from the Georgia Institute of Technology where he is an Assistant Professor teaching the economics of patent law.

Ted Sichelman, the 2008-09 BCLT Kaufman Foundation Legal Research Fellow, is currently teaching intellectual property law at the University of San Diego School of Law. His current research efforts explore theories of patent remedies, the effects of the patent system on entrepreneurial companies and the role of patent law in technology commercialization. Ted graduated from Harvard Law School in 1999.

Miriam Bitton, the 2007-08 BCLT Microsoft Fellow, is now an Associate Professor at Bar-Ilan University in Ramat-Gan, Israel. Miriam is writing and teaching in the fields of intellectual property law, law and technology and property. Prior to joining Bar-Ilan University she taught at DePaul University College of Law and was a clerk to the Honorable Jacob Turkel of the Israeli Supreme Court and also to the Attorney General of Israel. She earned bachelor’s of law (L.L.B.) and masters of law (M.A.), magna cum laude, degrees from the Bar-Ilan University in Israel and LL.M. and S.J.D. degrees from the University of Michigan Law School.
FALL 2011

BCLT and the High Tech Law Institute at Santa Clara University co-hosted a conference entitled Defense 2.0 to discuss new strategies for navigating the evolving patent landscape in the U.S.

Over 200 attorneys, law professors and students attended Back to School: The New Patent Law Explained to discuss the new provisions of the America Invents Act as well as their impact on patent prosecution, counseling and litigation.

The Internet In Bello seminar examined the legal, ethical and policy issues posed by cyber warfare. The event was co-sponsored by BCLT, Miller Institute for Global Challenges and the Law, International Committee of the Red Cross and the American Society of International Law’s Lieber Society on the Law of Armed Conflict.

The 12th Annual Advanced Patent Law Institute included two days of in-depth presentations by leading academics, practitioners and judges on the latest patent law developments. The event was co-hosted by the Stanford Program in Law, Science & Technology, UT Austin Law School and BCLT.

SPRING 2012

Professors Paul Schwartz and Daniel Solove presented their new paper, The PIU Problem: Privacy and a New Concept of Personally Identifiable Information, in Washington, D.C. This event was co-sponsored by the Microsoft Innovation & Policy Center, BCLT and the George Washington University Law School.

BCLT partnered with Covington & Burling to host the 2012 Silicon Valley Innovation & Law Conference. Leaders in their field offered valuable perspectives on succeeding in today’s corporate, regulatory and litigation environment.

BCLT and the Berkeley Institute for Jewish Law and Israeli Law, Economy and Society co-sponsored Israel Through the High Tech Lens, a two-day interdisciplinary conference which brought together business leaders, scholars and policy makers from Israel and from the U.S. to discuss business, legal, economic and social aspects of the Israeli high-tech world.


BCLT continued its collaboration with the Center for Law and Technology at Seoul National University for the 7th Annual Hawaii Conference: Emerging Law and Policy Issues in the Entertainment Industry.

The 5th Annual BCLT Privacy Lecture was presented by Dr. Susan Landau and was titled “The Large Immortal Machine and the Ticking Time Bomb.” Dr. Landau discussed how to alleviate the technological “time bomb” that the 1994 Communications Assistance for Law Enforcement Act created by requiring that all digital-switched telephone networks be built wiretap-enabled. Responses were presented by Dr. Rolf H. Weber and Dr. Felix Wu and the lecture was moderated by Paul Schwartz, Berkeley Law and BCLT.

BCLT hosted a panel discussion of issues of great importance to the healthcare and biotechnology industries—Patentable Subject Matter in the Health Sciences: Diagnostics & DNA. This discussion focused on the doctrinal and societal implications of the U.S. Supreme Court decision in Prometheus v. Mayo.

The 16th Annual BCLT/BTLJ Symposium: Orphan Works & Mass Digitization: Obstacles & Opportunities brought together practitioners, academics and librarians to discuss how best to solve the orphan works problem. Articles from the Symposium will be published in a special edition of the Berkeley Technology Law Journal.

