



14TH ANNUAL
INTELLECTUAL PROPERTY SCHOLARS CONFERENCE
UC BERKELEY SCHOOL OF LAW, BOALT HALL
AUGUST 6 - 8, 2014

Wednesday, August 6

6:30 pm

Registration

Goldberg Room, 2nd Floor

7:00 pm

Welcome Reception

Steinhart Courtyard, 2nd Floor

Thursday, August 7

7:30 am

Registration

Goldberg Room, 2nd Floor

Breakfast

Warren Room, 2nd Floor

8:15 am

Welcome by Professor Peter Menell

Booth Auditorium, 1st Floor

Welcoming Remarks by Berkeley Law Dean Sujit Choudhry

Introduction to Conference by Professor Peter Menell

8:45 am

Plenary Session

Booth Auditorium, 1st Floor

Who Should Pay for Progress?

Jeremy Sheff

Secondary Markets for Patents: A Framework for Evaluation

Michael Burstein

Is the Time Allocated to Review Patent Applications Inducing Examiners to Grant Invalid Patents?

Evidence from Micro-level Application Data

Melissa Wasserman

9:50 am

Break

Warren Room, 2nd Floor & West Courtyard, 1st Floor

SCHEDULE



INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Thursday, August 7

10:15 am Breakout Session I

Room 105	Room 110	Room 132	Room 140	Room 170
IP, Property, Contract, and Tort Theory	Patent Empirical	Trademark Theory	Patent Institutions	Copyright Theory
<i>Valuing Control</i> Peter DiCola	<i>Redefining "Valuable Patents": Analysis of the Key Value Factors of U.S. Patents Asserted in Infringement Litigation</i> Jonathan Ashtor	<i>Trademark Law and Social Value</i> Stacey Dogan	<i>Lobbying by Judges: The Federal Circuit, Congress, and the History of Judicial Lobbying Efforts</i> Jonas Anderson	<i>Why Researchers' Machines Should Have the Right to Read</i> Michael Carroll
<i>Copyright, Culture, and the Intellectual Property Servitude</i> Liam O'Melinn	<i>An Experimental Assessment of the Presumption of Validity</i> Jeremy Bock	<i>Fair Music and False Advertising</i> Yan Fang	<i>In the Name of Patent Stewardship: The Federal Circuit's Overreach in Commercial Law</i> Xuan-Thao Nguyen	<i>Bodies in Motion: Contemplating Choreography and Copyright Law</i> Carys Craig
<i>Using Contract Law to Reopen Academic Science</i> Karen Sandrik	<i>Does the U.S. Patent & Trademark Office Grant Too Many Bad Patents?: Evidence from a Quasi-Experiment</i> Michael Frakes	<i>Trademark Law and Agency Costs</i> James Gibson	<i>Understanding the Federal Circuit: A Model of Expert Decision-making</i> Laura Pedraza-Farina	<i>The Core of Copyright</i> Wendy Gordon
<i>The Dead Hand of Copyright</i> Molly Van Houweling	<i>If You Can't Beat 'Em, Join 'Em? How Sitting by Designation Affects Judicial Behavior</i> Shawn Miller	<i>Trademark Capacities</i> Jake Linford	<i>Indisputable IP</i> Sarah Rajec	<i>Subjects, Objects, and Social Things: The Case of the Copyright Work</i> Michael Madison
<i>A Relevant Intent Theory of Patents</i> Saurabh Vishnubhakat	<i>The Three Patent Cultures: A Comparative Analysis of Utility, Design, and Plant Patent Citation Networks</i> Andrew Torrance	<i>Trademark Functions and Trademark Rights</i> Miquel Peguera	<i>Forum Selling</i> Greg Reilly	<i>Local Language Limitations: Copyright and the Commons</i> Lea Shaver
		<i>The Use and Abuse of Certification Marks</i> Jeanne Fromer	<i>Regulatory Monopoly and Differential Pricing in the Market for Patents</i> Neel Sukhatme	<i>Unavoidable Aesthetic Judgments in Copyright Law: The Community of Practice Standard</i> Robert Walker

12:15 pm **Lunch**
Steinhart Courtyard, 2nd Floor (pick up lunch boxes)

12:45 pm **Judicial Panel:** Chief Judge Diane Wood (7th Circuit) and Chief Judge Alex Kozinski (9th Circuit)
Booth Auditorium, 1st Floor

