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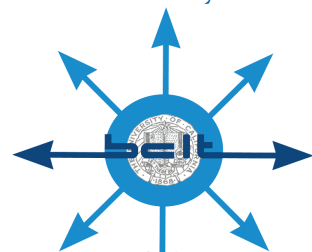
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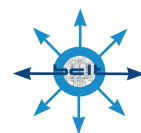
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AFFILIATED FACULTY & SCHOLARS

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 Oliver Williamson (Business, Economics)
 Brian Wright (Agriculture and Resource Economics)

AFFILIATED PROGRAMS

Berkeley Roundtable on the International Economy (BRIE), U.C. Berkeley
 Haas School of Business, U.C. Berkeley
 Institute of Management, Innovation & Organization, Haas School of Business, U.C. Berkeley
 Management of Technology Program, Haas School of Business, U.C. Berkeley
 School of Information Management and Systems (SIMS), U.C. Berkeley
 Centre for Innovation Law and Policy, University of Toronto Faculty of Law
 Swiss Federal Institute of Technology
 Eidgenössische Technische Hochschule Zürich (ETH)
 Electronic Frontier Foundation



fall 2002

boalt hall

BERKELEY CENTER FOR
LAW & TECHNOLOGY

annual bulletin

The Berkeley Center for Law & Technology (BCLT) is an independent research institute at the University of California, Berkeley, School of Law (Boalt Hall). BCLT oversees Boalt's unparalleled law and technology program, and its five faculty directors – Professors Mark A. Lemley, Peter S. Menell (Executive Director), 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.

During the 2001-2002 school year, BCLT hosted a number of events including a roundtable discussion series focusing on new media, an IP retreat for federal judges, Antitrust/IP Hearings, and a conference that examined patent system reform. For the 2002-2003 school year, BCLT will host a major conference on Digital Rights Management Systems (DRM). The three-day conference will include tutorials and presentations by leading lawyers, technologists, and industry representatives from around the world. In addition, BCLT will organize several judicial education programs in conjunction with the Federal Judicial Center.