Audio, video, photos, slides and other resources from BCLT events can be found online at law.berkeley.edu/pastevents.htm
Participants in *Innovate / Activate 2.0* discussed overcoming legal obstacles to improving global welfare and delivering practical solutions to spur innovation. The event was co-sponsored with the Institute for Information Law & Policy at New York Law and the Samuelson Law, Technology & Public Policy Clinic.

**BERKELEY LAW PRIVACY FORUM:**
**SILICON VALLEY**
**April 26, 2012**

The Berkeley Law Privacy Forum: Silicon Valley invited leading academics and practitioners to discuss the latest developments in privacy law. European Data Protection Supervisor Peter Hustinx presented the keynote address.

**The Patent Institutions Summit** brought together academics, practitioners and key officials from the U.S Patent and Trademark Office, the judiciary and the International Trade Commission to exchange ideas on the next era of patent system evolution. Co-sponsored by the Berkeley Center for Law & Technology and the Stanford Program in Law, Science & Technology.

The Federal Judicial Center Judicial Training program for judges, Intellectual Property in the New Technological Age, returned to Berkeley in May. BCLT also hosted a reception and dinner honoring federal judges attending the program.

**Web Privacy Measurement**
**May 31-June 1, 2012**
**Berkeley Center for Law & Technology**

The goal of the Web Privacy Measurement Conference was to advance the state of the art on how to detect, quantify and analyze web information collection across the desktop and mobile computing landscapes.

**Privacy Law Scholars Conference**
**PLSC**
**GW Law School - Berkeley Law**

The 5th Annual Privacy Law Scholars Conference assembled a wide array of privacy law scholars and practitioners from around the world to discuss current issues and foster greater connections between academia and practice. The event was co-sponsored by BCLT and the George Washington University Law School.

Each year, the Intellectual Property Scholars Conference brings together IP scholars to present their works-in-progress in order to benefit from the critique of colleagues. The conference is co-sponsored by BCLT; the Benjamin N. Cardozo School of Law at Yeshiva University; DePaul University College of Law; and the Stanford Program in Law, Science & Technology.

For the latest information about BCLT events and programming:
- Follow @BCLTatBoalt on Twitter.
- Join the Berkeley Center for Law & Technology Group on LinkedIn.
- Sign-up for e-mail updates by contacting bclt@law.berkeley.edu.
BCLT STUDENT EVENTS

BCLT's Annual Law & Technology Orientation provides incoming students with information about IP-related extracurricular opportunities at Berkeley Law.

BCLT hosts two Annual Career Fairs to introduce representatives from leading law firms to Berkeley Law students interested in technology law.

Prominent practitioners participate in the BCLT/BTLJ Law & Tech Speaker Series, bringing real world experience and practical legal knowledge to Berkeley Law students.

BCLT STUDENT GROUPS

BCLT works closely with Berkeley Law students interested in Law & Technology by providing support to eight Law & Technology focused student groups.

BERC @ Boalt

BERC @ Boalt is the law school branch of the Berkeley Energy & Resources Collaborative, a student-led organization which aims to connect and educate the UC Berkeley energy and resources community. BERC @ Boalt helps to inform law students about current legal practice and advances in the fields of energy, climate and clean technologies. It does this through the development of curriculum, the continuing expansion of an alumni and professional network, the promotion of events and discussions centered on green issues, and the creation of a Career Guide for Energy, Climate and CleanTech Law.