1:45 pm **Break**
Warren Room, 2nd Floor & West Courtyard, 1st Floor

ipsc INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Thursday, August 7

2:00 pm

Breakout Session II

Room 105	Room 110	Room 132	Room 140	Room 145	Room 170
IP Theory I	Copyright Fair Use	IP Treaties / International	Trade Secrets	Patent History	Patent Statutory Interpretation
<i>Exit, Voice, and Intellectual Property</i> Shubha Ghosh	<i>Raw Materials and Creative Works</i> Andrew Gilden	<i>Patent Imperialism</i> Bernard Chao	<i>Infringing Data and Rogue Agencies</i> Sapna Kumar	<i>The First Patent Litigation Explosion</i> Christopher Beauchamp	CANCELLED
<i>When Law Repeats Itself: Redundancy and Legal Design</i> John Golden	<i>Law Firm Copying and Transformative Fair Use: An Examination of Different Purpose</i> D.R. Jones	<i>A New Challenge to Domestic Ability to Determine Intellectual Property Rights: Evaluating Eli Lilly's Investor-State Arbitration Claim for Invalidation of Patent Rights</i> Cynthia Ho	<i>Tailoring Trade Secrecy: The Moral Imperative of Industry-Specific Application of Doctrine</i> David Levine	<i>The Patentability Requirements in the Venetian Republic Between the 15th and 18th Centuries</i> Stefania Fusco	
<i>Intellectual Property for the Neurocentric Age: Towards a Neuropolitics of IP</i> Debora Halbert	<i>Rebel Without Good Laws: James Dean and Posthumous Publicity Rights on Social Media</i> Jeff Roberts	<i>Research on TPP "Intellectual Property Damages" and China's Approach</i> Jingjing Hu	<i>The New Cognitive Property: Human Capital, Knowledge Creation, and the Reach of Intellectual Property</i> Orly Lobel	<i>Wedgwood, Innovation and Patent</i> Deming Liu	
<i>Willfulness</i> David Welkowitz	<i>All of This Has Happened Before and All of This Will Happen Again</i> Rebecca Tushnet	<i>The Trans-Pacific Partnership: Experimental Use of Patents on the International Agenda</i> Ofer Tur-Sinai	<i>Uncovering Trade Secrets: An Empirical Approach to Trade Secrets</i> Mark Schultz	<i>A Brief History of Software Patents (and Why They're Valid)</i> Adam Mossoff	
	<i>The Right to Parody and User-Generated Content</i> Peter Yu		<i>Generating Trade Secrets from Patents</i> Brenda Simon		

3:40 pm

Break

Warren Room, 2nd Floor & West Courtyard, 1st Floor



INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Thursday, August 7

4:00 pm

Breakout Session III

Room 105	Room 110	Room 132	Room 140	Room 145	Room 170
Copyright Empirical	America Invents Act	Privacy	Trademarks	Copyright and Competition	Copyright Authorship and Interpretation
<i>Copyright Remedies & Hypothetical Damages</i> Ben Depoorter	<i>Does Public Use Mean the Same Thing It Did Last Year?</i> Mark Lemley	<i>Privacy, Security, and the FTC's UnCommon Law</i> Gus Hurwitz	<i>Modern Functions and the Trademark Prerequisite in European Trademark Law</i> Ozgur Arikan	<i>Copyright's Technological Interdependencies</i> Clark Asay	<i>Unplanned Coauthorship</i> Shyamkrishna Balganes
<i>Copyright for Blockheads: An Empirical Study of Market Incentive and Intrinsic Motivation</i> Jiarui Liu	<i>An Empirical Study of Inter Partes Review</i> Brian Love	<i>Importing Privacy Analogies in Trade Secret Law</i> Victoria Schwartz	<i>A Re-assessment of Trade Mark Use in European Law</i> Cesar Ramirez-Montes	<i>Unlocking the Gates of Alexandria: DRM, Competition and Access to E-Books</i> Ana Carolina Bittar	<i>The Authorship Rights of Performers</i> Mary LaFrance
<i>Judging Similarity</i> Irina Manta	<i>Trade Secrets Plus (or the Real Purpose Behind the AIA?)</i> Sharon Sandeen		<i>It's Not Fair Use, It's Genericide</i> Xiyin Tang	<i>Triggering Competition</i> Kristelia Garcia	<i>Copyright Law and Interpretive Engagement</i> Zahr Said
	<i>Patent Litigation Procedure After the America Invents Act</i> David Taylor			<i>Information Product Redesign as Commercial Expression: Antitrust Treatment of Speech and Innovation</i> Hillary Greene	