DEVELOPMENTS

- In conjunction with the Federal Trade Commission and the Antitrust Division of the Department of Justice, BCLT and the Competition and Policy Center hosted Antitrust/IP Hearings in Berkeley, California from February 25 through February 28, 2002.
- The Samuelson Law, Technology & Public Policy Clinic, (Samuelson Clinic) is sponsoring a symposium on Enforcing Privacy Rights on November 15 and 16, 2002 in Berkeley. Among the distinguished participants will be Sarah Andrews, Hon. Michael J. Kaplan, Richard Marcus, Ari Schwartz, Paul Schwartz and Daniel Solove.
- BCLT, the Samuelson Clinic, and the School of Information Management and Systems, U.C. Berkeley are sponsoring a major digital rights management (DRM) conference from February 27 through March 1, 2003.
- BCLT will cosponsor an annual intellectual property scholars conference with the intellectual property programs at DePaul College of Law and the Cardozo School of Law in August 2003.
- The Samuelson Clinic is now entering its second year of operation, 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.
- Professors Lemley, Menell and Merges recently completed the third edition of the casebook *Intellectual Property in the New Technological Age*. The book will be available in Spring 2003 from Aspen Law & Business.
- Professors Lemley, Menell, Merges and Samuelson recently completed the second edition of the casebook *Software and Internet Law*. The book will be available in Spring 2003 from Aspen Law & Business.
- Professor Merges recently completed the third edition of his casebook *Patent Law and Policy* (Lexis-Nexis Press, 2002), coauthored with John Duffy of William and Mary Law School.
- Professor Pamela Samuelson was inaugurated as honorary professor at the University of Amsterdam, a title conferred for life, and reserved for distinguished professors who have earned an extraordinary reputation in their field.
- Professor Rebecca Eisenberg, a preeminent scholar focusing on the intersection of intellectual property and bioscience, and a 1979 graduate of Boalt Hall, has been named the recipient of the 2002 BCLT Distinguished Service Award. Rebecca Eisenberg is a professor at the University of Michigan School of Law.
- BCLT established the IP & Technology Law Working Paper Series, which makes available salient scholarship. Among the contributors to date are: Dan L. Burk, Wendy J. Gordon, Maureen A. O'Rourke, Anthony Reese, Suzanne Scotchmer, and Jane K. Winn.
- Professor Peter Menell is organizing a plenary session on law and technology for the Federal Judicial Center's upcoming conference for appellate judges to be held in Washington, D.C. in October 2002.
- The Federal Judicial Center and BCLT will host the 5th "IP Judicial Education Program" in Berkeley, May, 2003. This three-day program will feature an integrated set of lectures by BCLT's Directors and Distinguished Scholars, as well as Judge Ronald Whyte of the Northern District of California and leading intellectual property law practitioners.
- For the fourth consecutive year, *U.S. News & World Report* has selected Boalt's Intellectual Property Program as number one in the nation.
- Professor Deirdre Mulligan and Samuelson Clinic student Nicky Ozer presented a proposal that employs a human rights framework to advocate distribution of patented AIDS drugs in Sri Lanka at the XIV International AIDS Conference in Barcelona, Spain in July 2002.
- BCLT Directors and the Samuelson Clinic have authored amicus briefs in five important intellectual property and technology law cases during the past year:
 - *Moseley v. V Secret Catalogue, Inc.*, (Lemley)
 - *Eldred v. Ashcroft* (Samuelson Clinic, Jason Schultz '00, Lemley)
 - *Kelly v. Arriba Soft*. (Samuelson Clinic, Laurel Jamtgaard '97)
 - *Intel v. Hamidi* (Lemley, Samuelson, Samuelson Clinic)
 - *DVD-CCA v. Bunner* (Samuelson, Samuelson Clinic)
 (Note: These briefs are available on the BCLT website.)
- Lon Sobel, Editor of the *Entertainment Law Reporter*, and a Distinguished Scholar at BCLT, will visit at Boalt in the Spring of 2003. He will teach a course on International IP and co-teach a course on Copyright and Entertainment Law with Professor Menell.
- Boalt students Paul Ehrlich and Sonal Mehta placed second nationally in the 2002 Giles Sutherland Rich Moot court competition. Mr. Ehrlich also won the Best Oral Advocate award.
- Jennifer Urban, a 2000 graduate of Boalt Hall, has joined the staff of the Samuelson Clinic. Her position has been made possible through the generous support of the Venture Law Group.
- Nels Jacobson, J.D., University of Houston, Order of the Coif, former law clerk to the Hon. Carolyn Dineen King of the U.S. Court of Appeals for the Fifth Circuit, and national second prize honoree in ASCAP's Nathan Burkan Competition, has joined BCLT as Assistant Director of Administration and Development.
- Patrick Riley, a recent graduate of the University of California, Berkeley, has been named Assistant Director of Technology and Planning. Patrick holds degrees in Environmental Biology and Economics.

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DISTINGUISHED SERVICE AWARD RECIPIENT

2002

PROFESSOR REBECCA EISENBERG



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AUGUST

8-9th. . .2nd Annual IP Scholars Conference (Cardozo School of Law)

28th. . .Law & Tech Evening Reception Series
(Ten receptions from August through October)

OCTOBER

22. . .Federal Judicial Center's Judges Conference
BCLT Directors will be lecturing to all federal appellate judges in Washington, D.C.

24th. . .Distinguished Service Award Dinner
This year's recipient is Professor Rebecca Eisenberg, from the Boalt class of '79

26th. . .Boalt Alumni Reunion, Biotech Panel: "Frankenfuture or a Bright Future"

NOVEMBER

14th. . .Law & Tech Career Night
Career advisors and practitioners discuss law and technology career opportunities with students

15-16th. . .Enforcing Privacy Rights Symposium
This conference is the first major meeting to focus squarely on the topic of privacy enforcement and remedies



DECEMBER

5-6th. . .7th Annual Advanced Patent Law Institute, Fairmont Hotel, San Jose

2003

JANUARY

31st. . .IP Roundtable Series Begins (2-3 Roundtable events focusing on salient issues involving IP law and society, from January through April)

FEBRUARY

Law & Tech Month: BCLT organizes a range of activities, including panel discussions, social events and lectures focusing on IP, technology and entertainment law careers

5th. . .Technology Law Job Expo
More than 30 of the top IP firms are invited to discuss law and technology career opportunities with students