Berkeley Technology Law Journal

The Berkeley Technology Law Journal (BTLJ) is a student-run publication that covers emerging issues in the areas of intellectual property, privacy and cyberlaw. Since 1986, BTLJ has kept judges, policymakers, practitioners and the academic community abreast of the dynamic field of technology law. The Journal’s membership of approximately 150 students publishes three issues of scholarly work each year, plus the Annual Review of Law and Technology. The Annual Review is a distinctive issue of the Journal published in collaboration with BCLT and is dedicated to student-written casenotes discussing the most important recent developments in this sector.

boalt.org

boalt.org is Berkeley Law’s public interest and technology group. Its activities fall into three main categories. First, boalt.org works to make information technology more useful and accessible to students at Berkeley Law. Second, boalt.org advocates on behalf of the public interest in debates over law and technology. Third, boalt.org provides a community and social activities for those who might best be described as law and tech geeks.

Consumer Advocacy and Protection Society (CAPS)

The Berkeley Consumer Advocacy and Protection Society (CAPS) is dedicated to fostering research, discussion and advocacy in the field of consumer protection law. It seeks to strengthen ties between consumer law groups and the Berkeley Law community. This includes creating networks between consumer law attorneys, advocacy organizations and the student body. Its activities promote the field of consumer protection law and provide training opportunities for students; foster community among student advocates whose interests intersect with consumer protection; and encourage and maintain consumer protection curriculum and clinic opportunities at Berkeley Law.

Healthcare and Biotech Law Society

Members of the Healthcare and Biotech Law Society examine and analyze the intersection between law, society, policy and science. Their mission is to foster discussion on emerging health/biotech issues and to stimulate the intellectual and professional development of Boalt students interested in these issues. They do this by organizing networking events with practitioners, promoting health and biotech courses at Berkeley Law and increasing interaction between Berkeley Law and other healthcare and biotech related institutions at UC Berkeley and beyond.

Patent Law Society

The Boalt Hall Patent Law Society provides a forum for students interested in practicing patent law to discuss and debate the latest developments in this specialty. The Group often engages patent law practitioners to share their experiences through student presentations. These and other events provide opportunities for members of the Patent Law Society to interact, network and exchange ideas.

Sports and Entertainment Law Society

The mission of the Sports and Entertainment Law Society (SELS) is to educate the Berkeley Law community about legal opportunities and issues in the entertainment and sports industries. SELS sponsors many events including guest lectures and social events. Additionally, SELS facilitates opportunities for students to network not only with each other, but also with alumni and other legal professionals in these industries.

Universities Allied for Essential Medicines

Universities Allied for Essential Medicines (UAEEM) links members of universities in the U.S., the U.K. and Canada who are concerned about patient access to medicines in poor countries. Its mission is to promote access to medicines and medical innovations in low and middle-income countries by changing norms and practices around academic patenting and licensing; to ensure that university medical research meets the needs of people worldwide; and to empower students to respond to the access and innovation crisis.
AFFILIATED PROGRAMS

Berkeley Roundtable on the International Economy (BRIE), UC Berkeley
Center for Information Technology Research in the Interests of Society (CITRIS), UC Berkeley
Center for Intellectual Property Studies (CIP), Gothenburg & Chalmers University of Technology
Competition Policy Center (CPC), Haas School of Business, UC Berkeley
Haifa Center of Law & Technology (HCLT), University of Haifa
Institute for Information Law (IViR), University of Amsterdam
Institute for Business Innovation, Haas School of Business, UC Berkeley
Lester Center for Entrepreneurship & Innovation, Haas School of Business, UC Berkeley
Samuelson Law, Technology, & Public Policy Clinic, Berkeley Law, UC Berkeley
School of Information (iSchool), UC Berkeley
Seoul National University Center for Law & Technology, Seoul National University
Swiss Federal Institute of Technology - Eidgenössische Technische Hochschule Zürich (ETH)
Team for Research in Ubiquitous Secure Technology (TRUST), Tel-Aviv University

AFFILIATED FACULTY & SCHOLARS

Aaron Edlin (School of Law and Economics Department, UC Berkeley)
Joseph Farrell (Economics Department, UC Berkeley)
Richard J. Gilbert (Haas School of Business, Economics Department, UC Berkeley)
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