5:20 pm

Adjourn

6:30 pm

Dinner

Home of Professor Peter Menell: 705 The Alameda, Berkeley, CA



INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Friday, August 8

8:00 am **Registration**
Goldberg Room, 2nd Floor

Breakfast
Warren Room, 2nd Floor

8:30 am **Breakout Session IV**

Room 105	Room 110	Room 132	Room 140	Room 145	Room 170
Non-Practicing Entities I	Copyright and Trademark Enforcement	IP and Culture	Patent Bioscience I	Copyright International and Comparative Law	IP Liability and Policy
<i>Patent Demands & Startup Companies: The View From the Venture Capital Community</i> Robin Feldman	<i>Do 'Groundless Threats' Statutes Curtail IP Over-Enforcement?</i> William Gallagher	<i>Pattern Recognition: Governmental Regulation of Tartan and Commodification of Culture</i> Megan Blakely	<i>Stories of Gene Patenting</i> Jorge Contreras	<i>Consuming Digital Goods: A Subject-Matter of Copyright?</i> Clemens Appl Philipp Homar	<i>Copyright's Missing Secondary Liability Factor: Cost</i> Bruce Boyden
<i>Predatory Patent Litigation</i> Erik Hovenkamp	<i>The Criminal Copyright Gap</i> Eldar Haber	<i>Defining the Boundaries of a Scandalous Mark - Perspectives from Australia, and the United States, and the United Kingdom</i> Sarah Hinchliffe	<i>Intellectual and Regulatory Property</i> Anna Laakmann	<i>The Public Performance Right in the Digital Environment: A Comparative Analysis</i> Lisa Macklem	<i>Why Copyright Infringement is Not a Strict Liability Tort and Why That Matters</i> Patrick Goad
<i>A Generation of Patent Litigation</i> Michael Risch	<i>Criminal Trademark Enforcement and the Problem of Inevitable Creep</i> Mark McKenna	<i>Satellite Remote Sensing and Database Management Who Owns Digitalization of Indigenous Peoples, Antiquities and Their Artifacts</i> Brenda Reddix-Small	<i>The Supreme Court's Myriad Effects on Scientific Research</i> Peter Lee	<i>Copyright's Knowledge Principle</i> Jennifer Sheridan	<i>Rethinking Technology Neutrality: Copyright's Case for Discrimination</i> Brad Greenberg
<i>Patent Assertion Entity (PAE) Lawsuits: An Empirical Study of Settlement Behavior and Litigation Outcomes</i> David Schwartz	<i>Copyright Trolling</i> Matthew Sag	<i>IP, Creativity, and a Sense of Belonging</i> Betsy Rosenblatt	<i>Incentives, Intellectual Property, and Black Box Personalized Medicine</i> W. Nicholson Price	<i>Orphan Works and Moral Rights: A View from the UK</i> Mira Sundara Rajan	<i>Knowing How to Know: Secondary Liability for Speech</i> Laura Heymann
<i>Easy Fix for U.S. Software Patent Problems: Comparative Law Perspective</i> Toshiko Takenaka	<i>Site-blocking Orders in the EU: Justifications and Feasibility</i> Faye Fangfei Wang		<i>Biosimilars and Manufacturing Trade Secrets</i> Arti Rai	<i>The Multiplicity of Copyright Laws on the Internet: Proposed Solutions, Objections to the Solutions, and the Realities of Cross-Border Copyright Enforcement</i> Marketa Trimble	

10:10 am **Break**
Warren Room, 2nd Floor & West Courtyard, 1st Floor



INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Friday, August 8

10:30 am

Breakout Session V

Room 105	Room 110	Room 132	Room 140	Room 170
Patents and Competition	Copyright Limitations	IP Comparative Law	Patents Bioscience II	IP and Free Speech
<i>FRAND Limitation on Licensing Strategies</i> Karl Belgum	<i>Inventing Around Copyright</i> Dan Burk	<i>Cross-border Patent Conflicts, UPC or Arbitration?</i> Ana Alba Betancourt	<i>Payment After Actavis</i> Michael Carrier	<i>Patent Law and the First Amendment</i> Tun-Jen Chiang
<i>The Emerging Issue of Self-Replicating Technologies and Inadvertent Patent Infringement: Bowman v. Monsanto as a Bellwether</i> Christopher Holman	<i>Beyond the Readymade: Michael Asher's Skulptur Projekte Münster Caravan and the Challenges for Copyright Law</i> Shane Burke	<i>Fake It Until You Make It: A Justification for Intellectual Property "Piracy" as an Instrument of Economic Development Based on Classical Economic Theory</i> Llewellyn Gibbons	<i>Government's Walk-in Rights and Public Access to Medicines: Implications of the IPR Act on State-funded Pharmaceutical R&D Outcomes in South Africa</i> Vuyisile Hobololo	<i>Branding Democracy: Using Trade-marks to Voice Dissent</i> U. Shen Goh
<i>Coordination-Focused Patent Policy</i> Stephen Yelderman	<i>Creating Around Copyright</i> Joseph Fishman	<i>Invalid but Infringed? An Analysis of Germany's Bifurcated Patent Litigation System</i> Christian Helmers	<i>Reverse Payment Settlements Paradigms</i> Emily Morris	<i>Free Speech, Competition, and the Structure of Trademark Law</i> Lisa Ramsey
<i>Public Good Economics and Standard Essential Patents</i> Christopher Yoo	<i>Forgotten and Abandoned: Section 113's Limitations on Copyright in Works Depicting Useful Articles</i> Tyler Ochoa	<i>Which Institutions, Legal and Economic, Allow Innovations?</i> Thami Piaia	<i>The Unexplored Intersection of Divided Infringement and Medical Method Patents</i> Rachel Sachs	<i>Can DNA Be Speech?</i> Jorge Roig
<i>Exhausting Patents</i> Wentong Zheng	<i>Toward Principled Justifications for Copyright Limitations and Exceptions</i> Pamela Samuelson	<i>The Marginal Role of Japanese Trade Secret Law</i> Christoph Rademacher	<i>Moving Beyond "Pre-Competitive" in Public-Private Partnerships</i> Liza Vertinsky	<i>Content-Based Copyright Denial</i> Ned Snow



INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Friday, August 8

12:10 pm

Lunch

Steinhart Courtyard, 2nd Floor (pick up box lunches)

12:45 pm

Copyright Reform and the Academy

Shira Perlmutter

Chief Policy Officer & Director for International Affairs
US Patent and Trademark Office (USPTO)

Booth Auditorium, 1st Floor

1:45 pm

White House Innovation Strategy

Colleen V. Chien

Senior Advisor to the Chief Technology Officer, Intellectual Property and Innovation
White House Office of Science and Technology Policy (OSTP)

Booth Auditorium, 1st Floor

2:00 pm

Plenary Session

Booth Auditorium, 1st Floor

Making Copyright Work for Creative Upstarts

Sean Pager

Copyright's Private Ordering: Lessons For Congress

Jennifer Rothman

Secondary Copyright Remedies

Felix Wu

3:00 pm

Break

Warren Room, 2nd Floor & West Courtyard, 1st Floor



INTELLECTUAL PROPERTY SCHOLARS CONFERENCE

Friday, August 8

3:20 pm

Breakout Session VI

Room 105	Room 110	Room 140	Room 145	Room 170
Non-Practicing Entities II	Patent Theory	IP Theory II	Intellectual Property: China	Patent
<i>The Rise and Fall of the End User in Patent Litigation and the Attorney Fee Shifting Debate</i> Gaia Bernstein	<i>An Agency Theory of Patent Law: Linking Innovators and Invention Users</i> Richard Gruner	<i>Regulatory Competitive Shelters as Patent Substitutes</i> Yaniv Heled	<i>Compulsory Licensing of Intellectual Property in China</i> Salil Mehra	<i>The Patented Design</i> Sarah Burstein
<i>Policing the Cease-and-Desist Letter</i> Leah Grinvald	<i>Upstream Inventions</i> Dmitry Karshedt	<i>Commercialization Awards</i> Camilla Hrdy	<i>Made in China: How Chinese Innovation is Changing the Patent Landscape</i> Jay Kesan	<i>Why Most Patents are Invalid - Extent, Reasons, and Potential Remedies of Patent Invalidity</i> Joachim Henkel
<i>Patent Preemption</i> Paul Gugliuzza	<i>Patents and Information Containment: The Case of Hydraulic Fracturing in Shale Gas Extraction</i> Zhen Lei	<i>The IP Constitution: Private Power and State Power in IP Law</i> Ariel Katz	<i>Patent Quality Connotation and its Measuring Indicator System: The Patent Quality Comparison Between China and the Main Developed Countries Based on SIPO's Patent Data</i> Hefa Song	<i>Interdependent Invention: A Limited Defense of Absolute Infringement Liability in Patent Law</i> Robert Merges
<i>Patent Trolls: Moral Panics and Patent Reform</i> Edward Lee	<i>Deference Mistakes</i> Jonathan Masur	<i>The Regulation of Big Data Pools</i> Michael Mattioli	<i>The Nature of the Sale Behavior in Trademark Infringement under Chinese Trademark Law</i> Dong Zhu	<i>Boon and Bane of Inventive Concepts and Refined Claim Construction in the Supreme Court's Patent Precedents</i> Sigram Schindler
<i>When Nominal is Reasonable: Damages for the Unpracticed Patent</i> Oskar Liivak	<i>Patentable Subject Matter and Non-Patent Innovation Incentives</i> Lisa Ouellette			<i>Principles of Problematic Patents</i> Harry Surden

5:00 pm

Reception

Roof Garden, 2nd Floor

Saturday, August 9

9:00 am

Hike

Tilden Park (Inspiration Point), Berkeley, CA