APRIL

Annual Review Publishing Party
4th Annual BTLJ Alumni Banquet

JUNE

19-21st. . .IP Seminar Program for Federal Judges
Continuing its collaboration with the Federal Judicial Center, BCLT will host a 3-day overview of intellectual property and cyberlaw for federal judges

BCLT COURSES

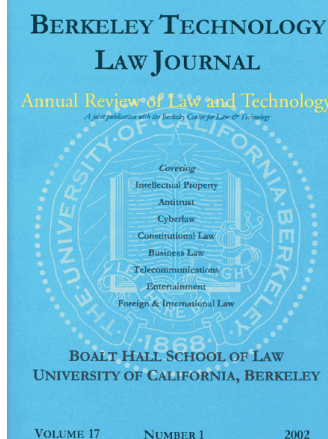
Fall 2002

Antitrust Law	(Shelanski)
Biotechnology & Chemical Patent Law	(Blackburn)
Cyberlaw	(Samuelson)
Introduction to Intellectual Property	(Lemley)
Intellectual Property Transactions	(Nadan & Nadan)
Intellectual Property & Antitrust Law Seminar	(Lemley)
Law & Technology Writing Seminar	(Menell)
Trademarks	(Abel & Fritz)
Telecommunications Law	(Shelanski)
Law, Technology & Public Policy Clinic Seminar	(Mulligan)
Law, Technology & Public Policy Clinic	(Mulligan)
Strategic Patent Licensing	(Siino & Skaist)

Spring 2003

Antitrust Law & Economics Seminar	(Rubinfeld)
Computer Law	(Lemley)
Patent Law	(Lemley)
Trade Secrets.	(Pooley)
Patent Litigation.	(Powers)
Copyright & Entertainment Law.	(Menell/Sobel)
Introduction to Intellectual Property.	(Menell)
Representing the Hi-Tech Start Up.	(Bochner)
International Aspects of Intellectual Property	(Sobel)
Law, Technology & Public Policy Clinic.	(Mulligan)
Law, Technology & Public Policy Seminar	(Mulligan)
Law & Technology Writing Seminar	(Menell)

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
- Sports and Entertainment Law Society
- BCLT/BTLJ Lunch Speaker Series (weekly)
- BCLT/BTLJ Law Firm Receptions (weekly)
- BCLT Fellowship Program
- 1L Technology Law Mentor Program
- Chillingeffects.org

BCLT DIRECTORS

Lemley, Menell, Merges & Samuelson, *Software and Internet Law* (Aspen Law & Business, 1st ed. 2000, 2nd ed. forthcoming 2003)

Merges, Menell & Lemley, *Intellectual Property in the New Technological Age* (Aspen Law & Business, 2nd ed. 2000, 3rd ed. forthcoming 2003) (with Statutory Supplement)



MARK A. LEMLEY | INTELLECTUAL PROPERTY, ANTITRUST, COMPUTER, INTERNET LAW, PATENT

Professor Lemley is the author of five books, one two-volume treatise, and 39 articles on intellectual property and related subjects. He has taught intellectual property law to federal judges at numerous Federal Judicial Center programs, and has testified before

Congress and the Federal Trade Commission on patent and antitrust matters.

IP and Antitrust (Aspen Law & Business, 1st ed. 2001), (two volume treatise) (1300 pages); also 2003 Supplement (forthcoming Jan. 2003) (with H. Hovenkamp & M. Janis)

Place and Cyberspace, 91 Cal. L. Rev. ___ (forthcoming Mar. 2003)

Intellectual Property Rights and Standard-Setting Organizations, 90 Cal. L. Rev. (forthcoming Dec. 2002)

ICANN and Antitrust 2002, U. Ill. L. Rev. ___ (forthcoming) (with A. Froomkin)

The Growing Complexity of the Patent System, 82 B.U. L. Rev. 77 (2002) (with J. Allison)

Rational Ignorance at the Patent Office, 95 Nw. U. L. Rev. 1495 (2001)

Is Patent Law Technology-Specific?, 17 Berkeley Tech. L.J. ___ (forthcoming Dec. 2002) (with D. L. Burk)

Foreseeability in Patent Law, 16 Berkeley Tech. L.J. 1045 (2001), (with M. Conigliaro & A. Greenberg)

Preserving the End-to-End Architecture of the Internet in the Broadband Era, 48 UCLA L. Rev. 925 (2001) (with L. Lessig)

Patent Scope and Innovation in the Software Industry, 89 Cal. L. Rev. 1 (2001)



PETER S. MENELL | INTELLECTUAL PROPERTY, SOFTWARE PROTECTION, ENTERTAINMENT, PROPERTY LAW

Professor Menell co-founded the Berkeley Center for Law & Technology in 1995, and has served as Executive Director since 2000. He has written extensively on intellectual property, property, and environmental law. He supervises the Annual Review of Law and Technology. Professor Menell has organized and lectured at more than a dozen intellectual property education programs for the Federal Judicial Center.

Envisioning Copyright Law's Digital Future, N.Y.U. L. Rev., (forthcoming 2002)

Reunifying Property, 46 St. Louis U. L.J. 599, (2002) (with J. Dwyer)

Conference Organizer and Presenter, Intellectual Property in the New Technological Age, A Conference for Federal Judges (June 2002)

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

Intellectual Property, International Encyclopedia of the Social & Behavioral Sciences (2001)

Foreword, Annual Review of Law & Technology, 16 Berkeley Tech. L.J. 1 (2001) (with C. Cretsinger)

Economic Implications of State Sovereign Immunity from Infringement of Federal Intellectual Property Rights, 33 Loy. L.A. L. Rev. 1399 (2000)

Roundtable on Business Method Patents, U.S. Patent and Trademark Office (August 2000)

Intellectual Property: General Theories, Encyclopedia of Law & Economics (2000)

Property Law and Policy: A Comparative Institutional Perspective, (Foundation Press, 1998), (1060 pages); also Teacher's Manual (with J. Dwyer)



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 serves as a special consultant to the U.S. Department of Justice, Antitrust Division, and is a member of the Department's Task Force on Intellectual Property.

Patent Law and Policy, (Lexis-Nexus Press, 3rd edition, 2002) (with J. Duffy)

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

The Proper Scope of the Patent and Copyright Power, 37 Harv. J. on Legis. 45 (2000) (with G. Reynolds)

Intellectual Property Rights and the New Institutional Economics, 53 Vand. L. Rev. 1857 (2000)

Current Controversies in Patent Law, Intellectual Property Conference, Nat. Academies of Science, Science, Technology and Economic Policy Board (Feb. 2000)

Patent Law Update, Ninth Circuit Judicial Conference (Aug. 2000)



PAMELA SAMUELSON | CYBERLAW, COMPUTER, COPYRIGHT LAW

A recipient of a McArthur fellowship, Professor Samuelson continues to have a profound effect on the way the courts and legislatures view intellectual property in the digital age. In 2002, the Wall Street Journal named her one of eleven technology pioneers. She has written many scholarly articles and books, filed amicus briefs in landmark cases, and lectured throughout the world.

Mapping the Digital Public Domain: Threats and Opportunities, 66 Law & Contemp. Probs. (forthcoming 2002)

Toward a "New Deal" for Copyright in an Information Age, 100 Mich. L. Rev. (forthcoming 2002) (book review)

The Law and Economics of Reverse Engineering, 111 Yale L.J. 1575 (2002) (with S. Scotchmer)

Economic and Constitutional Influences on Copyright Law in the United States, 23 Eur. Intell. Prop. Rev. 409 (Sept. 2001)

Privacy as Intellectual Property?, 52 Stan. L. Rev. 1125 (2000) (in symposium on cyberspace privacy issues)

Challenges For the World Intellectual Property Organization and the Trade-Related Aspects of Intellectual Property Rights Council In Regulating Intellectual Property Rights, In *The Information Age*, 21 Eur. Intell. Prop. Rev. 578 (Nov. 1999)



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 Economic Advisers.

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

Regulation in an Evolving Network Industry: the Case of Broadband Communications, forthcoming in *Broadband: Overcoming the Hurdles*, Brookings Institution, (Crandall and Alaman eds., 2002)

Telecommunications Law and Policy (Carolina Academic Press 2001) (with S. Benjamin and D. Lichtman)

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

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

A Comment on Competition and Controversy in Local Telecommunications, 50 Hastings L.J. 1617 (2000)